

FORTUNATO F. HALILI, PETITIONER, VS. PUBLIC SERVICE COMMISSION AND CAM TRANSIT CO., INC., RESPONDENT.*G. R. No. L-5948. April 29, 1953*

Ponente: LABRADOR, J.

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This is a petition for a writ of certiorari seeking the revocation and annulment of an order dated July 3, 1952, of the respondent Public Service Commission issued in cases Nos. 36450 and 36855, changing part of the route of the bus service established by the respondent CAM Transit Co., Inc., between Balara and City Hall, Manila. Petitioner herein is the holder of various certificates of public convenience to operate auto-truck services between Balara and various points in the City of Manila and its suburbs. Some were granted previous to the last war. The last one was granted in a decision of the respondent Commission in case No. 52272 dated February 13, 1951. The routes fixed in petitioner's certificate of public convenience for Sañgandaan-Balara, Pandacan-Balara, Bonifacio Monumento-Balara, and Balara-Piers pass through Silaňgan Avenue and end at Balara. Respondent CAM Transit Co., Inc., also holds a certificate of public convenience to operate a line of trucks between Balara and City Hall, Manila. This certificate was obtained by it through assignment, with the approval of the Public Service Commission, from Benjamin Encarnacion. One of the original lines granted to Benjamin Encarnacion, now operated by the respondent CAM Transit Co., Inc., is the Balara-City Hall (Manila), via Kamuning line, starting at Balara filter plant, passing through Barangka road, Marikina-San Juan road, Highway 54, Kamuning road, etc. (Appendix C.)

On July 2, 1952, CAM Transit Co., Inc., filed a petition with the respondent Commission, alleging that the route authorized in its City Hall (Manila)-Balara line, and passing along the Marikina-Barangka road, Marikina-San Juan road, and Highway 54, is entirely different from that supported by the evidence presented in the hearing, and praying that the certificate be amended so that the route authorized should be along Highway 54, Silaňgan Avenue, U.P. site, ending at Balara, instead of Highway 54, Marikina-San Juan road, Barangka road, ending at Balara. Acting upon this petition, the respondent Commission on the following day, July 3, 1952, and without a previous notice to the petitioner or a previous hearing thereon, ordered the modification of the line in accordance with the petition.

The question now squarely presented to us for decision is whether the order for the amendment of the route, without notice to the petitioner and other interested parties, or hearing in which the latter may be given opportunity to be present, was lawfully and validly issued by the Commission. It will be noted that the Public Service Act (Commonwealth Act No. 146) expressly defines the powers of the respondent Commission which may be exercised by it "upon proper notice and hearing," or "without previous hearing." (Sections 16 and 17.) The act of the Commission in issuing the order of July 3, 1952, does not fall under any of the powers enumerated in the above sections of the law, and consequently the question at issue must be resolved in accordance with fundamental principles of law and justice.

A cursory perusal of the existing routes between the Balara Filter and the Kamuning Avenue, or the University of

the Philippines and Kamuning Avenue (see Annex A), which routes are the subject of controversy, readily discloses that the change or amendment ordered by the respondent Commission in the route of respondent operator is one of substance, not a nominal or innocent change. It does not seem to us to be a correction of a mere clerical, innocent mistake or error. To us the grant of the route along the Barangka and the Marikina roads to respondent operator was for the purpose of giving service to people living along these roads and at Balara. On the other hand, petitioner herein Halili, then oppositor to the application of respondent operator's predecessor in interest, was already given the University of the Philippines, Silaňgan Avenue, to Kamuning line, to serve students of the University and people living along this route. Inasmuch as the terminal of respondent operator's line is Balara, not the University, it could not have been the purpose and intention of the original certificate issued to allow it to serve students of the University of the Philippines. The supposed justification for the issuance of the disputed order, therefor, is not borne out by the original decision granting the certificate of respondent operator's predecessor.

But assuming, for the sake of argument, that the respondent Commission committed an error in the appreciation of the supposed evidence offered (which was not mentioned), it appears that the change in the route authorized in the order clearly affects the right and privilege granted the petitioner in his certificate of public convenience to pass from Kamuning road through Silaňgan Avenue, to the University of the Philippines, because by the change (effected in the order of the respondent Commission of July 3, 1952) the respondent CAM Transit Co., Inc., would compete with the petitioner in the transportation of students of the University of the Philippines, who, without a change in the respondent operator's lines, could not ride in the latter's buses because these operate only up to Balara, without reaching the University of the Philippines, and pass only through Barangka and Marikina roads. The amendment, therefore, of the respondent operator's lines affects the rights granted and guaranteed by the certificate of public convenience of the petitioner. To allow the respondent Commission to authorize the amendment, without giving the petitioner opportunity to be heard and express his objections thereto, is clearly a deprivation of a precious right and privilege without due process of law.

Respondent operator cites the decisions of this Court in the case of Ablaza Transportation Co., Inc., vs. Feliciano Ocampo,[1] et al., G. R. No. L-3563, and the case of Eliseo Silva vs. Hon. Feliciano Ocampo,[2] et al. G. R. No. L-5162, which decisions hold that the Commission may issue provisional permits without hearing for new services, and argues that if this can be done, with more reason may the said Commission be authorized to correct errors that it has committed; that the Commission is not bound in matters of procedure by technical rules established for judicial proceedings, etc. In the first place, the power to issue provisional permits is expressly authorized. In the second place, the change ordered is not provisional merely, like that granted in a provisional permit, but final and permanent in character. In the third place, even if the Commission is not bound by the rules in judicial proceedings, it must bow its head to the constitutional mandate that no person shall be deprived of a right without due process of law. The "due process of law" clause of the Constitution binds not only the Government of the Republic of the Philippines, but also each and every one of its branches, agencies, etc. (16 C. J. S., 1149.) "Due process of law may mean accord with the procedure outlined in the law, or in the absence of express procedure, under such safeguards for the protection of individual rights as the settled maxims of law permit and sanction for the particular class of cases to which the one in question belongs." (16 C. J. S., 1141.) In the case at bar, the Public Service Act does not include the amendment made in the disputed order among those that may be ordered without notice or hearing in accordance with Section 17 of the Act. Is the amendment, without notice or hearing, permitted by the well settled maxims of law? We declare it is not, because due process of law guarantees notice and opportunity to be heard to persons who would be affected by the order or act contemplated.

In a general sense it means the right to be heard before some tribunal having jurisdiction to determine the

question in dispute. (Albin vs. Consolidated School District No. 14 of Richardson County, 184 NW 141, 106 Neb. 719, cited in 16 C. J. S., 1143, footnote.)

By "due process of law" is meant orderly proceeding adopted to the nature of the case, before a tribunal having jurisdiction, which proceeds upon notice, with an opportunity to be heard, with full power to grant relief. (Footnote), 16 C. J. S., 1144.)

Some legal procedure in which the person proceeded against, if he is to be concluded thereby, shall have an opportunity to defend himself. (Doyle, Petitioner, 16 R. I., 537, 538, 21 Am. Jur., 759, 5 L. R. A., 309, cited in 12 C. J., 1193.)

A course of proceeding according to those rules and principles which have been established in our system of jurisprudence for the protection and enforcement of private rights. (12 C. J., 1191-1192.)

We, therefore, hold that the amendment authorized by the order of the respondent Commission of July 3, 1952, is not authorized by the facts contained in the decision granting the certificate of public convenience in favor of the predecessor in interest of the respondent operator, and that even if there was really an error in the original decision fixing the routes, in that the said routes were not in accordance with the evidence submitted, the issuance of the order without proper notice to the petitioner and opportunity on the part of the latter to be heard in relation to the petition, is a violation of the petitioner's right not to be deprived of his property without due process of law.

The order of July 3, 1952, is hereby declared null and void and ordered revoked, with costs against the respondent CAM Transit Co., Inc.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, MONTemayor, Reyes, Jugo and Bautista Angelo, JJ., concur.

[1] 88 Phil., 412.

[2] 90 Phil., 777.

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