

MD TRANSIT & TAXI CO., INC., PETITIONER, VS. SANTIAGO PEPITO, RESPONDENT.

G.R. No. L-16481. September 29, 1962

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Santiago Pepito seeks to operate a TPU auto-truck service for the transportation of passengers and freight on the line Meycauayan (Bulacan)-Baclaran (Rizal) passing through Bonifacio monument and Highway 54, intending to use therefor six auto-trucks to be operated in accordance with the proposed time schedule attached to his application.

To his application several operators filed oppositions notably the MD Transit & Taxi Co. Inc., Jose de la Paz, operator of the Marikina Valley Transportation Co., Inc. Fortunato F. Halili and the La Mallorca-Pambusco combine.

On August 31, 1959, after due hearing, the Public Service Commission rendered decision finding that public convenience will be promoted in a proper and suitable manner by the approval of the application of Santiago Pepito who is financially capable of operating and maintaining the proposed service and so it ordered that a certificate of public convenience be granted him to operate six auto-trucks on the line applied for subject to the conditions therein specified.

From this decision only oppositor MD Transit & Taxi Co., Inc. has appealed, and among the errors it now assigns in support of the reversal of the decision are: (1) in finding that "there is a need for the service applied for", when in fact the same is not supported reasonably by sufficient evidence; (2) in finding that the evidence of the applicant clearly shows that there is big volume of passengers between Meycauayan and Baclaran, such evidence, on the contrary, being not only hazy but contradictory to the finding of the Commission; (3) in disregarding the evidence of oppositor La Mallorca-Pambusco that its service from Meycauayan to Manila is adequate; and (4) in ruling that no evidence was presented by the oppositors that the approval of the application would result in ruinous and wasteful competition.

The contention that the finding of the Commission that "there is a need for the service applied for" is not reasonably supported by the evidence is untenable, for the same is belied by the record. Thus, the record shows that during the hearing the applicant presented a total of five witnesses, besides his own testimony, and predicated on such evidence the Commission found the following facts: that Meycauayan is a first class-B municipality with an estimated population of 30,000; that there are many passengers traveling along the line applied for; that the people traveling from Meycauayan in order to go to Baclaran, or any point in Highway 54, have to go as far as Bonifacio monument only, where they avail themselves of other transportation facilities to reach their destination; that, likewise, from Baclaran, or any point in Highway 54, the passengers have also to transfer to other means of transportation at Bonifacio monument in order to go to Meycauayan; that these passengers consist of merchants, peddlers, jewelry dealers and those engaged in wooden shoe business, bolo making and blacksmith; that these

passengers upon arrival at Bonifacio monument usually have to wait for at least half hour before they could be accommodated because most of the buses there are already full, and that there had been petitions made by the people of Meycauayan, thru their mayor, asking that they be provided with transportation facilities from Meycauayan to Baclaran, via Highway 54, as in fact a petition to that effect was coured thru the municipal council of said municipality, while applicant himself testified that there is no direct service from Meycauayan to Baclaran via Highway 54, and vice-versa, and that he is financially capable of operating the proposed service.

The above facts were found by the Commission after a careful evaluation of the evidence submitted by the applicant and so it is incorrect to say that its finding that there is need for the service applied for is not reasonably supported by sufficient evidence.

It is true that the oppositors tried to establish the contrary by impressing upon the Commission that the lines they were operating are sufficient to take care of the passengers, if any, on the new line applied for, to the extent that at times their buses were operating only with few, if not half full of, passengers, except on Wednesday, when there is pilgrimage in Baclaran church, when the buses become filled to capacity, aside from the fact that there are other operators serving the line from Bonifacio monument to Baclaran, via Highway 54, not to mention other TPU jeepneys and auto-trucks plying the same route. But the Commission did not give much importance to this opposition not only because the proposed line is not covered by the certificate granted to the oppositors but also because of the strength and merit of the very evidence of the applicant. Thus, after a careful evaluation of the evidence of the applicant, as well as the oppositors, the Commission made the following comment:

"After a careful consideration of the evidence presented by the parties, we find that there is need for the service applied for. Applicant's evidence on this point clearly shows that there is a big volume of passengers commuting between Meycauayan and Baclaran, especially on Wednesdays, when many residents of the former go to Baclaran and return on the same day. Oppositors' contention that present operators serving on the line Bonifacio Monument-Baclaran or Buendia via Highway 54 are more than sufficient to cope with the needs of the traveling public on the line can not be given much consideration as applicant in this case proposes a line from Baclaran to Meycauayan (Bulacan) and vice-versa, and intends to serve passengers coming from Meycauayan bound for Baclaran, or from Baclaran to Meycauayan. Besides, if this Commission were to grant the service, the same would be for the convenience of these passengers intended to be served as they do not have to make any transfers in order to reach their destination. It is to be noted that the line Bonifacio Monument-Baclaran or Buendia via Highway 54 where the oppositors, MD Transit and the Marikina Valley Transportation, are presently operating, is only a part of the Baclaran-Meycauayan line applied for by the applicant. As to the evidence adduced by the Pampanga Bus Co. and the La Mallorca to the effect that they are adequately serving passengers from Meycauayan can not likewise be given much weight as their operation is intended to serve passengers from said municipality to Divisoria and vice-versa. We also find no merit in the documentary evidence presented by the oppositor Halili, as the decision denying its application rendered in Case No. 106835 et al.f refers to the line Navotas (Rizal-Las Piñas (Rizal), which is entirely different from that which applicant has applied for. No evidence was presented by the oppositors to support their contention that if applicant is granted a certificate of public convenience, the same would only cause ruinous and wasteful competition, and that applicant is not financially capable of operating and maintaining the proposed service."

It is also true that an attempt was made on the part of the oppositors to show that some of the witnesses of the applicant have committed contradictions in their testimony, but besides the fact that the contradictions are insubstantial, they were explained by opposing counsel in his brief. We are satisfied that such contradictions have not materially impaired the essence of their testimony.

It appearing that the main issues raised by petitioner merely affect questions of fact which Jby their very nature involve an evaluation of the relative weight of the evidence of both parties, or the credibility of the witnesses who testified before the Commission, following the law and jurisprudence applicable to the matter in this jurisdiction,

said questions are now conclusive upon this Court, and cannot be looked into, it appearing that there is sufficient evidence to support said findings.[1]

Another issue raised by petitioner refers to the finding that the oppositors failed to prove that the granting of the new line to the applicant would cause them ruinous and wasteful competition, citing in this respect the joint decision rendered in certain cases (Exhibit 1) wherein the Commission made the following remark: "With the existing service now authorized, these additional units will provide ample and sufficient service for the needs of the public in both lines and there will be no need for sometime to come to entertain applications for more service in either of these lines." It is emphasized that when this decision was rendered the application of herein respondent was then pending determination, and from this remark petitioner concludes that the grant of a new line, as the one granted to respondent, would necessarily result in a ruinous competition to the prejudice of the oppositors.

Aside from the fact that the remark above adverted to was a mere obiter dictum for it is not within the competence of the Commission to determine whether or not additional service in the future will not be necessary on the basis of the present evidence for such matter can only be determined after hearing and proper determination of existing factual conditions that may warrant the need for additional service, the essence of the remark of the Commission has been virtually rendered ineffective when scarcely nine months thereafter the same Commission granted other applications to operate a line of auto-trucks on Highway 54, one of which is that of oppositor herein in Case No. 126816, wherein it was granted ten additional units alleging therein that there was further necessity for such additional units. The truth, however, is that the oppositors presented no evidence whatsoever to prove that the approval of respondent's application would result in a ruinous and wasteful competition. This it is their duty to do in line with what this Court has ruled on the matter:

* * * In order that the opposition based on ruinous competition may prosper, it must be shown that the opponent 'would be deprived of fair profits on the capital invested in its business. The mere possibility of reduction in the earnings of a business is not sufficient to prove ruinous competition. It must be shown that the business would not have sufficient gains to pay a fair rate of interest on its capital investment.' (Manila Electric Co., vs. Pasay Transportation Co., 66 Phil., 36, 6 L. J. 1117.) Mere allegations by the oppositor that its business would be ruined by the establishment of the ice plants proposed by the applicants 'are not sufficient to warrant this court to revoke the order of the Public Service Commission.' (Teodora Santos Vda. de Pilares vs. Consuelo Arranze, G. R. No. 45462, July 28, 1938.)" (Ice & Cold Storage Industries vs. Valero, 85 Phil., 7)

Finally, we do not find merit in the contention that the Commission erred in not giving weight to the evidence of oppositor La Mallorca-Pambusco that it is adequately serving the passengers traveling between Meycauayan and Manila for the reason that the line applied for is entirely different from the route served by said oppositor.

Wherefore, the decision appealed from is affirmed, with costs against petitioner.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, and Makalintal, JJ., concur.

[1] Section 35, Public Service Act; Padua vs. Ocampo, et al., L-7579, September 17, 1955; Raymundo Transportation Co. vs. Cervo, 91 Phil., 313; Raymundo Transportation Co. vs. Cerda, 99 Phil., 99; Saulog Transit vs. Medina, L-7329, May 30, 1956; Batangas Transportation Co. vs. Laguna Transportation Co., 104 Phil., 992; A. L. Ammen Transportation vs. Soriano, L-12350, May 26, 1959; Laguna-Tayabas Bus Co. vs. M. Ruiz Highway Transit, Inc., L-11933-34, February 29, 1960; Pineda vs. Carandang, 107 Phil., 369; Pangasinan Transportation Co. vs. Nestor, 107 Phil., 1136.

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