

**VILLA REY TRANSIT, INC., PETITIONER, VS. PANGASINAN
TRANSPORTATION COMPANY, INC., ET AL., RESPONDENTS.***G. R. No. L-17684-85. May 30, 1962*

Ponente: BAUTISTA ANGELO, J.

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This is a petition for review of a decision of the Public Service Commission cancelling the provisional authority granted to Villa Rey Transit to operate a line of buses in connection with two certificates of public convenience and granting authority to operate the same line to Pangasinan Transportation Co.

On April 7, 1959, Villa Rey Transit, a corporation, purchased from Valentin A. Fernando for the sum of P249,500.00 five certificates of public convenience authorizing the operation of a fleet of TPU buses on the lines, among others, Lingayen-Manila via Dagupan and Lingayen-Manila via Camiling, and vice-versa. One of said certificates was, however, excluded because it turned out that the same had already expired before the purchase. On the same date, Villa Rey Transit filed an application with the Public Service Commission for the approval of the purchase as well as for authority to operate provisionally the lines covered by the purchased certificates.

On May 19, 1959, the Commission approved provisionally the sale and granted the provisional authority requested. In the order, however, it was required that Villa Rey Transit register in its name the fleet of 45 buses it had acquired from Fernando within 45 days from the date of the order.

Upon receipt of the order, Villa Rey Transit started operating the buses on the line covered by the purchased certificates while at the same time it began the job of repairing and reconditioning the buses purchased to place them in road-worthy condition. Since this job could not be completed within the 45-day period granted by the Commission within which the buses had to be registered in purchaser's name, Villa Rey Transit asked for an extension of time to comply with the requirement, which was granted, the period having been extended up to July 30, 1959. Within the extended period, Villa Rey Transit registered in its name all of the 45 buses purchased from Fernando and submitted to the Commission certified copies of the corresponding certificates of registration.

On July 22, 1959, or three months after Villa Rey Transit had purchased the certificates of public convenience from Fernando, and two months after the Commission had provisionally approved the same, Villa Rey Transit received copy of an order dated July 22, 1959 issued by the Commission in another case wherein it provisionally approved a certificate of sale executed by the Sheriff of Manila in favor of Eusebio E. Ferrer and another deed of sale executed by the latter in favor of Pangasinan Transportation Co. covering two of the five certificates of public convenience which Villa Rey Transit had earlier purchased from Fernando.

An examination of the record of that case revealed that it was also an application filed by Ferrer and Pantranco for the approval of the two sales abovementioned and for the issuance of a provisional authority to operate the lines covered by the certificates of public convenience sold. The examination also revealed that Ferrer claimed ownership of said certificates by virtue of a certificate of sale of July 16, 1959 issued by the Sheriff of Manila as a result of an auction sale conducted by him on the same date by virtue of a levy in execution issued by the Court of

First Instance of Pangasinan in Civil Case No. 13798 in which Eusebio E. Ferrer was the plaintiff and Valentin A. Fernando the defendant.

Upon receipt of said order, Villa Rey Transit filed with the Commission a petition for reconsideration alleging that on the date of the levy on execution made by the Sheriff of Manila by virtue of the writ of execution issued in said civil case, as well as on the date of the auction sale of the certificates of public convenience abovementioned, Valentin A. Fernando was no longer the owner of said certificates since Villa Rey Transit had earlier acquired them from Fernando for valuable consideration and with the approval of the Commission. In due time, Pantranco filed its opposition thereto. Because the two applications for approval and for authority to operate refer to the same certificates of public convenience, the same were heard jointly, together with the petition for reconsideration, in which hearing the parties adduced their respective evidence.

In the meantime, an appeal was taken by Fernando from the decision rendered in Civil Case No. 13798 pursuant to the decision of the Court of Appeals, said appeal being still pending up to the present time. Likewise, subsequent to the receipt of the order approving the sale made by Ferrer of the two certificates in favor of the Pantranco, Villa Rey Transit filed an action in the Court of First Instance of Manila for the cancellation and revocation of the sheriff's sale made in favor of Ferrer, as well as the deed of sale made by the latter in favor of Pantranco, covering the two certificates of public convenience in question. Said action is also still pending up to the present time.

On September 13, 1960, the Public Service Commission rendered a joint decision wherein it virtually held that Pantranco is the lawful owner of the two certificates of public convenience and hence it issued a certificate of public convenience in its favor to operate the lines covered by them and, as a consequence, it ordered Villa Rey Transit to cease operating on the same lines as was previously authorized by the Commission.

Its motion for reconsideration having been denied, Villa Rey Transit interposed the present petition for review.

This petition is anchored on the following propositions:

- Although in its order of July 22, 1959 and in its joint decision the Commission expressly stated that petitioner had acquired by purchase in good faith and for valuable consideration the certificates of public convenience in question and that it had provisionally approved the same, the Commission did not declare petitioner the rightful owner thereof with the right to operate the lines covered by them in accordance with the terms and conditions imposed upon it;
- Although in said order and joint decision the Commission expressly stated that at the time the Sheriff of Manila levied in execution said certificates on July 16, 1959 they were no longer the property of Valentin A. Fernando because as early as April 7, 1959 petitioner had already acquired them by purchase, the Commission failed to declare that neither Ferrer nor Pantranco acquired any right to said certificates arising from the levy and auction sale conducted by the Sheriff of Manila; and
- Although it was obvious that the dispute between the parties was one involving a question of ownership and the Commission already well knew that said question had already been submitted by the parties to the proper regular courts of competent jurisdiction, it proceeded nevertheless to determine and resolve the same when it should have held it in abeyance pending resolution thereof by the regular civil courts.

It appears that petitioner bought the two certificates of convenience in question, together with other three, from Valentin A. Fernando, on April 7, 1959, covering 45 buses, for the sum of P249,500.00, of which P100,000.00 was paid in cash, and the balance to be paid later to various creditors of Fernando. This sale was provisionally approved by respondent Commission on May 19, 1959, granting at the same time provisional authority to operate the lines covered by the certificates. This authority was granted subject to the condition that petitioner should

register in its name the fleet of 45 buses it had acquired within 45 days from the date of the order of approval.

Upon receipt of said order, petitioner started operating the buses on the lines covered by the purchased certificates while at the same time began repairing and reconditioning said buses to place them in road worthy condition. Since this job could not be completed within the 45-day period originally granted by the Commission, petitioner filed a petition for extension which was granted, the period having been extended up to July 30, 1959. And within the extended period, petitioner registered in its name all the 45 buses and submitted to the Commission certified copies of the certificates of registration.

It developed, however, that the papers relative to the petition for extension as well as the order granting the same were misplaced or mixed with the records of other cases with the result that when the petition for approval of the purchase of the certificates was filed by Pantranco so the Commission declared that petitioner was not entitled to continue with their operation because it failed to register the buses in its name as required in the order. The Commission said that "This lack of service has worked prejudice to the public because it has been deprived of the facilities which could be rendered by its buses." It is undoubtedly because of this misapprehension that the Commission gave the right of preference to Pantranco and not to petitioner. This misapprehension should be rectified in fairness to petitioner.

Considering that petitioner purchased the certificates in question in good faith and for valuable consideration and much ahead in point of time than either Eusebio E. Ferrer or the Pantranco, which fact was found to be well-proven by respondent Commission, no valid reason is seen why the right of preference should not be given to petitioner. This is more so when the financial condition of petitioner has not been contested. On the contrary, it was acknowledged that it can adequately undertake the operation without jeopardizing the interest of the riding public. And it is no reason to hold that Pantranco is better financially equipped because it is an operator that has many and extensive lines plying between Manila and Lingayen and is much older in the business, for such theory is conducive to monopoly and is contrary to the principle that promotes a healthy competition.

It is true that the Commission has been influenced by the impression that petitioner has violated its provisional authority for having operated buses which were not registered in its name, but this is again based on a misapprehension, the truth being that petitioner operated the same buses that it bought from Fernando although they have not yet been registered in its name. Petitioner had to make use of said buses even if not registered in its name because it started its operation immediately, and it had 45 days within which to effect the registration, which was extended up to July 30, 1959. There was no requirement that petitioner must first register the buses in its name before it could start to operate, nor was there any prohibition to operate unless the buses are first registered. And when petitioner was given an extension to effect their registration it complied with the requirement by registering all the buses within the period extended. The finding that petitioner violated its authority has, therefore, no basis.

Wherefore, the decision appealed from is reversed. The order of respondent Commission dated July 22, 1959 is hereby set aside. In lieu thereof, respondent Commission is hereby directed to allow petitioner to continue the operation of the lines covered by the certificates in question provisionally, until the question of ownership thereof shall have been determined by the proper regular courts. Costs against respondents, other than the Public Service Commission.

Padilla, Concepcion, Reyes, J. B. L., Barrera, Paredes, and Dizon JJ., concur.

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