

RADIO COMMUNICATIONS OF THE PHILIPPINES, INC. (RCPI), PETITIONER, VS. BOARD OF COMMUNICATIONS AND DIEGO MORALES, RESPONDENTS.

G.R. No. L-43653. November 29, 1977

Ponente: MARTIN, J.

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MARTIN, J.:

These two petitions (G.R. No. L-43653 and G.R. L-45378) for review by certiorari of the decisions of the Board of Communications in BC Case No. 75-01-OC, entitled "Diego T. Morales vs. Radio Communications of the Philippines, Inc. (RCPI)" and BC Case No. 75-08-OC, entitled "Pacifico Innocencio vs. Radio Communications of the Philippines, Inc. (RCPI)," have been conso-lidated as per resolution of this Court dated March 21, 1977, as they involve the same issue as to whether the Board of Communications has jurisdiction over claims for damages allegedly suffered by private respondents for failure to receive telegrams sent thru the petitioner Radio Communications of the Philippines, Inc., RCPI for short.

In BC Case No. 75-01-OC (G.R. No. L-43653) complainant respondent Diego Morales claims that while he was in Manila his daughter sent him a telegram on October 15, 1974 from Santiago, Isabela, informing him of the death of his wife, Mrs. Diego T. Morales. The telegram sent thru the petitioner RCPI however never reached him. He had to be informed personally about the death of his wife and so to catch up with the burial of his wife, he had to take the trip by airplane to Isabela. In its answer petitioner RCPI claims that the telegram sent by respondent was transmitted from Santiago, Isabela to its Message Center at Cubao, Quezon City but when it was relayed from Cubao, the radio signal became intermittent making the copy received at Sta. Cruz, Manila unreadable and unintelligible. Because of the failure of the RCPI to transmit said telegram to him, respondent allegedly suffered incon-venience and additional expenses and prays for damages.

In BC Case No. 75-08-OC (G.R. No. L-45378) com-plainant respondent Pacifico Innocencio claims that on July 13, 1975 Lourdes Innocencio sent a telegram from Paniqui, Tarlac, thru the facilities of the petitioner RCPI to him at Barrio Lomot, Cavinti, Laguna for the purpose of informing him about the death of their father. The telegram was never received by Pacifico Innocencio. In spite of the non-receipt and/or non-delivery of the message sent to said address, the sender (Lourdes Innocencio) has not been notified about its non-delivery. As a consequence Pacifico Innocencio was not able to attend the internment of their father at Moncada, Tarlac. Because of the failure of RCPI to deliver to him said telegram he allegedly was "shocked when he learned about the death of their father when he visited his hometown Moncada, Tarlac on August 14, 1975," and thus suffered mental anguish and personal inconveniences. Likewise, he prays for damages.

After hearing, the respondent Board in both cases held that the service rendered by petitioner was inadequate and unsatisfactory and imposed upon the petitioner in each case a disciplinary fine of P200 pursuant to Section 21 of Commonwealth Act 146, as amended, by Presidential Decree No. 1 and Letter of Implementation No. 1.

The main thrust of the argument of petitioner is that respondent Board has no jurisdiction to entertain and take

cognizance of complaints for injury caused by breach of contractual obligation arising from negligence covered by Article 1170 of the Civil Code[1] and injury caused by quasi delict or tort liability under Article 2176 of the Civil Code[2] which according to it should be ventilated in the proper courts of justice and not in the Board of Communications.

We agree with petitioner RCPI. In one case We have ruled that the Public Service Commission and its successor in interest, the Board of Communications, "being a creature of the legislature and not a court, can exercise only such jurisdiction and powers as are expressly or by necessary implication, conferred upon it by statute".[3] The functions of the Public Service Commission are limited and administrative in nature and it has only jurisdiction and power as are expressly or by necessary implication conferred upon it by statute.[4] As successor in interest of the Public Service Commission, the Board of Communications exercises the same powers, jurisdiction and functions as that provided for in the Public Service Act for the Public Service Commission. One of these powers as provided under Section 129 of the Public Service Act governing the organization of the Specialized Regulatory Board, is to issue certificate of public convenience. But this power to issue certificate of public convenience does not carry with it the power of supervision and control over matters not related to the issuance of certificate of public convenience or in the performance therewith in a manner suitable to promote public interest. But even assuming that the respondent Board of Communications has the power or jurisdiction over petitioner in the exercise of its supervision to insure adequate public service, petitioner cannot be subjected to payment of fine under Section 21 of the Public Service Act, because this provision of the law subjects to a fine every public service that violates or fails to comply with the terms and conditions of any certificate or any orders, decisions or regulations of the Commission. In the two cases before Us petitioner is not being charged nor investigated for violation of the terms and conditions of its certificate of public convenience or of any order, decision or regulations of the respondent Board of Communications. The complaint of respondents in the two cases was that they were allegedly inconvenienced or injured by the failure of the petitioner to transmit to them telegrams informing them of the deaths of close relatives which according to them constitute breach of contractual obligation through negligence under the Civil Code. The charges, however, do not necessarily involve petitioner's failure to comply with its certificate of public convenience or any order, decision or regulation of the respondent Board of Communications. It is clear from the record that petitioner has not been charged of any violation or failure to comply with the terms and conditions of its certificate of public convenience or of any order, decision or regulation of the respondent Board. The charge does not relate to the management of the facilities and system of transmission of messages by petitioner in accordance with its certificate of public convenience. If in the two cases before Us complainants Diego Morales and Pacifico Innocencio allegedly suffered injury due to petitioner's breach of contractual obligation arising from negligence, the proper forum for them to ventilate their grievances for possible recovery of damages against petitioner should be in the courts and not in the respondent Board of Communications. Much less can it impose the disciplinary fine of P200 upon the petitioner. In *Francisco Santiago vs. RCPI* (G.R. No. L-29236) and *Constancio Langan vs. RCPI* (G.R. No. L-29247), this Court speaking thru Justice Enrique Fernando, ruled:

"There can be no justification then for the Public Service Commission (now the Board of Communications as successor in interest) imposing the fines in these two petitions. The law cannot be any clearer. The only power it possessed, over radio companies as noted was to fix rates. It could not take to task a radio company for any negligence or misfeasance. It was not vested with such authority. What it did then in these two petitions lacked the impress of validity.

"In the face of the provision itself; it is rather apparent that the Public Service Commission lacked the required power to proceed against petitioner. There is nothing in Section 21 thereof which empowers it to impose a fine that calls for a different conclusion."

WHEREFORE, both decisions of respondent Board of Communications in BC Case No. 75-01-OC and BC Case No. 75-08-OC are hereby reversed, set aside, declared null and void for lack of jurisdiction to take cognizance of both cases. Without costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, Fernandez, and Guerrero, JJ., concur.

[1] ART. 1170. Those who in the performance of their obligations are guilty of fraud, negligence, or delay, and those who in any manner contravene the tenor thereof, are liable for damages.

[2] ART. 2176. Whoever by act or omission causes, damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provision of this Chapter.

[3] Filipino Bus Co. vs. Phil. Railway Co., 57 Phil. 860.

[4] Batangas Laguna Tayabas Bus Co. vs. Public Service Commission, L-25994 and L-26004-26046, August 31, 1966, 17 SCRA 1111.

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