

MINDORO TRANSPORTATION CO., INC., PETITIONER, VS. JOSE T. TORCUATOR, RESPONDENT.

G.R. No. L-18479. February 28, 1963

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Of the twenty-five (25): auto-trucks for the five (5) routes applied for, the Public Service Commission, in its decision in its Case No. 130011, approved, on certain conditions, six (6) auto-trucks for three (3) routes in Oriental Mindoro, as follows:

San Agustin-Calapan Pier, 2 buses
Victoria-Calapan Pier, 2 buses, and
Apiton (Naujan)-Calapan Pier, 2 buses,

in favor of the applicant, Jose T. Torcuator. The application for the lines San Jose-Calapan Pier and Pasi-Calapan Pier via Siloriay was denied because the routes are not passable due to the destruction of the Magasawang Sapa and Silonay bridges. Notwithstanding, the grant is opposed by the present petitioner, Mindoro. Transportation Co., Inc., on the ground that, in accordance with the evidence presented, the grantee is financially incapable of establishing, maintaining, and operating the service, and that there exists a sufficient, efficient, and adequate service rendered by the herein petitioner and other operator's over the approved lines.

The reception of the evidence for the applicant (herein respondent) was taken by deposition before the Justice of the Peace of Naujan, Mindoro Oriental, who was duly designated by the Public Service Commission without objection on the part of the oppositor (herein petitioner), while the latter's evidence was received before the Commission in Manila.

Through five (5) witnesses, who are all residents of the province of Oriental Mindoro, the applicant established the following:

On the San Agustin-Calapan Pier route: This line covers a distance of forty-two (42) kilometers without actual TPU service, passengers consisting mostly of merchants, students, farmers, and businessmen. Due to lack of adequate transportation service, "colorum" jitneys are rampant, and one has to wait for an hour and a half to board a bus of the oppositor at Sampaloc for Calapan, after he has to walk six kilometers from Balansig to San Agustin, and take a "colorum" jitney from the latter to Sampaloc. Along the line are fishponds, coconut plantations, and the Butas Fisheries.

On the Victoria-Calapan Pier route: It covers a distance of around thirty-three (33) kilometers without actual direct PUB service, passengers consisting mostly of student, laborers, merchants, businessmen, and market and churchgoers. To take the trip between these points, one has to go down at Barcenaga and walk fourteen (14) kilometers up to Apitong. Buses passing Barcenaga are bound for Bongabon, Mansalay, Roxas, and Naujan; homesteaders abound along the way, and almost all the buses that pass are filled up to seating capacity, and some

passengers hang at the sides of the buses. "Colorum" jitneys are likewise rampant.

On the Apiton-Calapan Pier route: It covers a distance of around forty-five (45) kilometers, also without direct TPU service, passengers consisting of people of different walks of life. One has to wait for more than an hour to board a bus from Calapan Pier to Babangonan and thence walk for sixteen (16) kilometers to Victoria. Along the route, which is thickly populated, are sawmills, agricultural farms, and the Mindoro Agricultural School.

The oppositor, Mindoro Transportation. Co., Inc., presented a lone witness, its own traffic manager, who tried to disprove the foregoing facts.

In finding that the existing authorized transportation service is inadequate, the Public Service Commission correctly appreciated the evidence; and it is a gratuitous assertion to state that it erred in, much less abused, its discretion. It is not difficult, and in fact easy, to weigh the testimony of a single witness whose bias, for being the oppositor's own traffic manager, is apparent, as against the unimpeached testimonies of the five (5) witnesses for the applicant.

The financial capability of the applicant is, likewise, supported by the evidence through his oral testimony that he has two (2) trucks valued at P19,000.00 ready for immediate operation, three (3) trucks for which P20,000.00 has been spent and under assembly in Manila, a tentative reservation for the purchase of eight (8) trucks with the Manila Trading Co., P10,000.00 in cash on hand, a credit line of P40,000.00, and a monthly income of P300.00 derived from his law practice.

The oppositor attacks applicant's financial capacity on the basis of a certificate by the city treasurer that there is no real property of the applicant for taxation purposes in Quezon City, where the applicant is a new resident; but the record discloses that the apartment house in said city, from which said applicant claimed to derive additional monthly income of P360.00 by way of rentals, is conjugal property. The non-presentation of the deeds of sale of the trucks purchased by the applicant assumes no significance, not only because the Public Service Commission is not bound by the technical rules of evidence (Sec. 29, CA No. 146; *Redi Taxi, Inc. vs. A. D. Santos, et al.*, L-12264, May 29, 1959) but also because in its decision, it has made it a condition for the certificate of public convenience, among others, that the "Applicant shall register in his name with the Motor Vehicles Office * * * the six (6) buses * * * within 30 days * * *." (Italics supplied) Unless the registration is made, (appellant) will not be entitled to operate.

In view of the foregoing, the decision under review is hereby affirmed, with costs against the petitioner,

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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