

PEDRO VIDAL AND DAVID BAETIONG, PETITIONERS, VS. PUBLIC SERVICE COMMISSION, RESPONDENT.

G.R. No. L-24660. March 28, 1968

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

Pedro Vidal executed on May 16, 1961 a deed of sale in favor of David Baetiong, purporting to sell and transfer a certificate of public convenience, allegedly granted to Vidal by the Public Service Commission in its Case No. 63708, and several jeepneys for P7,000.00. An application was thereafter filed, on June 2, 1961, by both Pedro Vidal and David Baetiong in the Public Service Commission for the approval of the aforesaid sale and transfer of the certificate of public convenience (PSC Case No. 61-4668).

The Public Service Commission through Associate Commissioner Antonio Aspillera, issued an order on June 6, 1961, provisionally approving, for the duration of said application's pendency, the sale and transfer aforementioned, subject to revocation or modification at any time.

After hearing, on November 29, 1961, the Public Service Commission dismissed the application and set aside the provisional approval, on the ground that neither the statistics records nor the records of the Transportation Division show that the certificate of public convenience was issued to Vidal in PSC Case No. 63708. The plates of the five Jeepneys also covered by the sale, were ordered immediately confiscated.

A motion for reconsideration was filed by applicants on December 13, 1961 praying for a formal inquiry on the matter and asking that there be no immediate confiscation until the persons responsible for the fraud are known. An amended and supplemental motion was filed on February 8, 1963, to set aside the order of November 29, 1961, for immediate return of the confiscated plates and for new hearing to allow the presentation of some documents allegedly discovered evidencing the existence of the certificate issued in Case No. 63708.

Said alleged documents were: (1) A certified true copy of the decision of the Public Service Commission in Case No. 63708 penned by Commissioner Feliciano Ocampo dated December 12, 1955, granting the certificate in Vidal's favor; (2) a certified true copy of an order dated May 29, 1961 issued by Commissioner Aspillera allowing the substitution of 5 jitneys in Case No. 61-3897 for the 5 jitneys in Case No. 63708; (3) a certification stating that the orders in Vidal's favor in Cases Nos. 61-3897 and 61-4068 have been recorded in the statistics section of the Public Service Commission.

The Public Service Commission en banc denied on March 30, 1965 the motion for reconsideration.

This petition for review was then filed here on July 7, 1965. It was dismissed on October 19, 1965 for failure to file petitioners' brief, but subsequently, We allowed petitioners further time to file their brief, and the same was filed.

At issue is whether respondent Commission should have ruled on the basis of the newly-offered documents that a certificate was in fact issued in Vidal's favor in Case No. 63708.

The Public Service Commission en banc held that notwithstanding diligent search no record of a certificate of public convenience awarded to Pedro Vidal in Case No. 63708 could be found. Not even its docket, which indicates the proceedings held, reflects it. And no statistical record thereof appears nor was a time schedule prepared and approved for said franchise. These facts were sworn to by the respective personnel in charge.

As against this state of the record attested to by their custodians, petitioners would rely on a certified true copy of an alleged "decision" in Case No. 63708 grant-ing a franchise in favor of Vidal. Such certified true copy cannot prevail over the records of the Public Service Commission unless it is shown that the latter's records are defective or incomplete, which is not the case. The fact that plainly arises is that the so-called certified true copy was fraudulently made; that there was in fact no such decision; and, indeed, applicants have not presented or offered to present anything convincing to the effect that there was really a decision promulgated in Case No. 63708 granting Vidal a franchise. It cannot be deemed an error on the part of respondent Commission not to rely on a mere certified true copy of an alleged decision, in the absence of anything in their records to show that there was such a decision and in the absence of competent proof that such decision was actually rendered. Respondent Com-mission, therefore, did not err in denying new trial for the presentation of said certified true copy.

Regarding the provisional approval of the sale and transfer, the same, by its terms, could be revoked at any time and was intended to last only during the pendency of the application. So the fact of its grant and recording does not affect the issue of whether a certificate of pu-blic convenience was really given in favor of Vidal. And, moreover, even in this, it was found that the same* was granted due to forgeries in the initials of the personnel who recommend action thereon. The same, therefore, were properly revoked.

As to the alleged injustice to the buyer, the vendee may proceed against his vendor for recovery, and the lat-ter, may go against the persons responsible for the fraud. The point involved in the present suit is simply that there is no record of a certificate of public convenience granted to Vidal in Case No. 63708 and that, therefore, the sale thereof to Baetiong cannot be approved and the vehicles in-cluded in the sale cannot be allowed to operate under the non-existing franchise.

WHEREFORE, the appealed orders are hereby affirmed, with costs.

SO ORDERED.

Reyes, Acting C.J., Dizon, Makalintal, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.
Ruiz Castro, J., did not take part.

* As well as the order of May 29, 1961 on substitution of jeepneys.

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