

COGEO-CUBAO OPERATORS AND DRIVERS ASSOCIATION, PETITIONER VS. THE COURT OF APPEALS, LUNGSOD SILANGAN TRANSPORT SERVICES, CORP., INC., RESPONDENTS.

G.R. No. 100727. March 18, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J. :

This is a petition for review on certiorari of the decision of the Court of Appeals which affirmed with modification the decision of the Regional Trial Court awarding damages in favor of respondent Lungsod Silangan Transport Services Corp., Inc. (Lungsod Corp. for brevity).

The antecedent facts of this case are as follows:

"It appears that a certificate of public-convenience to operate a jeepney service was ordered to be issued in favor of Lungsod Silangan to ply the Cogeo-Cubao route sometime in 1983 on the justification that public necessity and convenience will best be served, and in the absence of existing authorized operators on the line applied for x x x. On the other hand, defendant-Association was registered as a non-stock, non-profit organization with the Securities and Exchange Commission on October 30, 1985 x x x with the main purpose of representing plaintiff-appellee for whatever contract and/ or agreement it will have regarding the ownership of units, and the like, of the members of the Association x x x.'

"Perturbed by plaintiffs' Board Resolution No. 9 x x x adopting a Bandera System under which a member of the cooperative is permitted to queue for passengers at the disputed pathway in exchange for a ticket worth twenty pesos, the proceed of which shall be utilized for Christmas programs of the drivers and other benefits, and on the strength of defendants' registration as a collective body with the Securities and Exchange Commission, defendants-appellants, led by Romeo Oliva decided to form a human barricade on November 11, 1985 and assumed the dispatching of passenger jeepneys x x x. This development as initiated by defendants-appellants gave rise to the suit for damages.

"Defendant-Association's Answer contained vehement denials to the insinuation of take over and the same time raised as defense the circumstances that the organization was formed not to compete with the plaintiff-cooperative. It, however admitted that is not authorized to transport passengers x x x." (pp. 15-16, Rollo)

On July 31, 1989, the trial court rendered a decision in favor of respondent Lungsod Corp., the dispositive portion of which states:

"WHEREFORE FROM THE FOREGOING CONSIDERATION, the Court hereby renders judgment in favor of the plaintiff and against the defendants as follows:

- "1. Ordering defendants to pay plaintiff the amount of P50,000.00 as actual damages;
- "2. Ordering the defendants to pay the plaintiff the amount of p10,000.00 as attorney's fees.

“SO ORDERED.” (p. 39, Rollo)

Not satisfied with the decision, petitioner Association appealed with the Court of Appeals. On May 27, 1991, respondent appellate court rendered its decision affirming the findings of the trial court except with regard to the award of actual damages in the amount of P50,000.00 and attorney's fees in the amount of P10,000.00. The Court of Appeals however, awarded nominal damages to petitioner in the amount of, P10,000.00.

Hence, this petition was filed with the petitioner assigning the following errors of the appellate court:

"I. THE RESPONDENT COURT ERRED IN MERELY MODIFYING THE JUDGMENT OF THE TRIAL COURT

"II. THE RESPONDENT COURT ERRED IN HOLDING THAT THE PETITIONER USURPED THE PROPERTY RIGHT OF THE: PRIVATE RESPONDENT.

"III. AND THE RESPONDENT COURT ERRED IN DENYING THE MOTION FOR RECONSIDERATION.

Since the assigned errors are interrelated, this Court shall discuss them jointly. The main issue raised by the petitioner is whether or not the petitioner usurped the property right of the respondent which shall entitle the latter to the award of nominal damages.

Petitioner contends that the association was formed not to compete with the respondent corporation in the latter's operation as a common carrier; that the same was organized for the common protection of drivers from abusive traffic officers who extort money from them and for the elimination of the practice of respondent corporation of requiring jeepney owners to execute deeds of sale in favor of the corporation to show that the latter is the owner of the jeeps under its certificate of public convenience. Petitioner also argues that in organizing the association, the members thereof are merely exercising their freedom or right to redress their grievances.

We find the petition devoid of merit.

Under the Public Service Law, a certificate of public convenience is an authorization issued by the Public Service Commission for the operation of public services for which no franchise is required by law. In the instant case, a certificate of public convenience was issued to respondent corporation on January 24, 1983 to operate a public utility jeepney service on the Cogeo-Cubao route. As found by the trial court, the certificate was issued pursuant to a decision passed by the Board of Transportation in BOT Case No. 82-565.

A certificate of public convenience is included in the term "property" in the broad sense of the term. Under the Public Service Law, a certificate of public convenience can be sold by the holder thereof because it has considerable material value and is considered a valuable asset (*Raymundo v. Luneta Motor Co., et al.*, 58 Phil 889). Although there is no doubt that it is private property, it is affected with a public interest and must be submitted to the control of the government for the common good (*Pangasinan Transportation Co. v. PSC*, 70 Phil 221). Hence, insofar as the interest of the State is involved, a certificate of public convenience does not confer upon the holder any proprietary right or interest or franchise in the route covered thereby and in the public highways (*Lugue V. Villegas*, L-22545, Nov. 28, 1969, 30 SCRA 409). However, with respect to other persons and other public utilities, a certificate of public convenience as property, which represents the right and authority to operate its facilities for public service cannot be taken or interfered with without due process of law. Appropriate actions may be maintained in courts by the holder of the certificate against those who have not been authorized to operate in competition with the former and those who invade the rights which the former has pursuant to the authority granted by the Public Service Commission (*A.L. Ammen Transportation Co. v. Golingco*, 43 Phil. 280).

In the case at bar, the trial court found that petitioner association forcibly took over the operation of the jeepney service in the Cogeo-Cubao route without any authorization from the Public Service Commission and in violation of the right of respondent corporation to operate its services in the said route under its certificate of public convenience. These were its findings which were affirmed by the appellate court:

"The Court from the testimony of plaintiff's witnesses as well as the documentary evidences presented is convinced that the actions taken by defendant herein though it admits that it did not have the authority to transport passengers did in fact assume the role as a common carrier engaged in the transport of passengers within that span of ten days beginning November 11, 1985 when it unilaterally took upon itself the operation and dispatching of jeepneys at St. Mary's St. The president of the defendant corporation, Romeo Oliva himself in his testimony confirmed that there was indeed a takeover of the operations at St. Mary's St. xxx." (p. 36, Rollo)

The findings of the trial court especially if affirmed by the appellate court bear great weight and will not be disturbed on appeal before this Court.

Although there is no question that petitioner can exercise their constitutional right to redress their grievances with respondent Lungsod Corp., the manner by which this constitutional right is to be exercised should not undermine public peace and order nor should it violate the legal rights of other persons. Article 21 of the Civil Code provides that any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage. The provision covers a situation where a person has a legal right which was violated by another in a manner contrary to morals, good customs or public policy. It presupposes loss or injury, material or otherwise, which one may suffer as a result of such violation. It is clear from the facts of this case that petitioner formed a barricade and forcibly took over the motor units and personnel of the respondent corporation. This paralyzed the usual activities and earnings of the latter during the period of ten days and violated the right of respondent Lungsod Corp. to conduct its operations thru its authorized officers.

As to the propriety of damages in favor of respondent Lungsod Corp., the respondent appellate court stated:

"x x x it does not necessarily follow that plaintiff-appellee is entitled to actual damages and attorney's fees. While there may have been allegations from plaintiff-cooperative showing that it did in fact suffer some form of injury x x x, it is legally unprecise to order the payment of P50,000.00 as actual damages for lack of concrete proof therefor. There is, however, no denying of the act of usurpation by defendants-appellants which constituted an invasion of plaintiffs'-appellees' property right. For this nominal damages in the amount of P10,000.00 may be granted (Article 2221, Civil Code)." (p. 18, Rollo)

No compelling reason exists to justify the reversal of the ruling of the respondent appellate court in the case at bar. Article 2222 of the Civil Code states that the court may award nominal damages in every obligation arising from any source enumerated in Article 1157, or in every case where any property right has been invaded. Considering the circumstances of the case, the respondent corporation is entitled to the award of nominal damages.

ACCORDINGLY, the petition is DENIED and the assailed decision of the respondent appellant court dated May 27, 1991 is AFFIRMED.

SO ORDERED.

Narvasa, C. J. (Chairman), Cruz and Griño-Aquino, JJ., concur.
Bellosillo, J., took no part.

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