

EMILIANA C. ESTRELLA, PETITIONER, VS. PUBLIC SERVICE COMMISSION AND ANTONIO DE GUZMAN, RESPONDENTS.*G.R. No. 12641. September 30, 1960*

Ponente: LABRADOR, J.

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This is a petition for certiorari to annul an order of the Public Service Commission entered in Case No. 05557, Antonio de Guzman, applicant, granting the applicant a provisional permit to operate eight jitneys from feotonda. (Pasay) to Forbes Park via Highway 54 and two jitneys from. Rotonda (Pasay) to Forbes Park via Taft; Avenue, Buendia and San Lorenzo Village, both vice versa.

On February 11, 1965, Antonio de Guzman filed with the Public Service Commission an application for a certificate of public convenience to operate a TPU service on the lines (a) from Pasay Rotonda (Pasay City) to Forbes Park via Highway 54 and vice versa; and (b) from Pasay Rotonda (Pasay City) to Forbes Park via Taft Avenue, Buendia Junction and Ayala Boulevard and vice versa. His application is docketed as Case No. 95557 of the Public Sepice Commission. On July 2, 1956, Emiliana C. Estrella, petitioner herein, also filed with the Commissioman application for a new, line and increase of units on her old line. The old line is Forbes.Park, Makatf, Rizal to Taylo (Pasay City) and the new line is from Pasay Rotonda, Pasay City to Forbes Park via Taft Avenue, Buendia, San Lorenzo Village and vice versa. petitioner's old line consists of 5 units and her certificate of public convenience is for 25 years. She increased the number of piits operating in her old line by 20 units, and she applies for 10 jitneys for her new line. The applications of both petitioner and respondent were published and thereafter hearings were held. Estrella appeared as oppositor at the hearing of De Guzman's application. As the trial could not promptly be terminated the Public Service Commission on July 30, 1957 granted a provisional permit & respondent Antonio de Guzman to operate eight jitneys in the line from Hotonda (Pasay) to Forbes Park via Highway 54 and two jitneys on the line from Rotohda (Pasay) to Forbes Park via Taft Avenue, Buendia and San Lorenzo Village.

The petitioner who had opposed De Guzman's application for provisional permit seeks to set aside this order, alleging that the Commission committed a grave abuse of discretion in granting the provisional permit in question, for the reason that petitioner is already an operator along the lines covered by the provisional permit and is willing and ready to put the additional service to cover the lines granted in the provisional permit.

There is no question that there is a public need for the lines granted to respondent De Guzman; the petitioner herself alleged the necessity of said lines in her application and her petition is premised on such necessity. Commissioner Aspillera of the Public Service Commission hol

"* * * The Commission finds that on the lines applied for, there is a big volume of paBsengqrs and that the means of transportation presently operating on the said lines, consisting of about twelve (12) TPU and AC jitneys cannot accommodate these passengers. The service which applicant proposes to render will serve not only the passengers that go to the different industrial establishments located along the Highway 54 and Buendia, but also the people who live within the compound of the Forbes Park and San Lorenzo Village. There

is evidence to show that no other TPU operators serve the people living within the compounds and the applicant has shown to the satisfaction of the Commission that he is the only person who has obtained the permit to operate within the Forbes Park which is a private property owned by the Forbes Park Association, Inc.

"The oppositors in this case have just started presenting their evidence and it will take considerable time before hearing on this case can be completely terminated and the application decided on its merits. In the meantime, the people or the passengers whom the applicant desires to serve will be deprived of the benefit of the proposed service." (Annex "H".)

There are two grounds upon which the claim of petitioner is based, namely: that since the petitioner has already made substantial investments in the business she would be given the preference to put up the additional units needed, and that respondent Antonio de Guzman does not have the necessary financial means to maintain the service.

With respect to the first claim, substantial reason given by the Commission in granting the provisional permit to respondent Antonio de Guzman is the fact that he has the necessary permit from the owners of both Forbes Park and San Lorenzo Village to operate jitneys inside the subdivisions. It is argued by the petitioner that the whims and desires of private property owners can not deprive the right of prior existing operators, evidently referring to the fact that owners of San Lorenzo Village and Forbes Park have granted De Guzman privilege to operate in said subdivisions. A consideration of the terminals of the lines granted in the provisional permit; shows that these lines are different from those operated by the petitioner because of their terminals. The Pasay terminal of the lines covered by the provisional permit is Rotonda, whereas that of petitioner is Taylo market. The other terminal of the lines covered by the provisional permit is inside the compound of Forbes Park for the reason that respondent Antonio de Guzman was given permit to operate his jitneys therein. The other line passes the San Lorenzo Village. Forbes Park is a private compound and certainly no operator can enter therein without the permission of the owners thereof. So is San Lorenzo Village. The terminal of the lines of the petitioner would only be at the gate of the Forbes Park. The claim of petitioner that the whims of the owners of both San Lorenzo Village and Forbes Park can not destroy the preference granted by law to her as old operator is without merit. Lanes in San Lorenzo Village and Forbes Park can not be operated without the consent of the owners. Certainly the owners of San Lorenzo Village and Forbes Park, which are private subdivisions, have the right to determine the operator whom they would admit inside their subdivisions. The special authority granted to respondent Antonio de Guzman to operate in these subdivisions is indeed a very valid and practical reason for granting the provisional permit to him, in preference to petitioner.

As to the supposed lack of financial ability on the part of respondent, there was showing that he had real estate assessed at P45,000 and a residential house valued at P7,500. These, we believe, are sufficient proofs of financial ability. It also appears that respondent has already registered 10 jitneys under the provisional permit. In the face of this facts, We find no ground for reversing the finding of the Commission as to the financial ability of respondent.

Finding no error in the granting of provisional permit to Antonio de Guzman, we hereby dismiss the petition, with costs against petitioner.

Paras, C. J., Bengzon, Bautista Angelo, Concepcion, Reyes J. B. L., Barrera, and Gutierrez David, JJ., concur.

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