

PANGASINAN TRANSPORTATION COMPANY, INC., PETITIONER, VS. PHILIPPINE FARMING CO., LTD., RESPONDENTS.

G.R. No. 1324. July 22, 1948

Ponente: BENGZON, J.

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BENGZON, J.:

If a complaint for violation of the Public Service Law is amended, when is it deemed filed, for the purposes of the prescriptive period? That is the sole issue in this petition for review of the Public Service Commission's ruling that the complaint must be reckoned as of the date of the amendment.

It appears that on November 18, 1946, the petitioner herein, (holder of several certificates of public convenience with principal office at Dagupan, Pangasinan), presented to the Commission a written complaint for illegal reduction of rates against herein respondent, alleging, in substance, (a) that the latter had been authorized to operate public service cars on the same lines awarded to petitioner, subject to the condition that it shall charge five centavos per passenger per kilometer; and (b) that, without permission, respondent "has charged and is now charging" a reduced passenger rate of two centavos per passenger per kilometer. When the complaint was heard on January 9, 1947, respondent orally moved for its dismissal on the ground that it did not specify the acts constituting the offense. Despite petitioner's objection the motion was granted, but petitioner was given a period of five days to amend its complaint. Within the period indicated, an amended complaint was made on January 14, 1947, naming the specific passengers who had paid two centavos per kilometer and describing the routes traversed and the dates of collection, to wit, on October 29, November 9 and November 2 of the year 1946. When this amended complaint was subsequently argued, respondent pleaded that the offense had prescribed, more than two months having elapsed from the commission of the acts to the day the amended complaint was filed. Whereupon the Commission upheld the contention saying:

" * * * considering that the violations charged in the amended complaint are alleged to have been committed more than two months prior to the date of said amended complaint; considering further that the two-month period of prescription fixed in Section 28 of Commonwealth Act 146, as amended, must be reckoned on the basis of the date of the amended complaint, the Commission believes that the motion for dismissal of Counsel for the respondent should be as it is hereby granted, and the amended complaint dated January 13, 1947 filed by complainant in this case is hereby ordered dismissed."

A motion to reconsider was denied. Therefore complainant prepared this petition to review.

There is no question that the acts enumerated in the original and amended complaints were a violation of Section 21 of Commonwealth Act No. 146. There is also no question that the original complaint was presented within the sixty-day period prescribed by law (section 28, Commonwealth Act No. 146), and that the amended complaint was submitted more than two months after the commission of the offense. The issue is whether the amended complaint is to be regarded as a continuation of the original complaint, so that the case may be deemed to have been instituted in seasonable time. Our holding in *Laguna Tayabas Bus Company vs. Ramos* seems to be conclusive:

"Act No. 3763, section 1, Paragraph 2, provides that 'violation of the regulations or conditions of certificates of public convenience issued by the Public Service Commission, shall prescribe after two months'. It is hereby conceded that the original complaints were filed within the two-month period, but that the amendments to the complaints were filed after the expiration of the two-month period. The question then is, if the amendments have introduced a new or different demand. Comparing the original complaints in each of said five cases in question with the amendments made thereto, we reach the conclusion that no more was done or intended than to supply missing specifications, and to amplify and give greater precision to the allegations in support of the cause originally presented. Accordingly, it is apparent that error was committed by the Public Service Commission in dismissing the cases". (*Laguna-Tayabas Bus Co. vs. Ramos*, G. R. No. 41399, August 9, 1934.)

It is clear, in our opinion, that the amendment merely seeks to specify the acts which constituted unauthorized reduction of passenger fares. And the circumstance that the amendment was expressly permitted furnishes additional ground to hold that the proceedings flowed from the original complaint.

It is not correct to say that the above decision was modified by our holding in the *Sambrano vs. Northern Luzon* litigation (G.R. No. 45137[1]) because although it is true that an amended complaint "takes the place of the original" as to the allegations, for the purpose of computing the period of limitation, the date of the original is not changed nor altered.

"Where the original declaration states a cause of action, but does it imperfectly, and afterward an amended declaration is filed, correcting the defect, the plea of the statute of limitations will relate to the time of filing the original declaration" (37 C.J., p. 1072.)

Under the rules of criminal law (if invoked) the commencement of the action on November 15 (20 days after October 29) interrupted the running of the sixty-day period, (*People vs. Joson*, 46 Phil., 380; Article 91, Revised Penal Code) which began to run anew on January 9, 1947. Wherefore, on January 14, when the amended pleading was submitted only about twenty-five days had elapsed from October 29. And this, on the supposition that the prescription began to run on October 29; for it must be observed that the period of prescription commences from the day on which the crime is discovered by the offended party, the authorities or their agents (article 91, Revised Penal Code), as to which date there are no representations.

Therefore, we must hold that the proceedings against herein respondent were, under the law, commenced within the statutory period.

The order of the Commission is hereby set aside. No costs.

Parás, Actg. C. J., Feria, Pablo, Perfecto, Briones, Padilla, and Tuason, JJ., concur.

[1] 63 Phil., 554.

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