

MANILA YELLOW TAXI-CAB, INC., PETITIONER, VS. EDMUNDO L. CASTELO, RESPONDENT.*G.R. No. 13910. May 30, 1960*

Ponente: BAUTISTA ANGELO, J.

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On March 7, 1957, Edmundo L. Castelo filed an application with the Public Service Commission for a certificate of public convenience to operate ten (10) units of taxicab service in the City of Cabanatuan, and to all points, barrios and municipalities in the Island of Luzon. The Manila Yellow Taxi-Cab Co., Inc., a grantee of a certificate of public convenience operating ten taxicab units in the same territory, opposed the application alleging, among others, that the taxicab service now rendered by it is more than sufficient to meet the needs of the riding public so that to approve the application would only create a ruinous competition, and that, in the event the Commission finds that there is need for the proposed service, preferential right should be given to said oppositor it being an old operator.

After trial, the Commission, by a two to one vote, found for Castelo and rendered decision granting him a certificate to operate six (6) units of taxicab service in said territory. Not satisfied with the decision, the oppositor elevated this case to this Court contending that the Commission "ERRED IN HOLDING THAT THERE IS NEED FOR MORE TAXICAB FACILITIES IN THE CITY OF CABANATUAN AND THAT THE SERVICE NOW EXISTING IS NOT SUFFICIENT FOR THE NEEDS OF THE PUBLIC."

To support its claim, oppositor submitted testimonial as well as documentary evidence consisting in the testimonies of six witnesses, namely: Pedro C. Ladignon, Arturo Pineda, Vicenta de Jesus, Mario Santos, Romeo A. Punzal, and Pedrito C. Arguelles. The documentary evidence consists of Exhibits 1, 2 and 3, which show that oppositor is operating its taxicab business in Cabanatuan City at a loss.

Pedro C. Ladignon, a lawyer of Sta. Rosa, Nueva Ecija, testified that he goes to Cabanatuan City three to four times a week; that the means of transportation in the city are calesas, jitneys, big buses and the ten taxicabs of oppositor; that he frequently sees empty taxicabs of oppositor; that the riding public patronizes calesas, jitneys, auto-calesas and big buses because the fare is cheaper than the taxicabs. On cross-examination, he stated that he was a former classmate of Mr. Punzal, the branch manager of oppositor; that he does not know of any jitney or calesa which carries passengers from one point of the poblacion to another within the City of Cabanatuan, and that the jitneys and big buses carry passengers from the city to places outside of its limits.

Arturo Pineda, Vicente de Jesus and Mario Santos corroborated the testimony of Ladignon, while Romeo A. Punzal, branch manager of oppositor, testified that he is operating ten units in the city the latest models being Studebaker 1952; that during daytime the available passengers are mostly emergency cases from hospitals and merchants; that there are about 900 to 1,000 calesas and about 500 to 500 jitneys in Cabanatuan City which are used as means of transportation there and other towns; that the taxicab business of oppositor in the city is losing because the average earning during the lean months is from P6.00 to P7.00 per day per cab and it is only during

carnival season in Cabanatuan City that the taxicab averaged from P20.00 to P25.00 a day. However, on cross-examination, he stated that of the 10 units operated by oppositor, actually 7 are in operation, for the other three are undergoing repairs for around one month already; that there are flag-up cases involving drivers for which some had been discharged, and that some of those discharged reported daily earnings of P6.00 to P7.00.

Applicant, on the other hand, also presented testimonial and documentary evidence, the latter consisting of resolutions of Cabanatuan Jaycees and of Cabanatuan City Council endorsing the move of applicant to operate additional taxi units for the benefit and convenience of the public. Testifying in his own behalf, he stated that there are seven colleges in Cabanatuan City with an average enrollment of 2,000 students each, most of whom attend night schools; that there are many government offices in the city such as the PC Headquarters, Provincial Jail, Nursery, SEATO Camp, FACOMA, etc.; that the students as well as the government employees are forced to use calesas because of lack of available taxis; that oppositor operates old units of 1952 model; that plenty of dust get into the cars because the floors have holes; that patients of hospitals cannot use the same because of this inconvenience, and there is only one ambulance service offered by the provincial hospital whose charge is higher than that of taxicabs; that there are many organizations which have their offices in Cabanatuan City such as the Rotary, Jaycee Club and the Lions Club; that the units of oppositor are inadequate especially during rainy season when most of the cocheros devote their time to planting palay; and that the resolutions of the Jaycees and the City Council of Cabanatuan were passed without his intervention.

Enrique Ortiz, a member of Cabanatuan City Council, corroborated applicant's testimony as to the inadequacy of the service rendered by oppositor. He stated that the passengers are rendered uncomfortable due to the dust coming from holes of the floors of its cars, and that at the regular meeting of the city council composed of five Nacionalistas and three Liberals, the councilors unanimously agreed to seek approval of oppositor's application. On cross-examination, he stated that it is hard to get transportation in going to the barrios at night; that during daytime the cocheros first ask the passenger how far he was going and if the place is about three kilometers away they refuse to render service. He further stated that there are five theaters in the city and the people who go out at 11:00 o'clock at night have to walk for lack of transportation facilities.

Another witness of applicant, Francisco San Vicente, testified as follows: that he is an executive officer of the Philippine Statesman College and as such he had occasion to study the existing conditions regarding the transportation need of his students; that during dismissal hours large number of students mill around the waiting shed and the entrance of the school premises waiting for buses, calesas and jeeps up to 10:00 o'clock at night; that in May of 1957, at a meeting held by the Rotary Club, of which he is secretary, the board of directors petitioned the Public Service Commission to grant more taxicab units in Cabanatuan City, a copy of which was furnished the Mayor of Cabanatuan; and that many passengers from Manila walk home when they arrive in Cabanatuan at 11:00 o'clock at night because there are no calesas, jitneys, or taxis available.

Upon the foregoing evidence submitted by both parties, the Public Service Commission made the following comment:

"After a careful examination of the entire record, we find merit in the claim of the applicant that there is a need for more taxicab facilities in that City of Cabanatuan and that the service now existing is not sufficient for the needs of the public. It appears that Cabanatuan is a large city that is well populated with many business and commercial establishments located in different places as well as schools and colleges, both public and private, and that the people travel from their homes to those places continuously. There is a showing that there are many horse-drawn vehicles and auto-calesas operating within the City, but it is a fact that the service of those vehicles is totally different from that of a taxicab. There are circumstances under which an auto-calesa or a horse-drawn vehicle would not serve the purpose of a passenger who needs a conveyance for his own use up to the place where he desires to go, to wait for him there, and bring him to another place, which service can only

be furnished by a taxicab. * * * We find from the evidence that this is the situation in Cabanatuan City where although there are auto-calesas plying within the city there is a class of passengers who need taxicab facilities for their business or social trips. We are inclined to believe the evidence of the applicant that although the oppositor is authorized to operate 10 units in Cabanatuan City, most of the time less than 10 units are in operation because frequently units break down due to their defective condition and this is also a reason why the vehicles are not patronized even by those who need taxicabs. Oppositor's claim that it has not made any profit in the operation of its taxicabs cannot be attributed to the fact that there is no demand for taxicab service but probably to the circumstance that because of the physical condition of its vehicles, the taxicab-using public does not patronize them. We are satisfied from the evidence that the authorization to the applicant of six (6) taxicab units to supplement the service now rendered by oppositor, will promote public interests and convenience in a proper and suitable manner."

We are inclined to uphold the above finding of the Commission. As we have held in one case, whether public necessity and convenience warrant the putting up of additional service is a question of fact and the finding of the Public Service Commission being "supported by sufficient evidence * * * the same should be left undisturbed" (Raymundo Transportation Co. vs. Cervo, 91 Phil., 313). And we even went to the extent of holding that this Court "will not substitute its discretion for that of the Commission on question of fact and will not interfere in the later's decision unless it clearly appears that there is no evidence to support it" (Santiago Ice Plant Co. vs. Lahoz, 87 Phil., 221; 47 Off. Gaz. [12] 403). Here, a cursory examination of the record will show that the finding of the Commission is supported by ample evidence for, as found by it, Cabanatuan is a large and well populated city where many schools, colleges, business and commercial establishments are operating, and where people travel from their homes continuously, so that even if the 10 units of oppositor are actually put in operation they cannot cope with the demand of the traveling public.

Oppositor claims, however, that even if it be found that there is still need for additional taxi service the authority to fill it should be given to oppositor by virtue of its preferential right as an old operator. To meet this contention, suffice it to quote hereunder what we said in the case of Isidro vs. Ocampo, 105 Phil., 911; 56 Off. Gaz. (41) 6341:

"* * * Moreover, even assuming for a moment that petitioner were an old operator on the line in question, nevertheless he has not applied for an increase in his service but allowed another to do so; and according to a line of decisions, it has been ruled that the granting of preference to an old operator applies only when said old operator has made an offer to meet the increase in traffic and not when another operator even a new one, like respondent* * *, has made the offer to serve the new line or increased the service on said line." (See also cases cited therein)

Wherefore, the decision of the Public Service Commission is affirmed, with costs against oppositor.

Paras, C. J., Bengzon, Padilla, Montemayor, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.

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