

JOSE SAMALA, PETITIONER VS. SAULOG TRANSIT, INC., ET AL., RESPONDENTS.

G. R. No. 15783. December 29, 1965

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On June 18, 1965, petitioner filed with the Public Service Commission an application to operate 16 autotrucks for passenger and freight service on the line between Cavite City and Sta. Cruz, Zambales, passing through Highway 54 and Olongapo, Zambales, stating that there is public need for the operation of such service; that public convenience and necessity demand the approval his application; and that he is financially able to operate the proposed service in a manner suitable to the welfare of the public.

Victory Liner, Inc. filed an opposition to the application alleging that the service it is rendering is sufficient and that the granting of the application would create a ruinous competition between it and petitioner.

Similarly, Saulog Transit, Inc. filed an opposition to the application alleging that there is no real need for the service petitioner desires to undertake since public convenience does not require its operation.

As the hearing of the case took some time apparently because of some dilatory tactics of the oppositors, petitioner requested that in the meantime a provisional permit be issued to him to operate the service applied for without waiting for the completion of the presentation of the evidence of the oppositors, to which the oppositors filed a vigorous, objection. However, petitioner's request was granted by the Public Service Commission.

After respondents had finished presenting their evidence, Commissioner Gabriel Prieto who took charge of receiving the evidence, granted the petition for provisional permit having found weighty reasons in support of said grant, but his decision met a strong dissent on the part of Commissioner Alejandro Galang whose views were shared by Commissioner A. H. Aspillera. Inasmuch as the result of the voting was a denial of the petition for provisional permit, petitioner thereupon asked that the case be heard on the merits. This was granted, the parties having agreed to reproduce thereat the evidence already presented by them during the hearing of the application for provisional authority. Again, on May 25, 1959, Commissioner Prieto rendered his decision granting petitioner a certificate of public convenience to operate six autotrucks for 25 years on the line applied for subject to the cancellation of the provisional permit previously issued on the same line. However, as is the case in connection with the hearing of the petition for provisional authority, Commissioner Aspillera registered a dissent which, this time was concurred in by Commissioner Galang, thereby giving the same negative result as regards petitioner's application for a certificate of public convenience.

In granting the application for a certificate of public convenience on the line between Cavite City and Sta. Cruz, Zambales, Commissioner Prieto found that there was really no authorized operator making direct trips between those two places, but, passengers desiring to make trips between said places can do so only by transferring either at Manila or Olongapo which cause delays and additional expenses on the part of travelers; that it is a matter of judicial knowledge that with a population of 14,613 Sta. Cruz has the most number of inhabitants, even larger

than Iba, the capital of the province of Zambales; that there are numerous passengers making daily trips to Sta. Cruz and laborers working in the naval base of San Antonio and in the mines of Masinloc who will be benefited by the proposed service, as they can be afforded a direct trip without the necessity of making transfers at some intermediate points; and that while it is true as testified to by agent Dizon that the buses that ply from Cavite City to Olongapo carry only few passengers this testimony is however contradicted by other evidence of record to the effect that buses travelling from Olongapo to Cavite City are always fully loaded with passengers.

On the other hand, the dissenting opinion of Commissioner Aspillera, which was concurred in by Commissioner Galang, merely states that there are already 18 round trips operating between Olongapo and Cavite City on the part of Saulog Transit, and 21 round trips between Olongapo and Manila on the part of Victory Liner, and for this reason he does not believe that it would promote, public convenience to allow an additional service of 6 buses between Cavite City and Sta. Cruz.

After a careful analysis of the evidence extant in the record, we find that the findings of Commissioner Prieto are fully justified. Thus, it appears that there is no public utility operator that makes direct trips from Cavite City to Sta. Cruz, Zambales so much so that the passengers travelling on said line have to make transfers either at Manila or Olongapo because the buses operated by Saulog Transit, Inc. only terminate at Manila and Olongapo, whereas those of Victory Liner, Inc. start at Manila and terminate at Olongapo, Zambales; that there are plenty of merchants from Cavite who go everyday to Sta. Cruz as well as laborers who come from Cavite and go everyday to work at the naval base of San Antonio and in the mines of Masinloc, thus causing delay and additional expense to these employees, laborers and merchants because of the transfers they have to make at Manila and Olongapo.

Moreover, it should be noted that the application of petitioner is to operate a bus service from Cavite City to Sta. Cruz which has a distance of 290 kilometers while the routes operated by oppositors Saulog Transit, Inc. and Victory Liner, Inc. are from Cavite to Olongapo which has a distance of 145 kilometers and from Manila to Olongapo which has a distance of 101 kilometers. The application of petitioner is, therefore, different from the lines of oppositors.

It is true that the Victory Liner, Inc. has a TPU service from Manila to Sta. Cruz, but according to one Arsenio Kalugdan, a witness of petitioner, he had a hard time to take a direct trip on a bus of said company from Grace Park, Caloocan City, because he invariably found that all the buses were already fully loaded. This testimony in a way contradicts the finding of Commissioners Aspillera and Galang that the proposed service will not promote any public need because Saulog Transit, Inc. and Victory Liner, Inc. are already operating a line of buses from Cavite City to Olongapo, and from Manila to Olongapo, respectively, because the truth is that there is no direct service between Cavite City and Sta. Cruz so that the passengers have to make transfers either at Manila or Olongapo to go to Sta. Cruz thus causing them delay and additional expenses resulting from those transfers.

We are, therefore, constrained to reverse the dissenting opinions of Commissioners Aspillera and Galang and to affirm the decision of Commissioner Prieto. No Costs.

Bengzon, C. J., Concepcion, Reyes, J. B. L., Dizon, Regala, Makalintal, Bengzon, J. P. and Zaldivar, J.T., concur.
Decision reversed.

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