

GREGORIO ROBLES, PETITIONER, VS. CONCEPCION FERNANDO BLAYLOCK, RESPONDENT.

G.R. No. 17629. March 31, 1964

Ponente: PADILLA, J.

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PADILLA, J.:

Petitioner seeks to set aside a judgment rendered by the the Public Service Commission on 30 September 1960 granting to the respondent, the applicant therein, a certificate of public convenience to operate for fifteen (15) years five (5) units of taxicabs of different makes, without fixed route and regular termini within the municipality of Olongapo, Zambales, and its suburbs, and from the said municipality to any point in the island of Luzon directly accessible to motor vehicle traffic and vice-versa and subject to the terms and conditions enumerated in the judgment (Case No. 130541).

Gregorio Robles, the petitioner, is a holder of a certificate of public convenience to operate a taxi service of five (5) units in Olongapo, Zambales, granted him, on 14 December 1959 (Case No. 128020). On 16 February 1960, he filed an application for an increase of five (5) units to his authorized equipment (Case No. 130299). On 24 February 1960, Concepcion Fernando Blaylock, the respondent, filed with the Public Service Commission an application dated 22 February 1960 for a certificate of public convenience to operate a taxicab service of ten (10) units within the municipality of Olongapo and its suburbs alleging that public convenience required such certificate (Case No. 130541). On 25 February 1960, the Public Service Commission set the case of petitioner for hearing on 23 March 1960 (Case No. 130299) and that of the respondent on 24 March 1960. On the last date the petitioner filed his objection to the application of the respondent claiming that the granting of the certificate prayed for would result in or bring about ruinous competition; that there was no public necessity and convenience justifying such grant; that the applicant was not financially able to operate and maintain the service applied for; and that should the Commission find that there was such public necessity and convenience he, the first operator of taxicab in the line applied for, should be given preference (Case No. 130541; p. 40 Rec). On 30 March 1960, the application of petitioner for an increase of five (5) units was granted (Case No. 130299). On 4 April 1960, or five days after the application of the petitioner for an increase of five (5) units had been granted, the petitioner applied for another increase of ten (10) units (Case No. 131499). On 1 July 1960, the petition being uncontested was granted, but for an increase of five (5) units instead of ten (10) units applied for.

At the hearing before Atty. Isidro L. Tayag of the Commission on 24 March and 9 May 1960, Concepcion Fernando Blaylock, then applicant and now respondent, and her witnesses Pacita de Guzman and Sarah Vivian Blaylock, testified in support of her application that there was need of more units in the line applied for.

Israel Gregorio, Gabriel Gabriel, Dominga Manlapaz, Cristobal Quarezo and Alfonso Gutierrez, witnesses for the opponent (now petitioner), testified that they had had no difficulty in locating or finding a taxicab whenever they needed one in Olongapo and that the people in the neighborhood preferred to ride in jeepneys or buses because they are cheaper.

On 15 August 1960, Gregorio Robles, the petitioner, again filed another application for an increase of ten (10) units which had not then been heard (Case No. 60766).

On 30 September 1960, the Public Service Commission rendered judgment en banc overruling the objection of the petitioner and granting to the applicant, the herein respondent, a certificate of public convenience as stated at the beginning of this opinion (Case No. 130541).

On 27 October 1960, Gregorio Robles filed in this Court a petition for review and stay of the execution of the judgment to be reviewed rendered in Case No. 130541 (G.R. No. L-17629); and, upon the filing of a surety bond for five thousand pesos (P5,000.00), on 2 November 1960 this Court stayed the execution of the judgment to be reviewed.

The errors claimed by the petitioner to have been committed by the Public Service Commission are -

I

The Public Service Commission erred in granting to respondent a certificate of public convenience to operate a taxicab service in Olongapo, Zambales to all points of Luzon as there is no evidence to reasonably support the granting of said certificate of public convenience.

II

The Public Service Commission erred in not taking into consideration its ruling in the decision in Case No. 131499 of Gregorio Robles dated July 1, 1960.

III

The Public Service Commission erred in granting a territory of operation larger than that applied for.

The judgment of the Public Service Commission under review states in part:

Applicant's evidence consists of her testimony and that of her witnesses. Mrs. Blaylock testified on the necessity of more taxi cabs in Olongapo, that there are many passengers traveling within the town especially sailors from ships docked at the U.S. Naval base. She claims at the time of her testimony that there are only 5 taxicabs presently operating in Olongapo and the town has from 10 to 16 districts, and that there are seven (7) theaters, three (3) high schools and more than 100 nightclubs. Applicant introduced Exhibit E-1 resolution No. 102 of the Provincial Board of Zambales endorsing the present application for ten (10) units and also mentioned the fact that the residents of Olongapo are around 65,(X)0 excluding the personnel of the U.S. Navy.

As to the financial capacity of the applicant, she said she has ten (10) TPU jitneys operating in Olongapo, the total worth of which is around P50,000. She has a checking account with the Prudential Bank as of March 23, 1960 more than P8,000.00, one house in Olongapo with an assessed value of P7,000.00, the market value of which is more or less P20,000.00, and she has ten (10) automobiles used as taxis inside the base.

Applicant's witness, Pacita T. de Guzman, directress of a vocational school and actually a councilor of the municipality of Olongapo, mentioned in her affidavit and testimony that there are 100 restaurants, 7 hotels, 1 junior college, 7 elementary schools, 2 cockpits and many civic organizations like the Rotary, Jaycee, Knight of Columbus, Masonic Lodge, 2 Fleet Reserve Associations, American Legion, Toast master Club, Gray Ladies, Catholic Women's League, the municipal and the provincial government offices and the BIR Branch etc., and that the population of Olongapo is 45,253 and this does not include the population of the officers and men and the civilian component of the U.S. Naval base at Subic Bay which are estimated to be around 8,000. A big portion of these people utilize taxicabs and they need this kind of conveyance. The population of this

town increases considerably when ships are present in the Naval base.

Witnesses Israel Gregorio, Gabriel Gabriel, Dominga Manlapaz and Alfonso Gutierrez of the oppositor testified that they have no difficulty finding a taxicab whenever they need one in Olongapo; that some people prefer jitneys and auto- calesas because they are cheaper, and more than 200 TPU units are operating between the Gate and Sta. Rita. Oppositor Gregorio Eobles claimed that he is actually operating 15 units and these are sufficient to cope with the needs of the traveling public in Olongapo. But again, last August 15, 1960, oppositor Gregorio Robles in Case No. 6O-766 filed another application for an increase of units by the addition of 10 taxicabs. This new application has not yet been heard. The application of Mrs. Blaylock was filed on February 24, 1960 at the time when Robles had only five (5) units for operation.

After an examination of the evidence presented by both parties, the Public Service Commission held—

x x x we find merit in the claims of the applicant that there is need for more taxicab facilities in Olongapo (Zambales) and that the service now existing is not sufficient for the needs of the public. There is a showing that there are many TPU jitneys, but it is a fact that the service of these jitneys could not serve the purpose of a passenger who needs a conveyance for his own use like a taxicab service for his business and social trip.

In view of the foregoing considerations and finding that applicant is a Filipino citizen and financially qualified to operate a taxicab service, we believe the granting of this application will promote public convenience and will benefit the traveling public. The opposition filed against this application is accordingly overruled, and a certificate of public convenience to operate five (5) units in Olongapo (Zambales) is granted to applicant Concepcion Fernando Blaylock. x x x.

The findings of the Public Service Commission are supported by the evidence.

The protection of or preference for a prior operator over a newcomer can not be invoked by the petitioner, because before the petitioner was granted a certificate of public convenience to operate a taxicab service in Olongapo, Zambales, the respondent had been operating a taxi cab service, known then as Base taxi under a grant of U.S. naval authorities in the naval reservation including Olongapo, before its turn over by the U. S. Government to the Republic of the Philippines.

If public need and convenience demand or require the service; if the service to be rendered applied for would not result in or bring about ruinous competition; and if the ability of the applicant for service to satisfy public need and convenience is shown, a competition of two services and not a monopoly would redound to the benefit of the community where the service is to be rendered.

As to exclusive right of operating a taxicab service which has no fixed schedule over any certain route or between certain points, this Court in the case of Carmelo and Orioles vs. Monserrat, 55 Phil. 644, held —

"In the granting or refusal of a certificate of public convenience, all things considered, the question is what is for the best interest of the public. Tested by that rule, it is hard to conclude how it would be for the best interest of the public to have one taxicab service only, and how the public would be injured by the granting of the certificate in question, for it must be conceded that two companies in the field would stimulate the business, and that the public would much sooner and much easier become educated in the use of the taxi."

The Public Service Commission is granting to the respondent a certificate of public convenience comprising of a territory larger than that applied for committed an error. Her application in Case No. 130541 alleges that respondent Blaylock desires to establish a taxicab service in the municipality of Olongapo, Zambales. Her evidence does not show that she intended to operate the taxicab service beyond Olongapo town and from said municipality to any point in Luzon Island accessible to motor vehicle traffic and vice-versa.

Modified as to the area of operation of the taxicab service granted to the respondent which must be within Olongapo, Zambales, and its suburbs, the rest of the judgment appealed from is affirmed, without pronouncement as to costs.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Reyes J.B.L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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