

ROSARIO DARANG, PLAINTIFF-APPELLEE, VS. PEDRO TY BELIZAR, ANDRES SALAMIDA AND ATTY. ANDRES SAJUL, MOTOR VEHICLES REGISTRAR, DEFENDANTS-APPELLANTS.*G.R. No. 19487. January 31, 1967*

Ponente: REGALA, J.

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This case originated with a complaint for injunction (Civil Case No. 909) filed by Rosario Darang in the Court of First Instance of Manila, to enjoin the defendants Andres Salamida and Pedro Ty Belizar from continuing to cause damage to the plaintiff in the illegal operation of some motor vehicles and to restrain the Motor Vehicles Registrar of Samar, also a defendant, from registering any of said motor vehicles in the name of Andres Salamida. The Court of First Instance, after hearing, decided for the plaintiff, hence, the defendants appealed to the Court of Appeals but the appeal was certified to us on the ground that only questions of law are at issue.

Rosario Darang is a holder of a certificate of public convenience to maintain a bus transportation line between MacArthur-Balangiga and MacArthur Guiuan, in the province of Samar.

Pedro Ty Belizar is also engaged in the public utility business for the transportation of passengers and freight by means of trucks between several towns in the same province but not on the MacArthur-Balangiga line.

Andres Salamida was, by decision of the Public Service Commission dated May 20, 1957, authorized to maintain bus transportation line on the MacArthur-Balangiga and MacArthur-Guiuan lines. The decision of the said Commission was, however, contested by Rosario Darang and Fortunato Macabasag, oppositors to Salamida's application, by a petition for review and certiorari with preliminary injunction dated June 20, 1957 filed with this Court (G. R. No. L-12442), on the ground that said oppositors were not given the opportunity to present surrebuttal evidence in the Commission.[1]

Before the filing of the petition for certiorari, however, Darang, on June 18, 1957, filed a complaint with the Public Service Commission against Pedro Ty Belizar for encroaching on her line without authority to do so under sections 16(n) and 17(a) of Commonwealth Act 146, or the Public Service Act.

It was at about the same time that she and Macabasag filed the petition for review with this Court that Darang instituted this Civil Case 909 before the Court of First Instance of Samar, alleging, in substance:

"3. That Pedro Ty Belizar is not authorized by the Public Service Commission for the operation of TPU service for the lines of Gen. MacArthur Quinapundan, Giporlos and Balangiga and notwithstanding such, he has persistently and grossly violated his Certificate of Public Convenience by operating and soliciting passengers and cargoes on the above-mentioned lines since June 7, 1957 up to the present in spite of frequent prohibitions by the Public Service Commission at the instance of the herein plaintiff through its Public Service Commission agent in Samar. That such illegal operation has been carried on in strict connivance and cooperation with defendant Andres Salamida.

"4. That Andres Salamida by means of a simulated Deed of Transfers of Motor vehicles Chevrolet bearing motor number 0387451F56TC with TPU No. 24122, Chevrolet bearing Motor No. 0533765T255J with TPU No. 24036 and International with Motor No. SD24016116131 with TPU No. 24087 all registered under the name of Pedro Ty Belizar for the year 1957, has caused to be transferred in his name the aforementioned motor vehicles and purports to run the same vehicles in his line per his newly acquired Certificate of Public Convenience which is now under appeal before the Supreme Court by the plaintiff.

"5. That the same vehicles are now in full operation soliciting passengers and cargoes notwithstanding the fact that the same has been withdrawn from the operation for public service by Pedro Ty Belizar before the Public Service Commission and continuously sporting the business name of SAMAR EXPRESS TRANSIT still belonging to said Pedro Ty Belizar, yet it utilized by ANDRES SALAMIDA in entering the Balangiga lines, a colossal misrepresentation to public service and highly inimical to public interest.

"6. That in accordance with Section 8(k) of the Revised Motor Vehicle Law, otherwise known as Act 3992 - quote

'Motor vehicles not intended to be operated or used upon any public highway or motor vehicles operated on highways not constructed or maintained by the Government, or to be placed out of service for any other reason, shall be excepted from payment of the registration fees

and therefore having been withdrawn from service, cannot be registered anew.

General, July 3, 1946 - 'Withdrawal of the "hire" registration of the motor vehicle in question after the fees therefor have been paid and the operator had engaged in the business, is no more and no less than taking the vehicles out of service subsequent to the payment of such registration fees.'

x x x x x x

which clearly means that such motor vehicles withdrawn from public service should not therefore immediately operate after its withdrawal, thereby making such withdrawals meaningless and highly anomalous at that, working an irreparable damage and prejudice to the plaintiff, as affected operator on the very line where the same motor vehicles are in operations.

"7. That notwithstanding that the three units had been withdrawn from service by Pedro Ty Belizar, as the same are continuously being operated by defendant Andres Salamida, the latter may register anew the three motor vehicles in question before the Motor Vehicles Registrar Atty. Andres Sajol.

"8. That the continuance of the gross violation and illegal acts of defendants would work injustice and prejudice to the rights of the plaintiff before this case is heard on notice and there is no other adequate and speedy remedy but a preliminary injunction so as to restrain the herein defendants of their illegal actuations.

As prayed for, a writ of preliminary injunction was granted upon the filing of the complaint.

After hearing, the Court of First Instance held that Andres Salamida failed to register the trucks, allegedly bought by him from Belizar, with the Motor Vehicles Registrar, the supposed certificates of registration being null and void for the reason that they have not been properly accomplished; that the trucks in question have been registered in the records of the Public Service Commission in the names of Belizar and Salamida which shows that the deeds of sale are fictitious; that another reason for declaring the sale of the trucks null and void is the lack of a previous approval by the Commission of the said transaction; that Andres Salamida failed to have the trucks, authorized in the decision of the Commission dated May 20, 1957, to be operated by him, registered in his name 30 days from receipt of the copy of said decision; and that Andres Salamida had infringed the seventh condition of his certificate of public convenience[1] for he operated the trucks in question without tickets or stubs. The Court thus

rendered judgment prohibiting Pedro Ty Belizar from engaging any truck for public utility in the transportation of passengers and freight between MacArthur and Balangiga until he may obtain from the Public Service Commission the corresponding certificate of public convenience; enjoining the said Salamida from operating his certificate until he shall have complied with the law and the rules and regulations of the Public Service Commission and the conditions imposed upon him by the decision and the Motor Vehicles Act; condemning the defendants to indemnify plaintiff jointly and severally at the rate of P150 a day beginning June 7 up to June 27, 1957, plus the amount of P3,000 as moral and exemplary or corrective damages; prohibiting the Motor Vehicles Registrar Andres Sajol from registering the trucks in the name of Salamida until the latter shall have fully complied with the provisions of the Motor Vehicles Act and the conditions specified in his certificate of public convenience and the Public Service Act on the Matter.

As found by the Court of Appeals, only the following questions are raised in this appeal â€

1. the jurisdiction of the Court of First Instance to try the case;
2. the validity of the alleged sale of the trucks from Ty Belizar to Andres Salamida, considering Section 20(g) of Commonwealth Act 146;
3. whether or not moral damages can be awarded to the plaintiff in the absence of an allegation thereof in the complaint;
4. application of section 16, Act 3108.

On the first issue, the appellants contend that the lower court has no jurisdiction over the complaint for injunction filed before it, there being other cases involving the same parties and subject matter filed and then pending with this Court and the Public Service Commission. Comparing the three cases, we reiterate that the case which was filed with the Public Service Commission was a complaint directed against Pedro Ty Belizar for encroaching on the line of operation of Rosario Darang without authority to do so under sections 16(n) and 17(a) of the Public Service Act. The case filed with this Court, on the other hand, was a petition for review with prayer for preliminary injunction against the decision of the Public Service Commission granting Salamida's application for a certificate of public convenience to operate an auto-bus service along the Guiuan-MacArthur-Quinapundan-Giporlos-Balangiga route in Samar with six units.

It is true that Rosario Darang is complainant in the cases before the Public Service Commission and the Court of First Instance, and she and one Fortunato Macabasag were the petitioners before the Supreme Court, but the respondents in the three cases are not the same. In the Public Service Commission case, Pedro Ty Belizar is respondent; in the Court of First Instance, Pedro Ty Belizar, Andres Salamida and the Motor Vehicles Registrar are the defendants; and in the petition filed with this Court (G. R. L-12442), Salamida and the Public Service Commission itself were named respondents.

Neither are the issues involved in these cases the same for, whereas, in the Public Service Commission, the issue is the authority of Belizar to operate a bus service within the line covered by Darang's certificate, in the case decided by us the questions were whether or not the Commission properly granted Salamida's application for a certificate of public convenience without having allowed the oppositors to submit surrebuttal evidence, and whether or not public convenience warranted the operation of the units applied for. In this case, the plaintiff contests the legality or validity of the sale executed by Pedro Ty Belizar in favor of Salamida conveying to the latter the 3 trucks in dispute, and questions the alleged violations committed by Salamida on his certificate of public convenience issued by the Public Service Commission. As a matter of fact, the writ of preliminary injunction issued by the court below ordered Belizar and Salamida to desist from operating on the

MacArthur-Balangiga line the motor vehicles alleged to have been fraudulently sold by the former to the latter, and the Motor Vehicles Registrar to desist from registering them in the name of Salamida.

With these dissimilarities in the three cases, it cannot be correctly said that the Court of First Instance lacks jurisdiction over this case which involves mainly the validity of the deed of sale of the trucks to Andres Salamida. In fact, this would not be a proper question for the determination of the Public Service Commission.

The second and fourth issues both refer only to the holding of the court that the sale of the trucks is absolutely null and void for the reason that it had not been previously approved by the Public Service Commission as required by section 20(g) of the Public Service Act. On this score, we agree with the appellants that the lower court has misconstrued the said provision. The ruling in the *Sera v. Alfredo Berwin & Co. v. Medel* case, 48 Phil. 580, which was cited in the decision appealed from, was based on section 16(h) of Act 3108, which states that no public utility, without the approval of the Public Utility Commission, has the power to sell, alienate, mortgage, encumber or lease its property, franchise or any of its rights or privileges. This provision of the old law was superseded by section 20(g) of Commonwealth Act 146. While the last sentence of the old provision, section 16 (h) of Act 3108, reads:

"x x x Any sale, alienation, mortgage or encumbrance, lease, fusion or consolidation made without the approval herein required shall be null and void: Provided, further, That nothing herein contained shall be construed to prevent the sale or lease by any public utility of any of its property in the ordinary course of its business"

the last proviso of section 20(g) of the Public Service Act, Commonwealth Act 146, reads:

"x x x Provided, however, That nothing shall be construed to prevent the transaction from being negotiated or completed before its approval or to prevent the sale, alienation, or lease by any public service of any of its property in the ordinary course of its business."

The presumption is that the law-making body did not change the substantial words in the pre-existing law without intending to change its meaning.[3] The change then in the wording of the law affected not only the form but the very substance of the provision. While in the old law the sale without the approval of the Public Utility Commission was declared null and void, under Commonwealth Act 146, the new law, the sale may not only be negotiated but completed before said approval. In other words, the approval by the Commission is not a condition precedent to the validity of the contract. The approval is only necessary to protect public interest.[4] At any rate, the above analysis would not alter the conclusion made by the court below that the sale of the three trucks is null and void for the other reasons stated therein, which are not questioned in this appeal.

The appellants next contend that the award of moral damages in favor of the plaintiff-appellee was erroneous for the reason that the same was never prayed for in the complaint. It is really elementary that in order that moral damages may be awarded there must be pleading and proof of moral suffering, mental anguish, fright and the like (See Civil Code Art. 2217.) We feel though that the general prayer in the complaint for "other remedies which may be just and equitable in the premises" warrants the award of P3,000 in favor of the plaintiff-appellee, in the form of exemplary damages which, We think, is fair under the circumstances.

WHEREFORE, the decision appealed from is affirmed in all respects, except the award of damages which should merely be exemplary. Costs against the defendants-appellants.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez and Ruiz Castro, JJ., concur.

[1] The decision of the Public Service Commission authorizing Salamida to maintain the said line was reversed by decision of this court dated May 15, 1959. The case was remanded to the Commission for further proceedings.

[2] Granted by the Public Service Commission but reversed by this Court as stated earlier.

[3] Statutory Construction (Interpretation of Laws) by Crawford, p. 618.

[4] See *Montoya v. Ignacio*, 94 Phil. 182; *Fores v. Miranda*, 105 Phil. 266.

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