

MANILA ELECTRIC COMPANY, PETITIONER, VS. PUBLIC SERVICE COMMISSION, RESPONDENT.

G.R. No. 21435. February 28, 1966

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On February 28, 1947, the Manila Electric Company filed before the Public Service Commission a petition alleging that it is the holder of a franchise and a certificate of public convenience to operate an electric light, heat and power in the City of Manila and adjoining municipalities, including San Juan del Monte, Quezon City, Pasig, San Pedro, Makati, San Felipe Neri, Pasay, Parañaque, Las Piñas, Malabon, Caloocan, and Navotas, all in the province of Rizal, and praying that it be allowed to reconstitute the aforesaid franchise and certificate of public convenience covering the places abovementioned.

This petition was set for hearing on April 2, 1947 during which petitioner presented pertinent testimonial and documentary evidence. The record shows that after this hearing no further action has been taken on the petition until September 10, 1962, when the Public Service Commission issued an order requiring petitioner to show cause why no action should be taken against it pursuant to pertinent provisions of the Public Service Commission Act for operating an electric service in violation of law in the City of Manila, Pasay City, Quezon City, and in the municipalities of Caloocan, Las Piñas, Makati, Malabon, Mandaluyong, Navotas, Parañaque, Pasig, San Juan, Pateros, and Taguig, all in the province of Rizal.

On September 17, 1962, petitioner filed a manifestation expressing its belief that with the legislative franchise granted to it to construct, maintain and operate an electric light, heat and power system in the places abovementioned it was unnecessary for it to get a certificate of public convenience from the Public Service Commission, the question of convenience for that purpose having already been determined favorably by the legislature.

Commissioner Enrique Medina overruled this contention in his order of April 4, 1963 wherein he held that it was still necessary for petitioner to obtain such certificate even though it already holds a legislative franchise for that purpose. Though petitioner was not agreeable to this opinion it yielded however its stand on the matter for the sake of harmony and goodwill and readily gave notice of its willingness to file in due time the required application for a certificate of public convenience.

But, to petitioner's surprise, Commissioner Medina went beyond the scope of the issue raised in his order for without any previous notice and hearing he raised the additional issue that the legislative franchise granted to petitioner by the Philippine Commission under Act No. 484, as; amended by Republic Act No. 150, is only limited to the territory of the City of Manila proper and does not include the 13 cities and municipalities already mentioned above and so it was his opinion that petitioner is and had been operating its electric plant in said cities and municipalities for many long years without either a legislative franchise or a certificate of public convenience in violation of Sections 15 and 18 of Commonwealth Act 146, as amended, with the result that it may be

prohibited from continuing its operation under Section 17 (a) of the same Act. However, considering that petitioner in incurring on such shortcoming has not acted in bad faith, Commissioner Medina granted to it a period of grace of one year to obtain (a) the necessary legislative or municipal franchise, as the case may be, for the operation of its electric plant in the suburbs of Manila, particularly the 13 cities and municipalities mentioned above; and (b) the necessary certificate of public convenience from the Public Service Commission for the same purpose with the admonition that if it should fail to comply with the order he would take drastic action against petitioner.

Petitioner filed a motion for reconsideration which was set for hearing before the Public Service Commission en banc on May 17, 1963, but after said hearing Commissioner Medina reaffirmed his order which was concurred in by his five Associate Commissioners.

Petitioner interposed the present petition for review.

The order of respondent Commission dated April 4, 1963 now subject of the present review contains two aspects which petitioner does not dispute, namely: (1) that which requires petitioner to obtain from the Public Service Commission a certificate of public convenience to operate its electric plant in the City of Manila and its suburbs; and (2) that which requires petitioner to obtain a legislative or municipal franchise to operate the same in the municipalities of Pasig, Taguig, and Pateros. Hence, this petition is merely confined to that portion of the order which requires petitioner to obtain a legislative or municipal franchise for its operation in the following 10 suburbs of Manila; Malabon, Navotas, Caloocan San Juan del Monte, Quezon City, Mandaluyong, Makati, Pasay, Parañaque, and Las Piñas.

On this issue, it is petitioner's contention that these suburbs are comprehended within the term of its legislative franchise, Act No. 484, as reaffirmed by Republic Act No. 150, and so no additional franchise for their operation is necessary, while respondent Commission maintains the contrary on the following grounds: (1) the Commission can take judicial notice that in 1902, when said Act was approved, Intramuros was popularly known as the City of Manila, while the adjacent areas such as Tondo, Binondo, Quiapo, Sta. Cruz, Sampaloc, San Miguel, Sta. Mesa, Ermita, Malate and Sta. Ana, were known as the Manila suburbs; (2) in 1942, President Quezon created the City of Greater Manila by Executive Order No. 400 thereby including as its suburbs such areas as Caloocan, Quezon City, San Juan, Mandaluyong, Makati, Pasay and Parañaque, which indicate that said municipalities could not have been formerly suburbs of the City of Manila; (3) the right to operate an electric plant up to Malabon was authorized by Act 1112 and the right to operate up to Pasay by Act 1446, thereby indicating that to extend its line to said municipalities a new legislative franchise is necessary; and (4) the privilege granted to petitioner to maintain an electric system was subject to the rules and ordinances of the Municipal Board of Manila under Philippine Commission Act 484, and said Board has no jurisdiction over municipalities coming under the province of Rizal.

The issue thus before us is: What is the real import and scope of the grant given by the Philippine Commission to petitioner's predecessor to construct, maintain, and operate an electric light system "in the City of Manila and its suburbs" in contemplation of Act No. 484. The answer to this question can only be found from a careful scrutiny of the basic provisions of said Act.

It should be recalled that the Philippine Commission enacted said Act on October 20, 1902 Section I of which authorized the Municipal Board of Manila to grant through public bidding either a franchise to construct and maintain in the streets of Manila and its suburbs an electric street railway, or a franchise to construct, maintain and operate an electric light, heat and power system in the City of Manila and its suburbs. Section 2 of said Act prescribes the form, terms and conditions of the franchise which consists of three parts. Part one refers exclusively

to the franchise for the operation of an electric railway, which has no relevance to the present case. Part two prescribes the terms and conditions of the franchise now in question which gives to the grantee the right and privilege of erecting, extending and maintaining in the City of Manila and its suburbs the necessary poles, etc., for conducting and distributing electric current for light, heat and power to any person, corporation or public authority. And part three contains general provisions applicable to both franchise.

Pursuant to said Act No. 484, the Municipal Board of Manila enacted on March 24, 1903 Ordinance No. 44 the substance of which was to grant to Charles M. Swift, petitioner's predecessor, a franchise to construct an electric railway street in the City of Manila and its suburbs and a franchise to maintain and operate an electric light, heat and power system in the City of Manila and its suburbs. Charles M. Swift later transferred his right and interest in said franchise to petitioner.

The franchise granted to petitioner by Ordinance No. 44 of the City of Manila was to expire in 50 years, or on March 24, 1953, and so on June 14, 1947, Congress enacted Republic Act No. 150 extending Parts Two and Three of said franchise, as amended, for a period of 20 years from the date of its expiration.

It should be stated that from the beginning of petitioner's operation in the early part of the century up to the present all of the ten suburbs in question had been served by petitioner under its legislative franchise granted under Act No. 484 and Ordinance No. 44, as later amended by Ordinance No. 70, with the particularity that they all received their respective shares in the franchise tax paid by it, which was originally fixed at 2 1/2% and later increased to 5%, on its gross earnings. Since then none of said cities and municipalities has ever complained to the Public Service Commission or any other authority against petitioner's operation of the franchise in their respective jurisdictions. This attitude evinced for so long a time by these cities and municipalities cannot but result into an express acquiescence to the interpretation adopted by petitioner that the import of the word "suburbs" in its franchise extends to them and is not limited to the narrow interpretation given by respondent Commission.

The statement of respondent Commission that in 1902 Intramuros was popularly known as the City of Manila while the adjacent areas such as Tondo, Binondo, Quiapo, Sta. Cruz, Sampaloc, San Miguel, Sta. Mesa, Ermita, Malate and Sta. Ana were known as Manila suburbs, has no foundation in fact, or is supported by the evidence. On the contrary, it runs counter to the basic history of the City of Manila regarding its official and legal concept. Thus, Act No. 183, enacted on July 31, 1901, which is the Original Charter of the City of Manila, recognized eleven city districts as constituting the City of Manila. Section 65 of said Act which created an Advisory Board to bring to the attention of the Municipal Board the special needs of the city and its inhabitants provided for the appointment of one representative from each of the eleven city districts by the Civil Governor, with the consent of the Commission. And Section I of Act No. 341, which was approved on January 29, 1902, amending Section 2 of Act No. 183, the Original Charter of the City of Manila, prescribed the boundaries of the city as follows:

"Sec. 2. Boundaries of city prescribed.—The boundaries and limits of said city are hereby established and prescribed as follows:

"(1) Beginning at a point 'T (marked by a monument) one hundred and fifty meters north of the Estero Matantubig; thence running S. 52° 6' 42" five thousand seven hundred and one ten-thousandths meters- to a point '6' (marked by a monument) near the bridge on the east bank of the San Juan River, and through this point in continuation of said course to a point in the center of the channel of said river '6a;' (2) thence in a general direction S. 38° 28' 55" E. in the center of the channel of the said San Juan River to a point '5' at its

most easterly bend, nine hundred and ninety six meters in a direct line from the point '6;' (3) thence S. 22° 55' 34" W. one thousand three hundred and seventy-seven and seven thousand four hundred and twenty-two ten-thousandths meters to a point 'A' in the center of the channel of the Pasig River where said river bends sharply to the west; (4) thence following the channel of the Pasig River in the general direction S. 43' 40' 4" W. five hundred and fifty six and one hundred and eight thousandths meters measured in a direct, line from the point '4' to a point '3' in the center of said river where the river bends sharply to the east opposite the mouth of the estero forming the southern boundary of Santa Ana; (5) thence S. 43' 39' 34" W. two thousand seven hundred and sixty-three and six thousand nine hundred and thirty-eight ten-thousandths meters to a point '2' (marked by a monument) on the east bank of the Estero Gallina; (6) thence S. 73' 22' 34" W. one thousand two hundred and nineteen and eight hundred and sixty-one thousandths meters to a point '1' (marked by a monument) at high-water mark on Manila Ray, mark on the south side of the mouth of the Estero San Antonio, Malate, and through this point in continuation of said course to low-water mark; (7) thence in a general north-westerly direction along the shore line of Manila Bay at low-water mark to a point '8' directly west of the point of beginning '7'; (8) thence east two thousand two hundred and twenty-eight meters to the point '7' of beginning."

It will be noted from the above description that the City of Manila included not only Intramuros but also the eleven districts recognized in Act No. 183, as well as the additional districts created under Act 341. Subsequently, the Charter of the City of Manila was revised and incorporated in Sections 2427-2539 of the Revised Administrative Code of 1917, and in Section 2432 of said Code the City of Manila was divided into fourteen districts, namely: Tondo, San Nicolas, Binondo, Sta. Cruz, Quiapo, San Miguel, Sampaloc, Intramuros, El Puerto (Port Area), Ermita, Malate, Paco, Pandacan and Sta. Ana. Note that neither the Original Charter (Act No. 183), nor the Revised Charter (Chapter 6 of the Revised Administrative Code), nor the present Charter (Republic Act No. 409), ever designated Intramuros as the City of Manila and the other 13 districts as its mere suburbs, which belies the claim of the Commission regarding the nature of said suburbs.

It is true that in 1942 President Quezon created the City of Greater Manila by Executive Order No. 400 by adding to the limits of the city such areas as Caloocan, Quezon City, San Juan, Mandaluyong, Makati, Pasay and Paranaque, but far from supporting respondent's theory, the Order goes against it. Rather, it gives the rational implication that the former City of Manila did not originally include them so much so that the City of Greater Manila had to be created with the inclusion of the new municipalities. It is not, therefore, correct to say that the issuance of said executive order injected a new concept into the term "Manila and suburbs", as claimed by respondent.

A factor which indicates that the Philippine Commission, in employing the word "suburbs" in Act No. 484, meant "a region or place adjacent to a city; a town or village so near it that it may be used for residence by those who do business in the city", [1] is the enactment of Act No. 341, which amended the Original Charter of the City of Manila, Section 2 of which provides: "The suburb of Gagalangin shall form a part of the District of Tondo, and the Municipality of Sta. Ana shall constitute a new district of the City of Manila." There is, therefore, logic and reason for the concept adopted by petitioner, or its predecessor, when in implementing the franchise granted to it to operate an electric light, heat and power system in the City of Manila and its suburbs it interpreted the "suburbs" referred to therein as those regions adjacent to and beyond the corporate limits of said city.

Wherefore, the orders appealed from are hereby set aside. No costs.

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

Orders set aside.

[1] Century Dictionary as quoted in *Piedmont Cotton Mills vs. Georgia Ry. & Elect. Co.*, 62 S. E., 52, 61.

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