

MANILA RAILROAD COMPANY, APPLICANT AND APPELLEE, VS. A L. AMMEN TRANSPORTATION CO., INC., OPPONENT AND APPELLANT.*G.R. No. 24555. November 18, 1925*

Ponente: MALCOLM, J.

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The Attorney-General has intervened in this case for the sole purpose of presenting a motion to dismiss the appeal of A. L. Ammen Transportation Co., Inc., on the ground that the proceedings partake of the nature of certiorari, notwithstanding which the Public Utility Commission was not made a party respondent.

The petition for review is entitled "A. L. Ammen Transportation Co., Inc., petitioner-opponent, vs. Manila Railroad Company, respondent-appellant." The brief filed in support of the petition is entitled "Manila Railroad Company, applicant-appellee, vs. A. L. Ammen Transportation Co., Inc., opponent-appellant." The principal allegation of the petition, assigned as errors in the brief, is that there was no evidence before the Commissioner to support reasonably his order and the said order was without the jurisdiction of the Commission.

The Public Utility Law, Act No. 3108, in section 35, provides two distinct remedies for the consideration by the Supreme Court of orders of the Public Utility Commission. The first is by certiorari. The second is by petition for review. As to the first, the law provides that "Any order made by the Commission may be reviewed on the application of any person or public utility affected thereby, by certiorari in appropriate cases * * *." What these "appropriate cases" are is defined by the Code of Civil Procedure, sections 217 and 514. The basis of the petition is then that the inferior tribunal has exceeded its jurisdiction and there is no appeal, nor any plain, speedy, and adequate remedy. The above-cited section of the Public Utility Law, in the second place, provides that "Any order made by the Commission may be reviewed on the application of any person or public utility affected thereby, * * * by petition, to the Supreme Court, * * *; said petition shall be filed with the clerk of the Supreme Court and a copy thereof served upon the secretary of the Commission either personally or by leaving same at the office of said Commission in the City of Manila. The Supreme Court is hereby given jurisdiction to review said order of the Commission, and to modify or set aside such order when it clearly appears that there was no evidence before the Commission to support reasonably such order, or that the same was without the jurisdiction of the Commission. * * *"

In certiorari proceedings the writ should be directed to the Public Utility Commission. If misdirected, the writ must be quashed. The Commission whose order is challenged as made in excess of jurisdiction is a necessary party-defendant.

It is not so in petitions for review for the law has no provision for making the Public Utility Commission a party to the proceedings and the rules of the Supreme Court have not so provided as to the procedure for review. As, however, the petition is served upon the Secretary of the Commission and as the Attorney-General is the law officer of the Commission, the Attorney-General would have the right to intervene in appropriate cases, especially where the petition for review not only concerns the evidence before the Commission but also challenges the

jurisdiction of the Commission. The procedure for review is not essentially different from that in ordinary appeals from courts of first instance.

For the foregoing reasons, the motion to dismiss the appeal taken by the opponent-appellant must be denied.

Avanceña, C. J., Street, Villamor, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

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