

ILOILO COMMERCIAL AND ICE COMPANY, PLAINTIFF AND APPELLANT, VS. PUBLIC SERVICE COMMISSION, DEFENDANT AND APPELLEE.

G. R. No. 34331. September 03, 1931

Ponente: MALCOLM, J.

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MALCOLM, J.:

Appealing from a judgment of the Court of First Instance of Iloilo which held Act No. 3108, as amended by Act No. 3316, constitutional, and which denied the prayer for an injunction prayed for in the complaint, without costs, plaintiff specifies as alleged errors the following:

"I. The court erred in holding, that it lacked jurisdiction to enjoin defendant Commission from enforcing against plaintiff Act No. 3108 as amended by Act No. 3316, and that plaintiff must await prosecution under said Act before availing itself of its constitutional defense.

"II. The court erred in failing to declare Act No. 3108 as amended by Act No. 3316 invalid and unconstitutional in so far as it affects the business of plaintiff-appellant because it deprives plaintiff of its property without compensation and without due process of law and denies it the equal protection of the law."

We would direct particular attention to the first portion of error No. I, as decisive of the appeal.

Some years ago, this court held the Iloilo Ice and Cold Storage Company not a public utility within the meaning of the law, and so not subject to the jurisdiction of the Public Utility (Service) Commission (*Iloilo Ice and Cold Storage Co. vs. Public Utility Board* [1923], 44 Phil., 551). Thereafter, the Philippine Legislature amended the Public Utility Law by the enactment of Act No. 3316 so that in the definition of "public service" the words "for public use" were eliminated and in lieu thereof were inserted the words "for hire or compensation." In the meantime, the Iloilo Ice and Cold Storage Company had changed its name to Iloilo Commercial and Ice Company.

Complaints were filed with the Public Service Commission by persons operating ice plants in Iloilo, which alleged that the Iloilo Commercial and Ice Company was doing business as an ice plant without the required certificate of public convenience. At the request of the Public Service Commission, the provincial fiscal of Iloilo conducted an investigation and reported that the allegations contained in the complaints have been substantiated. In view of the report of the fiscal, the Public Service Commission instructed him to file a criminal action against the owner and manager of the Iloilo Commercial and Ice Company, for violation of the provisions of the Public Service Law, as amended.

At this stage, the Iloilo Commercial and Ice Company brought a complaint in the Court of First Instance of Iloilo for an injunction to restrain the Public Service Commission and its representatives from enforcing the Public Service Law against plaintiff, on the ground that it would deprive plaintiff of its property without due process of law. After hearing the case on its merits, the lower court held against the plaintiff as herein before indicated.

The preliminary and decisive question is, if a Court of First Instance has power to issue a restraining order directed to the Public Service Commission. We are clearly of the opinion that a Court of First Instance lacks such legal authority.

The Public Service Law, Act No. 3108, as amended, creates a Public Service Commission which is vested with the powers-and duties therein specified. The Public Service Commissioners are given the rank, prerogatives, and privileges of Judges of First Instance. Any order made by the commission may be reviewed on the application of any person or public service affected thereby, by certiorari in appropriate cases or by petition, to the Supreme Court, and the Supreme Court is given jurisdiction to review any order of the commission and to modify or set it aside (sec. 35).

While the local law does not go as far as the Constitution of Oklahoma, by providing that no court, except the Supreme Court on appeal, shall have jurisdiction to review, reverse, correct, or annul any action of the Corporation Commission within the scope of its authority, yet the effect is the same. (Southern Oil Corporation vs. Yale Natural Gas Co. [1923], 214 Pac, 131.) In the absence of a specific delegation of jurisdiction to Courts of First Instance to grant injunctive relief against orders of the Public Service Commission, it would appear that no court, other than the Supreme Court, possesses such jurisdiction. To hold otherwise would amount to a presumption of power in favor of one branch of the judiciary, as against another branch of equal rank. If every Court of First Instance had the right to interfere with the Public Service Commission in the due performance of its functions, unutterable confusion would result. The remedy at law is adequate, and consists either in making the proper defense in the criminal action or in the Ice Company following the procedure provided in the Public Service Law. An injunction is not the proper remedy, since other and exclusive remedies are prescribed by law.

Our conclusion makes unnecessary any discussion of the second error assigned or of that portion of the decision of the trial court which holds the Public Service Law, as amended, constitutional. The result will be, in effect, to affirm the judgment below denying the petition for injunction. So ordered, with the costs of this instance against the plaintiff and appellant.

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

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