

RURAL TRANSIT COMPANY, PETITIONER, VS. R. A. CRUZ, ASSOCIATE PUBLIC SERVICE COMMISSIONER, RESPONDENT. PEDRO SUMAQUIAO, INTERVENOR.*G. R. No. 34822. November 16, 1931*

Ponente: MALCOLM, J.

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This is an application for certiorari which presents the question of whether the order of the Public Service Commission which is challenged was without the jurisdiction of the commission. This question, in turn, requires a ruling on the question raised by the petitioner as to when a decision of the Public Service Commission becomes final.

The petitioner herein, the Rural Transit Company, filed with the Public Service Commission on August 30, 1929, an application for a certificate of public convenience. Written oppositions were interposed by several parties, among whom was Pedro SumaQUIAO. The case was heard on November 22, 1929, without the presence of either Pedro SumaQUIAO or his attorney. Accordingly, on May 31, 1930, the associate commissioner rendered his decision granting the application for the lines applied for. In the decision there was a provision to the effect that the same should become final thirty days after the notification of the parties. Notice of the decision was served on all the parties, including Pedro SumaQUIAO, on June 5, 1930. After the expiration of the thirty-day period, or to be exact, on July 11, 1930, Pedro SumaQUIAO filed a motion for rehearing. Opposition to this motion was registered by the Rural Transit Company, but the same was granted by the associate commissioner in an order of October 9, 1930, which suspended the effects of the decision previously promulgated. A motion for reconsideration presented on behalf of the Rural Transit Company was denied, after which it was requested that it be decided, if the decision of the associate commissioner was final, when the motion for rehearing was filed. When the commissioner sustained his authority in the premises, these certiorari proceedings were initiated.

Section 35 of the Public Service Law, Act No. 3108, as amended, provides that "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, within thirty days from the date upon which such order becomes effective." Section 28 of the same law further provides that "The Commission, at any time, may order a rehearing to extend, revoke, or modify any order made by it. Once a case has been decided after the rehearing, any interested party may, if he so desires, take an appeal to the Supreme Court by following the procedure prescribed in section thirty-five of this Act, * * *." In actual practice also, the commission, pursuant to its rule making power, inserts a proviso such as is to be found in the decision in this case, making the decision final after thirty days for the purposes of appeal.

The facts not being in dispute, and the applicable law being known, we address attention to the question suggested in the beginning of this opinion. We note no vagueness in the law. We experience no hesitancy in announcing the rule which should be followed. Frankly speaking, what is the use in debating the question whether a motion for

rehearing was filed in time, when the law gives the Public Service Commission full power to grant a rehearing at any time?

To elucidate further, let us suppose, as in this case, that notice of the decision was served on the parties on June 5, 1930. Under the law and pursuant to recognized practice, the losing party had thirty days within which to file a motion for reconsideration and within which to take the necessary steps to elevate the case to the Supreme Court by certiorari or petition for review. After the expiration of that thirty-day period, the decision would become final and unappealable. But at any time, for instance as in this case on July 11, 1930, or six days after the decision became final, for the purposes of appeal, the commission could legally order a rehearing on any order made by it. It is, therefore, perfectly clear that the decisions or orders of the Public Service Commission become final after thirty days not in the sense that it loses control over the same to revive them for the purpose either of extending, revoking, or modifying them, but in the sense that no appeal therefrom may be taken to the Supreme Court.

We hold that the Public Service Commissioner acted properly in the exercise of discretionary jurisdiction expressly conferred by law upon the Public Service Commission in granting the motion for rehearing. Accordingly, the application will be denied, with the costs of this instance against the petitioner.

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

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