

TELESFORO SORIANO AND LEON M. SANTOS, PETITIONERS, VS. M. V. DEL ROSARIO, ASSOCIATE PUBLIC SERVICE COMMISSIONER, AND RURAL TRANSIT CO., RESPONDENTS.*G. R. No. 35775. August 14, 1931*

Ponente: STREET, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-35775/>**STREET, J.:**

This is an application for a writ of certiorari whereby the petitioners, Telesforo Soriano and Leon M. Santos, seek to secure the annulment of a resolution of the Public Service Commission, dated June 16, 1931, entered by the respondent judge upon motion of the Rural Transit Co., whereby certain restrictions were introduced into the terms of the franchise previously granted to the petitioners for the operation of a passenger line from San Jose, Nueva Ecija, to Manila, over two routes, one coming through San Fernando, Pampanga, and the other through the Province of Bulacan, the two lines separating from each other in Nueva Ecija. The application is now before us upon the separate answers of the two respondents.

It appears that on April 14, 1928, the petitioners, Soriano and Santos, presented an application to the Public Service Commission for a certificate of public convenience in conformity with Act No. 3108, as amended, allowing them to operate a passenger bus service from San Jose to Manila with two branches through the Provinces of Pampanga and Bulacan respectively. Other operators over the same lines, or parts thereof, including the Rural Transit Co., were notified of this application, and the same was set for hearing on April 27, 1928. Upon hearing the petition the respondent commissioner, on June 4, 1928, entered a decision favorable to the applicants, over the opposition of such of the persons and entities concerned as had seen fit to oppose. One of the features of this decision was that it did not contain a statement of the exact times of arrival and departure of the petitioners' buses to and from the town of Cabanatuan, and another was that the order did not contain any restriction upon the right of the petitioners to take up and disembark local passengers on the line from San Jose to Gapan or on the line from Gapan to Cabiao. Notice of the grant of the franchise as above stated appears to have been served upon various opposing entities, but not upon the Rural Transit Co.

After the application had been granted, the petitioners entered upon the exercise of their franchise; and on July 2, 1930, or more than two years thereafter, the Rural Transit Co. presented a motion in the same proceeding asking for a revision or modification of the terms upon which the certificate of convenience had been granted. This motion came on to be heard before R. A. Cruz, Assistant Public Service Commissioner, on October 4, 1930, in the presence of the respective attorneys for the petitioners and the Rural Transit Co. This hearing was had upon the record as it stood, without the introduction of additional proof by either party. In the motion itself it was asked that the terms of the certificate be so amended as to prohibit the holders of the certificate from picking up or dropping local passengers between San Jose and Gapan and between Gapan and Cabiao, on the ground that the Rural Transit Co. was the prior operator between those places and that other operators who had been granted similar certificates prior to that of Soriano and Santos had been subjected to this restriction. It was also requested by the attorney for the motioner that the petitioners should be assigned fixed hours for arrival to and departure

from the town of Cabanatuan.

After brief discussion, the commissioner indicated that, in his opinion, the petitioners could not be deprived of the privilege of taking up and letting off passengers between the places indicated but that hours would be fixed for the arrival and departure of their buses over the line.

This hearing occurred on October 4, 1930. Nevertheless, some eight months passed without any order being entered by Commissioner Cruz; and, on June 13, 1931, he transferred the matter to the Sala of his associate, M. V. del Rosario, for the resolution of the motion, the reason given being that the order of June 4, 1928, against which the motion was directed had been entered by Commissioner Del Rosario. On June 16 thereafter, Commissioner Del Rosario entered the resolution, which is the subject of the present proceeding. By this order the certificate of the petitioners was so modified as to prevent them from taking up and disembarking passengers from points between San Jose and Gapan, and intermediate points, and between Cabiao and Gapan, and intermediate points. This order was entered by the respondent judge upon the record as it stood when it was transferred to him without notice to either of the parties concerned. However, after notification of the resolution to the present petitioners a motion for reconsideration was filed in their behalf, but this motion was promptly overruled. Thereafter the present application was filed in this court for a writ of certiorari to abrogate said resolution, as already stated.

In the petition it is asserted that the entry of the order of June 13, 1931, was beyond the jurisdiction of the respondent commissioner, for the reason that the order which was the subject of modification in said order had been entered about three years before the entry of the resolution complained of and more than two years before the motion for amendment had been filed. For this reason it was insisted that the original order of June 4, 1928, had long been final and not subject to correction.

This contention is clearly not well founded. In section 28 of Act No. 3108 it is provided that the commission may at any time order a rehearing to extend, revoke, or modify any order made by it. Furthermore, in section 6 of Order No. 1 of the Public Service Commission itself, it is declared that the commission reserves the right to cancel or modify, on its initiative or at the request of an interested party, for good cause and upon the proper proceedings prescribed by law, any certificate of public convenience issued by it. The reservation expressed in this order is in conformity with section 28 of Act No. 3108; and no reasonable doubt can be entertained as to the jurisdiction of the Public Service Commissioner to entertain a motion such as that presented in this case by the Rural Transit Co. for the amendment of the petitioners' certificate.

But it is further contended that, even supposing that it was competent for the Public Service Commission to entertain said motion, the order complained of was beyond the jurisdiction of the commissioner, for the reason that said order was entered without giving the petitioners an opportunity to be heard. We are of the opinion that this contention is well founded. The hearing contemplated in our law, and which our rules of practice intend to secure to litigants, is a hearing before the judge who decides the case. In the matter before us the hearing was before Commissioner Cruz, who in fact, upon hearing the motion, announced the conclusion to which he had come and the nature of the order which he intended to enter. After this stage of the proceedings had been reached, we are of the opinion that it was improper for Commissioner Del Rosario to decide the motion differently without at least conceding to the parties interested an opportunity to be heard. And if there cannot properly be said to have been an absolute want of jurisdiction on the part of the respondent commissioner to enter the order which is the subject of this application, there was at least an irregular exercise of judicial power by him, in excess of his lawful jurisdiction, such as supplies a basis for the writ of certiorari. (*Leung Ben vs. O'Brien*, 38 Phil., 182, 186.)

It results that the application in this case must be granted; and the resolution or order of June 16, 1931, will be abrogated with directions to the respondent commissioner to set the motion for further hearing, and otherwise to

proceed therewith as may be proper. So ordered, with costs against the respondent Rural Transit Co.

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

Malcolm, J., concurs in the result.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.