

**MANILA ELECTRIC COMPANY, PETITIONER AND APPELLANT, VS.
PASAY TRANSPORTATION COMPANY, INC., RESPONDENT AND
APPELLEE.***G.R. No. 36893. February 24, 1933*

Ponente: HULL, J.

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The Pasay Transportation Company was granted by an order of the Public Service Commission, dated October 5, 1928, a certificate of public convenience and necessity for the operation of an auto-truck service along certain streets in the City of Manila between the Divisoria Market and Velasquez. After a few days partial operation the company requested permission of the Public Service Commission to suspend operation of that line on account of the ruinous competition it was meeting from the Manila Electric Company. On December 29, 1928, the permission was granted with the statement that if within slightly over thirty days, namely January 31, 1929, the Pasay Transportation Company has not resumed its service on said line they would proceed to the cancellation of the certificate involved. No further action was taken by either the Pasay Transportation Company or the Public Service Commission until September 17, 1931, when the company notified the commission that they were going to resume operation on this line. On the 18th of September, 1931, the company asked for a modification of the route formerly given to a route that virtually duplicates that maintained by the Manila Electric Company for over two years preceding and also requested authority to reduce their fares. Without any hearing the Public Service Commission on September 22, 1931, granted the requests of the Pasay Transportation Company, and the next day the Manila Electric Company filed a motion requesting the revocation of the approval of the commission of September 22, 1931, and that the order of December 29, 1928 be enforced. This motion was denied and the Manila Electric Company brings the case here for review.

Formerly the Public Service Commission adopted the sound policy that duplicate bus service through the crowded and narrow streets of the City of Manila would not be in the public interest and permitted joint use of streets only when they were for a short distance and merely incidental to the main route. In their present orders they have, without any hearing and without taking any evidence whatsoever, disregarded not only this sound principle, but also the principles laid down for their guidance by this court in *Batangas Transportation Company vs. Orlanes* (52 Phil., 455). If a route that was not entirely parallel in 1928 engendered ruinous competition it is hard to understand why a more parallel route would not bring improper competition in 1931.

The Pasay Transportation Company, Inc., lays great stress upon the fact that its right to operate was not formally terminated, and insists that it has a property right of value that can only be taken away after hearing. (*Bohol Land Transportation Co. vs. Jureidini*, 53 Phil., 560.) It does not regard the other side of the picture that by receiving a grant it owes a duty to the public to comply with the conditions and duties of the grant.

It likewise treats of no moment that it only used the permission in a meager way for a couple of days when it asked for suspension and for almost three years it flouted and set at naught the clear instructions of the Public

Service Commission to resume operation under the penalty of having its certificate cancelled. It made no investment for equipment and risked nothing trying to develop business. On September 18, 1931, it had at most a mere technical right (*Reyes vs. Orlanes & Banaag Transit Co.*, G. R. No. 35562)[1]. The commission, without any hearing, did not permit the resumption of the service but, in fact, authorized the inauguration of a new line and to call such an action a modification of the certificate heretofore issued is hardly a recital of the true facts. The orders of the commission of September 22, 1931, being issued without any hearing and without receipt of any evidence, must be vacated and set aside as this court upon review can not state that they are reasonably supported by the evidence. With costs against the respondent and appellee[2]. So ordered.

Villamor, Villa-Real, Vickers, and Imperial, JJ., concur.

[1] Promulgated April 29, 1932, page 964, post.[2] Modified by resolution of March 20, 1933.

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