

MANILA ELECTRIC COMPANY, COMPLAINANT AND APPELLANT, VS. ORLANES & BANAAG TRANSPORTATION CO., RESPONDENT AND APPELLEE.

G.R. No. 37288, February 06, 1933

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by the petitioner Manila Electric Company from a decision of the Public Service Commission, the dispositive part of which with which we are concerned reads as follows:

"At any rate, it is a fact that the line has been abandoned, and although it seems that the reason for so doing was that the bridge was not completed, in order not to establish a dangerous precedent, we resolve to impose a fine of P100 upon the Orlanes & Banaag Transportation Co. which must, of course, be borne by the party last acquiring the certificate issued in case No. 16667, as an inherent obligation attached to it; and therefore, the Pasay Transportation Co., being the latest assignee of the rights derived from the certificate issued in case No. 16667, upon the San Felipe Neri-Manila line, must, if it intends to continue such operation pay this fine of P100 within the period of 30 days; otherwise we shall, much to our regret, be compelled to suspend the effects of our resolution and order of February 26, 1932, whereby we authorized the Pasay Transportation Co. to operate upon the aforementioned line between San Felipe Neri and Divisoria Market, Manila, and with this ruling we believe we have decided equitably the question raised in the petition filed by counsel for the Manila Electric Company on February 11, 1932.

"This order shall take effect at once, and shall become final 30 days after the interested parties have been notified."

In support of its appeal, the appellant assigns six alleged errors committed by the Public Service Commission in the aforesaid decision, which we shall take up in the course of this decision.

The following facts are relevant and necessary in order to decide the questions raised in the present appeal:

On March 8, 1929 the Public Service Commission issued to the Orlanes & Banaag Transportation Co. in case No. 16667 a certificate of public convenience and necessity to furnish a transportation service from San Felipe Neri, Rizal, to the Divisoria Market, Manila, passing through Bacood, Lubiran, Buenavista, and Valenzuela Streets.

By virtue of said certificate, the said company operated the line for a month, until October 28, 1929 because its busses could not cross the river, for lack of a bridge, and the people would not take them because they had to get off at the river, ford it, and walk to the town. The Orlanes & Banaag Transportation Co. applied for authority to suspend its service along that line, but the record of case No. 16667 does not show that the commission took any action upon such application, nor that the company sought to expedite the hearing thereof.

When the bridge was completed, the property belonging to the Orlanes & Banaag Transportation Co. had already passed into the hands of a receiver.

On February 5, 1931, the provincial sheriff of Tayabas, by virtue of a writ of execution thereunto issued, sold said certificate and the rest of the property belonging to the Orlanes & Banaag Transportation Co., at public auction to Parsons Hardware Co., and the latter subsequently assigned the certificate to the Laguna-Tayabas Bus Co., the transfer being approved by the Public Service Commission in its order of November 20, 1931 in case No. 26298 in the presence of the petitioner's counsel.

On November 25, 1931, the Laguna-Tayabas Bus Co. assigned its rights to said certificate and property to the Pasay Transportation Co., Inc., both companies filing a joint application in case No. 26298 on the same date, in which they prayed that authority be granted to the latter to resume the service along the route in question.

On February 12, 1932, the petitioner and appellant herein, the Manila Electric Company, holding a certificate of public convenience and necessity to furnish land transportation service for passengers and freight from San Felipe Neri, Rizal, to Santa Mesa Loop, Manila, filed a petition with the Public Service Commission, registered under number 30418, asking for the cancellation and revocation of the certificate of public convenience and necessity mentioned above for the reason that the Orlanes & Banaag Transportation Co. had violated the terms and conditions of said certificate in suspending its service.

Under authority granted by the Public Service Commission in case No. 16667 on February 26, 1932, the Pasay Transportation Co., Inc., who had acquired the rights of the Laguna-Tayabas Bus Co. to said certificate, began to operate along the line from San Felipe Neri, Rizal, to the Divisoria Market, passing through the Bacood, Lubiran, Valenzuela, and Buenavista Streets.

On March 3, 1932, the respondent and appellee was for the first time notified of the petition mentioned above, filed by the Manila Electric Company on February 11, 1932. At the same time notice was given to Parsons Hardware Co., and the Laguna-Tayabas Bus Co.

On March 5, 1932, the respondent Orlanes & Banaag Transportation Co., Inc., filed an answer to the petition denying each and every one of the allegations thereof, and by way of special defense, alleged that it had never intended to abandon the route granted it in the certificate, and only suspended its operation on October 28, 1929, because its busses could not cross the river due to the lack of a bridge.

On the same date, March 5, 1932, the Parsons Hardware Co. and the Pasay Transportation Co., Inc., through their counsel, each filed an opposition to the petition of the Manila Electric Company.

After hearing the parties upon the application of the petitioner-appellant, the Manila Electric Company, the Public Service Commission rendered on March 7, 1932 in case No. 30418 its decision, the pertinent part of which we have quoted above.

The Orlanes & Banaag Transportation Co. having failed to pay the fine imposed upon it in the said order, the Pasay Transportation Co., as its successor, paid it.

In view of the foregoing facts, the following question arises: Parsons Hardware Co. having attached and sold at public auction, through the sheriff, the certificate of public convenience and the equipment of the Orlanes & Banaag Transportation Co. in order to collect its credit, and said creditor having acquired them, who, in turn, sold them to the Laguna-Tayabas Bus Co., and the latter to the third-party appellee, the Pasay Transportation Co., with the approval of the Public Service Commission, can such certificate which is now in the name of the Pasay Transportation Company who resumed the operation suspended by the original operator, be cancelled by the said commission?

Notwithstanding the unauthorized suspension of its service after one month's operation, and its negligence in not

urging the Public Service Commission to take action upon its application for authority to-suspend its service, the certificate of public convenience and necessity of the Orlanes & Banaag Transportation Co. continues in force, because the Public Service Law contains no provision of automatic revocation by reason of suspension or abandonment, and because the commission has issued no order cancelling or revoking said certificate. Furthermore, when the commission approved the sale of the certificate of public convenience belonging to the Orlanes & Banaag Transportation Co. first to Parsons Hardware Co., then by the latter to Laguna-Tayabas Bus Co., and finally by this transportation company to the third-party appellee, the Pasay Transportation Co., said commission recognized the existence of the certificate; and when on February 12, 1932, nearly a year after the auction sale, the petitioner-appellant the Manila Electric Co. filed its application to have the certificate of the Orlanes & Banaag Transportation Co. cancelled, its acquisition by Parsons Hardware Co., the Laguna-Tayabas Bus Co., and the Pasay Transportation Co., successively, had already been approved. Inasmuch as the certificate was in force when the companies mentioned acquired it one after the other, the Public Service Commission having approved the transfers, it is not fair to make the last purchaser, the Pasay Transportation Co., suffer for the abandonment and negligence of the original owner, by depriving it of said certificate.

There is no doubt that the suspension and abandonment of its service by the Orlanes and Banaag Transportation Co. has been to the prejudice of the public for whose convenience and necessity it received its authority from the Public Service Commission, which was created to protect and enforce the public rights, to obtain adequate service at uniform and reasonable rates, and to compel the performance by public utilities of their public duties (51 Corpus Juris, p. 31, section 70). If this is so, the commission is in duty bound to see to it by means of its agents that public utilities holding certificates of public convenience perform their duties, compelling them to render the service they have been empowered to furnish for the good of the public within a reasonable time, and not to permit them to suspend their operations without prior authorization, or to delay the use of their certificates for an indefinite time to the prejudice of the public. To permit a person or company engaged in the business of public utility to obtain a certificate of public convenience and then withhold it from operation, without compelling the same to render within a reasonable time the public service which they have been authorized to render, would be to allow speculation upon said certificate to the detriment of the public.

In view of the foregoing, we are of opinion and so hold: (1) That a certificate of public convenience to operate land transportation service along a route, acquired at a public auction, while the same was in force and with the approval of the Public Service Commission, cannot be annulled even if the original operator suspended the service long before the sale without authority to do so from the commission; and (2), that the Public Service Commission is in duty bound to see to it that persons or companies holding certificates of public convenience render the public service, for which they have received authority within a reasonable time for the benefit of the public.

Wherefore, finding no error in the decision appealed from, it is hereby affirmed in toto, with costs against the appellant. So ordered.

Villamor, Hull, Vickers, and Imperial, JJ., concur.

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