

MANILA YELLOW TAXICAB COMPANY, INC., AND ACRO TAXICAB COMPANY, INC., PETITIONERS AND APPELLANTS, VS. JULIO DANON, RESPONDENT AND APPELLEE.*G.R. No. 38008. March 07, 1933*

Ponente: HULL, J.

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On January 18, 1932, Julio Danon filed with the Public Service Commission an application for a certificate of public convenience to operate a taxicab service in the City of Manila and surrounding municipalities. Opposition was filed by the two existing operators of taxicabs in the City of Manila, namely the Manila Yellow Taxicab Co., Inc., then operating about sixty-eight taxicabs, and the Acro Taxi-cab Co., Inc., then operating about twenty taxicabs. After hearing, in which it is shown that Danon is now operating a number of so called garage cars which he desired to convert into taxis, and after considerable evidence was taken by the commission both for and against the then petitioner the Public Service Commission, by a divided vote, granted Danon the certificate prayed for and authorized him to operate thirty-one taxicabs. Reconsideration being denied the existing operators, they bring the case here for review.

After the major portion of the testimony had been taken Associate Commissioner R. A. Cruz went on vacation, and the Honorable Vicente de Vera, Judge of the Court of First Instance of Tayabas, replaced him as a member of the Public Service Commission during that time pursuant to a valid assignment by the Secretary of Justice. The two taxicab companies objected to Judge De Vera taking part in the case in view of the provision of Act No. 3844, which provides:

"All contested matters that may be presented before the Commission shall be heard and decided upon by the Commission in full or at least by two Commissioners, and before any Commissioner is assigned to write the decision or any resolution which affects in some way the right of the parties concerned, the matter shall be voted upon by the members of the Commission who have taken part in the direction of the case." This objection was overruled by the commission and Judge De Vera sat in more than two sessions of the commission and took an active part in the direction and decision of the case. The action of the Public Service Commission in this ruling is not contrary to the spirit of the legislative mandate above quoted.

Appellants also urge that all public utilities must be subject to one set of administrative principles and that no distinction can be made between taxicab companies and any other service rendered by a public utility. In this we can not concur, for example, experience has clearly demonstrated that the telephone is of necessity a natural monopoly if good service is to be rendered. A two-telephone service operating in the same community, instead of being a public convenience might more properly be termed a public annoyance.

This court in the case of Carmelo and Oriol vs. Monserrat (55 Phil., 644), recognized a practical distinction between taxicab companies in the City of Manila and autobus service on definite routes. The latter decision, however, did not modify the basic principle announced in the case of Batangas Transportation Co. vs. Orlanes (52 Phil., 455), that unnecessary and ruinous competition should not be permitted by public utilities, nor should new

operators be allowed to invade the definite field of old operators unless and until the old operators had failed to comply with the orders of the Public Service Commission to render adequate and proper service to the public within their respective fields. The commission gave some weight to the fact that, although oppositors had testified in their cases that a very large number of taxicabs were necessary properly to serve the public in the City of Manila, neither company had expanded its operations by placing in service taxicabs in the number authorized by their respective certificates. This, notwithstanding the number in their certificates, is less than their testimony would indicate was necessary for adequate service.

In the principal decision of the Public Service Commission it is argued that the conversion of the cars of the applicant from garage cars to taxis is to a great extent one of form only so the transportation available to the public in the City of Manila will not thereby be augmented. It was held that the public convenience, however, will be served by the change in the nature of the service rendered. There may be real merit in this contention, but if all garage operators in the City of Manila should suddenly desire to change the nature of the service rendered to the public very clear evidence should be presented to show that ruinous competition would not result before such applications should be granted.

Appellants urge upon this court their contention that the holding of the Public Service Commission that applicant should be granted permission to enter the taxicab field was contrary to the weight of the evidence. Part of section 35 of Act No. 3108 provides:

"The Supreme Court is hereby given jurisdiction to review said order of the Commission, and to modify or set aside such order when it clearly appears that there was no evidence before the commission to support reasonably such order, or that the same was without the jurisdiction of the Commission." This is a very different power than given the Supreme Court in section 497 of the Code of Civil Procedure where the rule is stated as follows:

"But the Supreme Court may review the evidence taken in the court below and, after giving due weight to the fact that the judge who tried the case saw the witnesses when they testified, affirm or reverse by a preponderance of the evidence, or modify by such preponderance, the judgment there rendered, as justice may require, * * *."

There are good reasons why a different rule should apply to public service cases. In most instances the cases are administrative not litigious in character. They are questions involving business and transportation, not legal questions, and the party entitled to preference, namely, the people of the Philippine Islands, though always present is seldom represented. Following the legislative mandate this court will refrain from substituting their discretion on the weight of the evidence for the discretion of the Public Service Commission on questions of fact and will only reverse or modify such orders of the Public Service Commission when it clearly appears that the evidence is insufficient to support their conclusions.

The orders appealed from are therefore affirmed with costs against the appellants. So ordered.

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

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