

**EULALIO POSAS, PETITIONER AND APPELLEE, VS. TOLEDO
TRANSPORTATION CO., INC., OPPOSITOR AND APPELLANT.***G.R. No. 38621. September 15, 1933*

Ponente: HULL, J.

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This is a petition for review of an order of the Public Service Commission granting to the applicant-appellee the right to send one truck from Gral. Trias, Cavite, to Manila, with the hour of departure at 5 a. m. On this unimportant question the commission has apparently issued orders dated October 5, 1928, June 5, 1929, the end of June 1929, and February 10, 1931, which order was appealed to this court. On April 21, 1932, in G. R. No. 35249, the action of the Public Service Commission in denying Posas the right of having 5 o'clock a. m. as the departure hour from Gral. Trias to Manila, was affirmed.[1]

Almost before the ink on that decision was dry, an attorney claiming to represent Posas, filed a petition with the Public Service Commission asking that Posas be allowed to continue using the hour of 5 a. m. as the time of departure of his truck.

The Public Service Commission, on October 14, 1932, denied this application, but immediately reconsidered its decision, and on October 31, 1932, granted the petition. The matter was brought here informally, and petition for review on account of failure of parties was dismissed by this court on November 23, 1932, in G. R. No. 38553.[1] It is again brought to our attention with a showing, which is not denied, that prior to the application which was considered by the Public Service Commission, the pretended petitioner, Eulalio Posas, had died.

While section 23, of Act No. 3108 provides that the commission may make rules for the conduct of their business, our attention has not been brought to any rule or regulation that would set at naught the fundamental rule of all proceedings that only parties having a real interest will be heard. (Sec. 114, Code of Civil Procedure.)

While the commission by section 28, Act No. 3108, is given wide powers to grant rehearings (*Rural Transit Co. vs. Cruz*, 56 Phil., 302), a distinction must be drawn between those orders that remain entirely within the powers of the commission and those orders which are brought to this court for review and final decision. When this court has acted in the premises, no subordinate tribunal or body has a right to nullify or set aside the orders of this tribunal. The decision of this court becomes the law of the case and must be respected (*Silang Traffic Co. vs. Karungkong*, 56 Phil., 826). This very case shows the necessity and propriety of having the orders enforced until there has been a substantial change in conditions. Without any substantial change in what applicant originally desired or in the desires of the traveling public, the Insular Government has been put to the expense of having the Public Service Commission and this court each twice pass upon the question. A slight change in the minor details of the application or the fact that in one case there was one set of oppositors and in the other case a different set does not make it a new case. Otherwise, we will soon have it contended that a change of a few minutes in the time of desired departure or if the applicant had seen fit to apply for the use of green cars instead of an application calling for red cars, it would justify the Public Service Commission granting a rehearing and reversing our orders.

The former Public Service Commission might have been willing to waste its time in such proceedings, but this court will not permit its time to be frittered away on such trivialities.

The orders complained of, being founded on a petition filed in the name of a dead man, are declared null and void and are set aside. Costs in both instances will be taxed against the attorney who instituted this futile proceeding. So ordered.

Malcolm, Villa-Real, Abad Santos, and Imperial, JJ., concur.

[1] Posas vs. Pasay Transportation Co., 57 Phil., 959. [1] Toledo Transportation Co. vs. Posas, 57 Phil, 592.

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