

PASTOR V. VALERA, APPLICANT AND APPELLEE, VS. THE RURAL TRANSIT CO., LTD., OPPONENT AND APPELLANT.

G.R. No. 39456. December 11, 1933

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is a petition for review filed by the opponent the Rural Transit Co., Ltd., of the decision rendered by the Public Service Commission, granting to the applicant Pastor V. Valera authority to operate on the Bangued-Ilagan lines, via San Jose, Nueva Ecija, and Bayombong, Nueva Vizcaya.

In support of its appeal, the appellant assigns the following alleged errors as committed by the Public Service Commission in its decision, to wit:

"1. The Public Service Commission erred in allowing the respondent, Pastor V. Valera, to amend his application by including therein the Bangued-Ilagan line, and by hearing the said amended application without notice having been made either of the application, as amended, or of the hearing, to prior operators on the Bangued-Ilagan line, especially to the appellant, Rural Transit Co., Ltd.

"2. The Public Service Commission erred in granting the respondent, Pastor V. Valera, a certificate of public convenience to operate on the Bangued-Ilagan line when the same route had been excluded during the hearing of the application.

"3. The Public Service Commission erred in authorizing respondent, Pastor V. Valera, to operate the Bangued-Ilagan line on the assumption that he had a previous certificate of public convenience to operate on this line.

"4. The Public Service Commission erred in denying the motion for reconsideration and rehearing."

The pertinent facts necessary for the resolution of the questions raised in this petition for review, are as follows:

On September 18, 1930, Pastor V. Valera applied for and obtained from the Public Service Commission, in case No. 21471, a certificate of public convenience to operate on the following routes: Bangued-Vigan, Bangued-Salomague, Bangued-Bucay, Bangued-Lagangilang, Bangued-Dolores, Bangued-Lagayan, Bangued-San Juan, Bangued-Laoag and Bangued-Manila.

On August 31, 1931, Pastor V. Valera filed an application for authority to increase his trips over the above routes and to extend his operations from Bangued to Narvacan, via Pilar, and from Bangued to Baguio, Mountain Province.

On March 5, 1932, the Public Service Commission entered an order setting the above application for hearing on March 17, 1932. This application was opposed by the Manila Railroad Company, the Northern Luzon Transportation Co. and Bernardino Torrijos, who were prior operators over the lines in question.

When the case was called for hearing on March 17, 1932, the attorney for Pastor V. Valera served upon the

oppositors a motion seeking authority from the commission to extend his routes to a new territory, namely the additional lines of Bangued-Ilagan, via San Jose, Nueva Ecija, and Bayombong, Nueva Vizcaya. Inasmuch as no previous notice relative to the motion for extension for route had been served upon the oppositors hereinbefore mentioned nor upon the herein oppositor-appellant, the Rural Transit Company, Ltd., the hearing on the said motion had to be suspended, upon petition of the said oppositor-appellant, the Rural Transit Co., Ltd., who failed to receive notice of said prepared extension. However, the hearing was continued with respect to the motion for an increase of trips.

The following incident took place during the hearing, as evidenced by the transcript of stenographic notes, pp. 19, 20:

"JUDGE. I think we are going to drop the Bangued-Baguio line.

"BRILLANTES. The Bangued-Ilagan line with the prohibition not to pick up passengers between Bangar and Sison.

"JUDGE. Let us cut off that line and when necessity demands that such trips be made, then we shall issue a special permit to that effect.

"LLAMAS. Are we to understand that the Bangued-Baguio and Bangued-Ilagan routes, via San Jose, Nueva Ecija, have already been eliminated from the application?

"JUDGE. They are eliminated for the present."

The first question to decide in this appeal is whether or not the Public Service Commission erred in granting to the applicant-appellee, Pastor V. Valera, a certificate of public convenience to operate on the Bangued-Ilagan line after excluding said line during the hearing.

There is no doubt that once the Bangued-Ilagan line, on which the applicant-appellee, Pastor V. Valera, had applied for authority to extend his operations, is abandoned, the Public Service Commission could not grant him such authority in its decision on the ground that no hearing relative to the line in question was held and that the opponents thereto were not given an opportunity to present evidence in support of their opposition. Therefore, the Public Service Commission exceeded its jurisdiction in granting the authority applied for.

Having arrived at this conclusion, it becomes unnecessary to discuss the other questions raised in the other assignments of error on the ground that they all refer to the alleged irregularity of granting the authority for the extension applied for.

Wherefore, with the sole modification that the authority granted to the applicant-appellee, Pastor V. Valera, to extend his operations to the Bangued-Ilagan line, is eliminated therefrom, the decision, the review of which is prayed for herein, is hereby affirmed in all other respects, without special pronouncement as to the costs. So ordered.

Malcolm, Hull, Imperial, and Diaz, JJ., concur.

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