

ESMERALDA VESNAN, PETITIONER AND APPELLANT, VS. MANILA YELLOW TAXICAB CO., INC., ET AL., RESPONDENTS AND APPELLEES.

G. R. No. 40319. March 27, 1934

Ponente: HULL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-40319/>

HULL, J.:

E. Vesnan applied to the Public Service Commission for a certificate of public convenience with authority to operate two hundred small taxicabs in the City of Manila and its suburbs.

After due hearing, the Public Service Commission granted a certificate authorizing nine small taxicabs but refused authority to place in operation two hundred. From the orders of the Public Service Commission refusing to grant the authority for the two hundred cars, applicant brings this appeal.

The appellees are existing taxicab operators in the City of Manila who opposed any grant to applicant. In a companion case promulgated this date, G. R. No. 40317,[1] we discussed the right of applicant to have the certificate for the operation of nine cars.

On the whole record we find no abuse of authority in the commission's denying her application for two hundred cars. There is, however, a middle ground that has given us considerable concern. Originally appellant had a provisional permit for the operation of fifty-five midget taxicabs. With the knowledge and approval of the then members of the Public Service Commission, she purchased and ordered from over seas twenty small cars of a new type. As fast as they arrived appellant placed the cars in service, and at the time that this court acted on the question of the validity of the provisional permits she had nine cars in operation. Shortly thereafter the eleven other cars arrived, which she could not place in operation under her provisional permit due to the limitations which this court placed upon the holder of the permit in that decision. The cars have been in storage awaiting the result of these proceedings.

The number of cars that an operator should operate is obviously one that pertains especially to the jurisdiction of the Public Service Commission; but as the cars were actually purchased with the knowledge and consent of the then Public Service Commission, were bought in good faith, and could be used in supplying a demand by the public for transportation, that has been demonstrated to exist, we believe under the peculiar facts and circumstances of this case that we are justified in modifying the orders of the Public Service Commission to the extent that appellant be permitted to operate the twenty taxicabs which she has already purchased.

As thus modified the orders of the Public Service Commission are affirmed. No pronouncement as to costs. So ordered.

Street, Villa-Real, Abad Santos, Imperial, and Diaz, JJ., concur.

[1] Page 775, ante.

MALCOLM and BUTTE, JJ., concurring in part and dissenting: in part:

We think that the decision of the Public Service Commission in these seven cases should be sustained without change. This means concurrence with the majority opinion in the cases of the Austin Taxicab Company vs. Manila Yellow Taxicab CoCompany, G. R. No. 40241, p. 923, post; Silos vs. Manila Yellow Taxicab Company, G. R. No. 40425, p. 802, post; Manila Yellow Taxicab Company vs. Vesnanr G. R. No. 40317, p. 775, ante; and Sabellano vs. Manila Yellow Taxicab Company, G. R. No. 40335, p. 923, post, arid dissent from the majority opinion in the cases of Manila Yellow Taxicab Company vs. Austin Taxicab Company, G. R. No. 40315, p. 771, ante; Manila Yellow Taxicab Company vs. Sabellano, G. R. No. 40316, p. 773, ante; and Vesnan vs. Manila Yellow Taxicab Company, G. R. No. 40319, p. 787, ante. Our position will bear a brief word of explanation.

The Public Service Commission Act, No. 3108, as amended, created a Public Service Commission and vested it with the powers and duties therein specified (sec. 1). Among other things, the law gave to the commission general supervision and regulation of, jurisdiction and control over, all public utilities (sec. 13). The various powers of the commission were enumerated, and included the right to grant certificates of public convenience (secs. 14 and 15). Finally, provision was made for the taking of cases from the Public Service Commission to the Supreme Court, which was given jurisdiction to review an 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" (sec. 35).

In connection with the provisions of the law which have been cited, this court has time without number emphasized that the court will refrain from substituting its discretion for the discretion of the Public Service Commission on questions of fact and will only reverse or modify orders of the Public Service Commission when it clearly appears that the evidence is insufficient to support their conclusions, or otherwise stated, the court will not attempt to substitute its judgment for the judgment of the Public Service Commission if there is any evidence before it reasonably supporting its order. (Phil. Shipowners' Ass'n. vs. Public Utility Commissioner and Board of Appeal [1922], 43 Phil., 328; Ynchausti Steamship Co. vs. Public Utility Commissioner and Board of Appeal [1923], 44 Phil., 363; Mejica vs. Public Utility Commission [1926], 49 Phil., 774; Phil. Shipowners* Ass'n. vs. Public Utility Commission [1926], 51 Phil., 957; San Miguel Brewery vs. Lapid [1929], 53 Phil., 539; Calabia vs. Orlanes & Banaag Transportation Co. [1931], 55 Phil., 659; Manila Yellow Taxicab Co. and Aero Taxicab Co. vs. Danon [1933], 58 Phil., 75.) The basic decision with reference to the granting of certificates of public convenience for taxicab service in the City of Manila is found in the case of Carmelo and Oriol vs. Monserrat <[1931], 55 Phil., 644), where the point was stressed that in the granting or refusal of a certificate of public convenience, all things considered, the question is what is for the best interests of the public.

In the cases before us we find a well-written decision prepared by the commissioner and concurred in by the two associate commissioners. In the decision it was said that the principal issue for determination by the commission was whether or not applicants should be granted permanent certificates of public convenience. It was then stated that the applicants and opponents presented both oral and documentary evidence. Specific findings were made with reference to the cases of the Austin Taxicab Company, Panfilo Sabellano and E. Vesnan, which are the cases where this court substitutes its findings for the findings of the commission. The commission gave consideration to the proposition that the applicants by reason of their temporary permits have made investments in good faith for the operation of their thirty-nine units which the commission could not in equity ignore. Then after premising its conclusions on a careful review of the evidence, the commission announced that it would authorize the Austin Taxicab Company to operate twenty units, Panfilo Sabellano ten units, and E. Vesnan nine units.

We, therefore, are unable to understand how this court can state "that there was no evidence before the commission to support reasonably" its order. Instead we find this court telling the commission that in the Austin

Taxicab Company case it should not have allowed the company to operate twenty units; telling the commission in the Sabellano case that it should not have allowed the applicant to operate ten units, and telling the commission in the Vesnan case that instead of allowing Vesnan to operate nine units it should have allowed her to operate twenty units. Peculiarly unjust do we find these pronouncements in the Austin Taxicab Company case, for there we have a company permitted to be incorporated by the Government, and which the Government has taken no steps to dissolve, now in a collateral manner deprived of valuable property rights without due process of law. We sincerely believe that the question of how many taxicabs should be permitted to operate in Manila and what companies should operate those taxicabs can safely be left for determination by the Public Service Commission; that every time the commission makes a finding of fact predicated on evidence on such questions, the losing party should not be encouraged to bring the case to the Supreme Court for review, and that the Supreme Court should not transform itself into a supervisory Public Service Commission and thus usurp functions which are not granted it by law.

DISSENTING

GODDARD, J.,

I dissent.

I hold that the primary purpose of public utility laws is to secure adequate, efficient and economical service for the public and, as a means to that end, public service commissions should protect the investment and the business of established utilities which are adequately and economically serving the public. That the only way to accomplish this purpose is by effective regulation of such utilities and by a denial of applications for certificates of public necessity in sections already adequately served. I also hold that when the Public Service Commission finds that Established utilities are not rendering adequate and economical service to the public that it is the duty of the commission to give such utilities the opportunity to reconstruct and make such improvements in their plant, system, facilities, including the extension thereof, as will enable them to adequately meet the needs of the public. But, in case the established utilities decide not to make such improvements and extensions, including the establishment of lower rates, or are unable to do so, then and then only should the commission grant certificates of public necessity to others who are able and willing to adequately and economically serve the public by furnishing such improvements, extensions and lower rates. (PUR, 1920B, pp. 337-339.) I also hold that public service commissions have another duty to perform, aside from obliging public utilities to render good service at reasonable rates, which is just as important for the public interest, and that is to allow public utilities to charge reasonable rates for the service rendered. Unreasonable demands by the public or unreasonable offers by others to supply the service at lower rates should be rejected. The granting of such demands or acceptance of such offers would lead to bankruptcy and the public would be deprived of the service entirely. (PUR, 1918F, pp. 592, 600.)

The writer has tried to give the substance of the above citations from the Public Utility Reports.

In Re Lawrence Park Heat, L. & P. Co., the Public Service Commission of New York, Second District, said:

"* * * that in the great majority of cases competition between utility companies operating in a single field was producing very bad results indeed from the points of view both of the public and the competing companies. It was recognized that this kind of competition almost invariably resulted in the partial or complete crippling of enterprises which were subject to it, with the inevitable result that utility companies generally were not giving anything like as good service to the people as they might reasonably be expected to give under happier and saner conditions. This evil of cutthroat competition between utility companies was not, of course, the only reason for the passage of the Public Service Commission Law. Other obvious defects in the existing system

clamored to be corrected. But that the legislature and the governor, approaching the matter entirely from the public standpoint and certainly without the slightest desire to protect vested interests at the expense of the people, gave particular thought to the question here referred to, there can be no doubt whatever. And they concluded, from their study of conditions in every department of the utility field, that better results than any which had been secured in the past could be had in the future by substituting for the foolish and wasteful competition of former years a system of state regulation and control, under which whatever good there might be in the competitive system could be preserved without any of its resulting waste and public loss. The newly created Public Service Commissions, therefore, while by no means restrained from permitting competitive conditions to exist in cases where the public interest seemed to require it, were charged with the duty of protecting established companies which had demonstrated their willingness and ability to serve the people well against such ultimate disasters as seemed under the competitive system sooner or later to overtake nearly all of these enterprises. With this in view, the power to pass upon applications like the one now before us, and the duty to deny such applications whenever it seemed likely that the conditions from which the people were trying to be relieved would be perpetuated by granting them, was lodged with the commissions. It is beyond dispute that the whole situation has vastly improved under the new system, and that whatever the trend of future legislation on this subject may be, it will not be toward any return to the competitive conditions of earlier days." (PUR, 1918A, pp. 113, 119, 120.)

This court in the case of *Batangas Transportation Co. vs. Orlanes* (52 Phil., 455), quoted with approval section 775 of Pond on Public Utilities as follows:

" ' The policy of regulation, upon which our present public utility commission plan is based and which tends to do away with competition among public utilities as they are natural monopolies, is at once the reason and the justification for the holding of our courts that the regulation of an existing system of transportation, which is properly serving a given field or may be required to do so, is to be preferred to competition among several independent systems. While requiring a proper service from a single system for a city or territory in consideration for protecting it as a monopoly for all the service required and in conserving its resources, no economic waste results and service may be furnished at the minimum cost. The prime object and real purpose of commission control is to secure adequate sustained service for the public at the least possible cost, and to protect and conserve investments already made for this purpose. Experience has demonstrated beyond any question that competition among natural monopolies is wasteful economically and results finally in insufficient and unsatisfactory service and extravagant rates. Neither the number of the individuals demanding other service nor the question of the fares constitutes the entire question, but rather what the proper agency should be to furnish the best service to the public generally and continuously at the least cost. Anything which tends to cripple seriously or destroy an established system of transportation that is necessary to a community is not a convenience and necessity for the public and its introduction would be a handicap rather than a help ultimately in such a field/ " (Pp. 471, 472.) And then said:

"That is the legal construction which should be placed on paragraph (e) of section 14, and paragraphs (6) and (c) of section 15 of the Public Service Law.

"We are clearly of the opinion that the order of the commission granting the petition of Orlanes in question, for the reasons therein stated, is null and void, and that it is in direct conflict with the underlying and fundamental principles for which the commission was created." (P. 472.)

In *Bohol Land Transportation Company vs. Jureidini* (53 Phil., 560), this court held:

"1. PUBLIC SERVICE COMMISSION; ISSUANCE OF CERTIFICATE OF PUBLIC NECESSITY AND CONVENIENCE TO TRANSPORTATION COMPANY OR LAND CARRIER.—Before granting a certificate of public necessity and convenience to a transportation company or common carrier on land, there being another with a proper certificate, the latter should be given an opportunity to improve its service, if deficient or inadequate."

In *Mangubat vs. Silang Traffic Co.* (G. R. No. 31556, promulgated November 22, 1929, not reported), this court said:

"We are clearly of the opinion that the Public Service Commission had no legal authority to issue the license in question, and that the order in question is null and void. If it be a fact that the public interests require a change in the schedule of the Silang Traffic Co., Inc., to accommodate early-morning passengers from Dasmarinas to Imus, the Public Service Commission would have the power to make that order on the petition of parties in interest or even on its own motion, after notice to the Silang Traffic Co., Inc., and a hearing, and if, for any reason, the Silang Traffic Co., Inc., then failed to comply with a reasonable order of the commission as to a change in its schedule, then a license to another operator between those points should be granted."

In another *Batangas Transportation Co. vs. Orlanes and Orlanes & Banaag Transportation Co.* case (G. R. No. 36245, 57 Phil., 997), this court, referring to the original *Batangas Transportation Co. vs. Orlanes* decision (52 Phil., 455), said:

"That decision laid down certain fundamental rules for the guidance of the Public Service Commission and of competing bus lines. It was written during a time of prosperity. It was written to protect the real public interest and not those of a passing moment. The financial depression which we have suffered, and from which we are now suffering, furnishes a complete and unanswerable verification of the soundness of the principles therein announced. To permit the present orders of the Public Service Commission to stand would be a practical reversal of that decision.

"This court is more concerned with the substance than the form. We cannot, so far as it lies within our power, permit ruinous competition to the manifest detriment of the public. Half empty motor buses engaged in ruinous competition, destroying our provincial roads, causing disaster to each other is not a sign of enlightened competition, and such practices are bound to bring injury to the public."

The last decision cited above was promulgated after the decision in the first taxicab case, *Carmelo and Oriol vs. Monserrat* (55 Phil., 644).

In the *Monserrat* case this court said:

"The business of the taxicab is new and the public here is not yet accustomed to that kind of service, and like other innovations, it is one more or less of education. Even so, in all cities in the United States of the size of Manila, taxicabs are in general use and are very convenient to the traveling public, and in so far as we are advised there is no city of the size of Manila that does not have at least two or more taxicab companies in actual operation.

"Everything else being equal, the real, primary question involved is whether it is better and more convenient for the travelling public in the City of Manila to have two taxicab companies in operation than it is to have one, and whether in truth and in fact the granting of another similar license to the petitioners would operate as a real injury to *Monserrat*." (Pp. 647, 648.)

"* * * counsel have not cited decision of any court in which the exclusive rights of a prior operator of a taxicab company in a city of the size of the City of Manila have been sustained, * * *." (*Carmelo and Oriol vs. Monserrat*, supra, p. 650.)

At the time that decision was promulgated *Monserrat* (now Manila Yellow Taxicab Co.) was operating about twenty-six (26) taxicabs in the City of Manila. The situation now is quite different. At the time the Public Service Commission granted this petitioner, Esmeralda Vesnan, a certificate, there were six (6) taxicab operators, who were operating three hundred one (301) taxis. These six operators adopted a resolution previous to the hearing of this case and presented it to the commission (Exhibit 18) in which they stated that they believed that the present number of taxicabs operated in Manila is sufficient, but that if the commission believed that an increase is

necessary for the public convenience, they were prepared and ready to put into operation the increased number; and asked the commission to fix the number which it believed should be operated and to define its policy with regard to pending and future applications for taxicab service with a view to protecting the interests of the public, as well as those of the then operators.

Since the promulgation of the Monserrat decision the Pennsylvania Public Service Commission has rendered a decision in the case *Re Universal Cab Company* (PUR, 1930D, p. 178):

"Monopoly and, competition—Policy of the Commission— Taxicabs. 2.—The policy of the commission in dealing with taxicabs, considering solely the administrative standpoint, is that such service is not exempt from the fundamental principle of regulation which is that the public interest must be efficiently served by well-regulated utilities protected against destructive competition, p. 180."

"Monopoly and competition—Taxicabs—Adequacy of existing service—Local policy. 3.—Authority to operate a city-wide taxi service was denied where adequate service was being rendered by a responsible operator at reasonable rates, and where the local municipal policy, like the commission policy, appeared to be opposed to destructive competition, p. 182."

"Public utility—Application of regulatory principles— Taxicabs.—The Public Service Company Law does not sanction the application of one set of administrative principles to one utility and the application of another set to other utilities, nor does it differentiate in this respect between taxicabs and motor buses or any other form of transportation, p. 182."

In the body of that decision the commission said:

"As a matter of fact, there is nothing in any of the provisions of the Public Service Company Law which sanctions the application of one set of administrative principles to one utility and the application of another set of administrative principles to other utilities, or which would differentiate in this respect between taxicabs and motor buses or any other form of transportation. Taxicab companies and individual operators are obliged to conform to all of the statutory requirements which are applicable to other public utilities. They are required under the law to maintain a uniform system of accounts prescribed by the commission, to file annual reports, reports of accidents, and comply with all other provisions of the statute and rules of the commission applicable to public utilities.. There is nothing in the act or in the regulations of the commission which would justify protection of utilities in general, and of the public interests which they serve, from destructive competition, which does not and should not at the same time have equal application to taxicabs."

The application for certificate was denied.

This decision of the Pennsylvania Public Service Commission was affirmed on appeal by the Pennsylvania Superior Court (*Hoffman vs. Public Service Commission*, PUR, 1931 A, p. 122).

The Superior Court said:

"The term 'common carrier' as used in this act, includes any and all common carriers, whether corporations or persons, engaged for profit in the conveyance of passengers or property, or both, between points within this commonwealth by, through, over, above, or under land or water, or both/ Appellants' proposition is that the words 'between points within this commonwealth,' as used in part of the act above quoted, limit the application of the act to common carriers operating over fixed routes and between definite points; and that when a taxicab picks up passengers wherever it can and transports them wherever they desire to go, it is not operating 'between points' within the meaning of those words. This contention is without substance. This court was required to interpret the phrase 'between points within this commonwealth,' in *Scranton R. Co. vs. Fiorucci* ([1917], 66 Pa. Super. Ct, 475, 477). The contention was made in that appeal that the words 'between points' did not apply to operators confined to the limits of a city or town. In refusing to adopt such a construction, this

court held .that the Public Service Company Law of 1913 'was designed to regulate all public carriers and the legislative intention was not to make an exempted class of public carriers operating wholly within the limits of a city and including those who ran beyond. * * *'

"We find nothing in the Public Service Company Law or in the business of operating taxicab service on call and demand that warrants the conclusion that such a utility should be exempt from the application of the noncompetitive policy."

Another significant statement in this decision is "It is not for us to interfere with their finding" (the finding of the commission) "when there is sufficient evidence to sustain their conclusion." With all due respect to the members of this court who would use the word "some" instead of "sufficient", I am constrained to say I prefer the latter.

The Pennsylvania Commission also dismissed applications for incorporation, organization and operation of taxicab companies proposing to operate 400 taxicabs in Pittsburgh, where there was no showing that the present operators were not furnishing adequate facilities. In a case from Reading, Pa., the commission denied authority to operate taxicabs in that city, stating that "It has been and is the consistent policy of the commission to protect the service of the public from wasteful and destructive competition of all kinds."

In view of the material changes which have taken place as to the conditions in Manila, with regard to the taxicab service, since the Monserrat decision, the doctrine set forth in the decisions of the Pennsylvania Commission and the offer of the six taxicab operators to put in operation the number of taxicabs which the commission may find are necessary to supply the public necessity, I am of the opinion that the application of Esmeralda Vesnan should have been denied.

This opinion is further strengthened by the following statement in the last paragraph of the decision of the commission which reads:

"While the commission is satisfied that the present number of taxicab operators, including those herein granted certificates, taking into account the resources at their command, is sufficient to fill public need for the time being, nevertheless with the data before us we do not feel justified just now in making a definite announcement as to the number of operators and units of taxicabs that should be authorized until a more thorough investigation can be made on that point,"

It also appears that the only grounds upon which the commission granted certificates of public convenience to the herein petitioner are: (1) That from the evidence adduced and the report of the verification made by the auditor of the commission, the latter was convinced that the present number of taxicabs of operators holding permanent and temporary permits could be operated with a reasonable margin of profit; and (2) that the applicants by reason of their temporary permits (granted without authority of law) had made investments in good faith on the operation of their 39 units. From these premises the commission concluded that public convenience would be promoted by the granting of permanent certificates to the applicants, excepting Ramon Silos.

I submit that this conclusion based on such grounds is illogical and that the commission is not authorized to grant a certificate of public convenience for such reasons.

If the Public Service Commission and this court continue to follow the doctrine of the Monserrat decision and approve this and other applications for the operation of taxicabs in Manila, the inevitable result will be the total destruction of the taxicab service now established in that city. The present operators should be given an opportunity to supply any future public necessity for additional taxicabs. If they do not choose to do this, then the applications of other responsible persons or companies should be approved.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.