

PASAY TRANSPORTATION CO., INC., PETITIONER, VS. THE PUBLIC SERVICE COMMISSION AND RAFAEL PEREZ SAMANILLO, RESPONDENTS.

G.R. No. 40659, December 22, 1933

Ponente: HULL, J.

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HULL, J.:

Original action for certiorari. Petitioner is the operator of an autobus line within the City of Manila, over a route prescribed by respondent, the Public Service Commission. Some time ago, on complaint of some property owners situated on the route then being used in the City of Manila by petitioner, the route was changed and the busses were routed past the property of Samanillo. At that time petitioner challenged the right of the Public Service Commission to change its route within the City of Manila, and in the order then issued the then Public Service Commission stated that the route would not again be changed without the consent of the petitioner.

Samanillo is the owner of quite a large real estate development for residential purposes' and complained to the Governor-General that the operation of the busses of petitioner was seriously affecting the rental value of his property due to dust, noise, and congestion on the streets fronting his property. The Governor-General referred the complaint to the Public Service Commission. After hearing the evidence and an ocular inspection, that body directed a modification and changed the route in accordance with the desires of respondent Samanillo. Whereupon petitioner brings this action claiming that the Public Service Commission acted beyond and outside its jurisdiction and had arbitrarily and illegally infringed upon the rights of petitioner.

Petitioner urges that as the complainant to the Governor-General was acting in his capacity as property owner and not as a user of the public utility of petitioner, his complaint was not within the jurisdiction of the Public Service Commission. This contention was based on the dictum contained in *City of Manila vs. Manila Electric R. R. and Light Company and Board of Public Utility Commissioners* (36 Phil., 89-95). In that case there was a conflict between the City of Manila and the predecessors of the present Public Service Commission as to its jurisdiction over the speed of street-cars on certain streets in the City of Manila. No such conflict is presented in this case.

The City of Manila has certain rights, jurisdiction, and control over the streets of the City of Manila, but their rights are not in question in these proceedings, nor has the City of Manila intervened therein. Whatever rights the Pasay Transportation Co., Inc., has to the utilization of the streets of the City of Manila, it has by virtue of the franchise granted by the Public Service Commission, and the Public Service Commission, under the Act creating that body, may at any time order a rehearing to extend, revoke, or modify any order made by it.

In considering whether an order shall be issued granting, extending, or modifying a franchise to a public utility, the Public Service Commission is not limited to a mere consideration of the public utility and its patrons. As this court has heretofore said, the inhabitants of the Philippine Islands, the public in general, although they may not be personally represented at the hearings of the Public Service Commission, are the real parties in interest, and their rights and interests should be considered and protected by the Public Service Commission.

Formerly all public roads and streets were dedicated to general public uses. With the complexities of modern times, with the various widths and surfaces of the roads and the various kinds of vehicles using the same, it is necessary for the police power of the State, for the benefit of all, to place reasonable restrictions upon the use of certain thoroughfares. While that restriction is primarily one for the police power of the municipality, it does not mean that reasons that might appeal to the municipality may not also be considered by the Public Service Commission in authorizing a bus line or a trucking company to use a thoroughfare through a residential district, and the exercise of that power is not arbitrary nor is it an assumption of power not impliedly given to the commission, when it is remembered that it is to act representing the State for the public good in general.

Nor can we agree with the contentions of petitioner that the former Public Service Commission, having said that it would not change the route given to petitioner without its consent is binding in the future. Nobody has a right to prevent the exercise of the legal powers of that body by its successors. Nor can the Public Service Commission issue any order that cannot be changed because the law expressly gives the Public Service Commission a right to modify its orders.

The petition for certiorari is therefore denied. Costs against petitioner. So ordered.

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

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