RAYMUNDO TRANSPORTATION CO., INC., PETITIONER AND APPELLANT, VS. LUNETA MOTOR CO. AND LAGUNA-TAYABAS BUS CO., RESPONDENTS AND APPELLEES.

G. R. No. 41292. August 10, 1934

Ponente: IMPERIAL, J.

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IMPERIAL, J.:

In civil case No. 42163 of the Court of First Instance of Manila, Luneta Motor Co., Inc., vs. Nicanor de Guzman, the plaintiff attached the defendant's certificates of public convenience and the same were sold at public auction to said plaintiff. Said sale was approved by the Public Service Commission in cases Nos. 33031 and 35810 and was confirmed by this court in cases Nos. 39902 and 39903.[1]

Luneta Motor Co., Inc., sold the same certificates for P4,000 to Laguna-Tayabas Bus Co. and both filed application in case No. 36603 praying the commission to approve the second sale. It was in this case where the appellant Raymundo Transportation Co., Inc., opposed the approval of the sale praying that it be given preference to buy said certificates for the same amount on the ground that it is an operator on the same Pililla, Rizal-Manila line and that to approve the sale in question would be to sanction a ruinous competition between it and the buyer. After due hearing, the commission denied the opposition and approved the sale. The oppositor appealed.

The appellant assigns the following alleged errors in the decision appealed from:

> "Error No. 1.—That the Public Service Commission erred in permitting and authorizing the appellee, Laguna-Tayabas Bus Co., to invade the territory of the herein appellant.
>
> "Error No. 2.—That the Public Service Commission erred in perpetuating the ruinous competition in the line Pililla— Manila and in not attempting to protect the old existing operators in the said line, more particularly the appellant herein, knowing fully well that there is ruinous competition in the said line.
>
> "Error No. 3.—That the Public Service Commission erred in not holding that the appellant has a preferential right to acquire the line in question as pioneer operator in the said line, thereby avoiding ruinous competition.
>
> "Error No. 4.—That the Public Service Commission erred in denying the appellant's motion for reconsideration and rehearing."

In approving the sale, the commission, based its decision on the following considerations, to wit: that the sale of the certificates to Luneta Motor Co., Inc., already constitutes res judicata on the ground that it was approved and sanctioned by final judgment; that the appellant had had opportunity to acquire the said certificates at the public auction but it did nothing to that effect; that the circumstances stated did not show that a ruinous competition would necessarily arise between the operators and that the objection based on this ground cannot be interposed in the case for the approval of the sale in favor of the appellee but that it should have been raised when the original operator had applied for the issuance of the said certificates, and that the appellant cannot successfully invoke the established doctrines on preference, improvement and increase of equipment on the ground that the case does not

involve an application for new certificates.

This court has carefully exa-nined the record and found nothing to support the appeal. The decision is supported by the facts and is in accordance with the general principles governing the matter involved in the case. The fact that the original operator did not succeed in his business for which reason his certificates were attached and finally sold at public auction, does not necessarily mean that his failure was due to ruinous competition because it might as well have been due to other causes, such as poor management. On the contrary, the acquisition of the same business by the appellee is an indication that it is not a poor one and that it may be continued with possibilities of obtaining a reasonable profit.

Wherefore, the appealed decision is hereby affirmed, with the costs of this instance against the appellant. So ordered.

Malcolm, Villa-Real, Butte, and Goddard, JJ., concur.

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[1] Raymundo vs. Luneta Motor Co. (58 Phil., 889)

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