

PASAY TRANSPORTATION CO., INC., PETITIONER, VS. FRANCISCO CRUZ, RESPONDENT.

G.R. No. 42974. May 07, 1935

Ponente: GODDARD, J.

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GODDARD, J.:

The petitioner in these cases prays for the review of the following resolution of the Public Service Commission:

"These are complaints filed by the Pasay Transportation Company, an auto-truck operator, against operators of PU automobiles for picking and dropping passengers in a manner or at places forbidden by their certificates of public convenience.

"At the hearing attorney for the respondents asked for the dismissal of the cases on the ground that the acts complained of are the subject of a complaint already tried and now pending decision in the Court of First Instance of Rizal in civil case No. 5680, wherein the complainant asks that the respondents be punished for contempt of court for disregarding the writ of injunction issued in said case. The existence of said complaint in the Court of First Instance of Rizal is admitted by counsel for the Pasay Transportation Company, who also agrees that the acts alleged in the present complaints are the very same acts on which the action for contempt is based. That being the case, it is believed that the motion for dismissal should be granted, for it does not seem just that respondents should be prosecuted twice for the same infractions, to say nothing of the anomaly or confusion that would result if the commission should proceed to hear the cases' on the merits and reach a conclusion adverse to that of the Court of First Instance.

"In view of the foregoing, these cases are hereby dismissed, but not without reminding the respondents that PU operators¹, like any other public service operators, are expected to live up to the conditions of their certificates of public convenience."

The petitioner makes the following assignment of error:

"The petitioner, Pasay Transportation Co., Inc., respectfully submits that the Public Service Commission erred in dismissing these complaints on the ground that it would be prosecuting the respondents twice for the same infractions."

It is agreed that identical facts are alleged in the above mentioned complaint for contempt pending in the Court of First Instance of Rizal and in the complaint filed in these cases before the Public Service Commission.

The question presented to the Court of First Instance of Rizal was whether or not the alleged acts, if proved, would justify that court in punishing the respondents for contempt for disobeying its injunction order.

The question presented to the Public Service Commission was whether or not said acts, if proved, would warrant the suspension or revocation of the certificates of public convenience of the respondents.

It is elementary that a Court of First Instance has jurisdiction to hear and decide a complaint for contempt wherein it is alleged that certain acts have been committed in violation of an injunction order issued by it. The Public

Service Commission also has jurisdiction to hear and decide the issue raised by a complaint or petition, filed before it, alleging unauthorized motor carrier operations based upon the same facts alleged in such a complaint for contempt even though the same parties are involved in both proceedings.

However the filing of the complaint in these cases was premature. The petitioner should have waited until the Court of First Instance of Rizal had decided the contempt case. This would have avoided any possibility of a conflict between the decisions of that court and the commission. It is true that the Public Service Commission might have suspended the hearing of the complaint, under consideration in these cases, until the Court of First Instance had handed down its decision in the contempt case, but, under the circumstances, this court is not disposed to hold that the commission erred in dismissing these cases.

Petition for review denied without prejudice and without special pronouncement as to costs.

Malcolm, Abad Santos, Vickers, and Butte, JJ., concur.

Decision affirmed.

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