

MANILA ELECTRIC COMPANY, PETITIONER, VS. PUBLIC SERVICE COMMISSION AND BACHRACH MOTOR COMPANY, RESPONDENTS.

G.R. No. 43358. May 08, 1935

Ponente: HULL, J.

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HULL, J.:

This is an original action for certiorari seeking to review certain orders of the Public Service Commission.

On March 15, 1934, Diego Sotto was granted a certificate of public convenience authorizing the operation of thirty auto-calesas within the City of Manila, over the opposition of the petitioner in these proceedings. In the other autocalesa cases which were tried at the same time, petitioner brought the cases to this court for review, in which the orders of the Public Service Commission were upheld. But in the Sotto case petitioner did not see fit to include the Sotto certificate in his petition for review by this court, and it therefore became final. In the certificate appears the following condition:

"The certificates of public convenience herein authorized shall take effect on the date of their issuance and shall be in force until revoked by this commission. The applicants are warned that if the certificate fees are not duly paid and the equipment authorized are not registered in the Bureau of Public Works within the period of sixty (60) days from the date of. notification of this decision, the same shall be revoked and declared null and void, without any previous hearing."

On application of Sotto sixty additional days was granted by the Public Service Commission within which he might register his units. On June 1, 1934, Sotto, registered one auto-calesa, and on June 7, 1934, the petitioner herein filed a complaint asking for the cancellation of the certificate issued to Sotto, which petition was dismissed by the Public Service Commission. On October 30, 1934, an application was filed with the Public Service Commission, praying for the approval of the sale of the Sotto certificate of public convenience to the Bachrach Motor Company, which petition without notice to petitioner was provisionally approved by the commission. Subsequently it approved of the sale and granted an extension of time until February 11, 1935, to Bachrach Motor Company to register the other auto-calesas authorized in the certificate of public convenience and necessity. Petitioner filed a motion with the Public Service Commission, asking that the Public Service Commission reconsider the orders approving the sale and granting an extension in which to register the other twenty-nine auto-calesas. And upon the petition being denied by the Public Service Commission, these proceedings were brought.

It is the contention of the petitioner that the Public Service Commission knew that petitioner was opposed to the granting of the request of Bachrach Motor Company and, when the commission granted said motion ex parte and without hearing, it acted contrary to law and the orders are therefore null and void. The facts above recited, however, do not bear out the contention of the petitioner. The cancellation pro tanto of the certificate of public convenience and necessity of the auto-calesas not registered within the prescribed time is not a self-executing provision. It required an order of the Public Service Commission. Whether such order should issue or not depended upon the discretion of the Public Service Commission, and no hearing for or against such action is

required by law. Again, the question whether a sale from the holder of the certificate of public convenience and necessity to a purchaser thereof should be approved by the Public Service Commission is likewise a matter of discretion and, under the practice which has been followed for many years, public hearings on such motion have not been held. A public interest might exist in such a transfer that would justify the Public Service Commission in holding a hearing, but competitors have no real legal interest whether such a transfer should be made or not. The practice which was followed in this case in approving of the sale *ex parte* does not meet with our disapproval.

Coming to the prayer of Bachrach Motor Company that an extension of time be granted in which to put in service the other units authorized by the certificate of public convenience and necessity, it is at once seen that, as long as the Public Service Commission did not act affirmatively to modify the certificate, the petitioner had a right to put such units into operation. If, out of abundant caution, the then holder of the certificate saw fit to approach properly and in due form the Public Service Commission for an assurance that they would not act adversely to his interest while making the expenditure necessary to place the additional units in operation, he had a right to do so. No public hearing thereon was necessary. No amendment to the certificate was in fact made. The order granting the additional time was no more than a public announcement by the Public Service Commission that it would not exercise the reserved powers to the detriment of the holder of the certificate. In this matter petitioner had no legal right and therefore was not entitled to be consulted by the Public Service Commission before action.

The rights of the Manila Electric Company not having been impaired by the Public Service Commission and the Bachrach Motor Company, the petition for certiorari must be, as it is hereby, denied. So ordered, with costs against petitioner.

Malcolm, Butte, Goddard, and Diaz, JJ., concur.

Petition denied.

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