

MANILA ELECTRIC COMPANY, PLAINTIFF AND APPELLANT, VS. JUAN POSADAS, JR., COLLECTOR OF INTERNAL REVENUE, AND THE CITY OF MANILA, DEFENDANTS AND APPELLEES.

G.R. No. 44028, March 31, 1938

Ponente: VILLA-REAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-44028/>

VILLA-REAL, J.:

The plaintiff Manila Electric Company appeals from a judgment of the Court of First Instance of Manila absolving the defendants from the complaint and dismissing it, with costs against the plaintiff.

In support of its appeal, the appellant assigns ten alleged errors which will be discussed in the course of this decision.

Before the case was heard, the parties submitted a stipulation of facts, which, together with the additional evidence presented at the trial, shows that:

On October 20, 1902, the Philippine Commission enacted Act No. 484, section 1 of which authorizes the City of Manila to grant to the "person or persons making the most favorable bid, as hereinafter provided, a franchise to construct and maintain in the streets of Manila and its suburbs an electric street railway and a franchise to construct, maintain, and operate an electric light, heat, and power system in the City of Manila and its suburbs."

By virtue of said Act, the City of Manila passed on March 24, 1903, Ordinance No. 44 granting the franchise to one Charles M. Swift, as the highest bidder. Said Act No. 484 and Ordinance No. 44 were later amended by Act No. 1112 and Ordinances Nos. 70, 71, 144, 167, 192, 272, 490, 903, 988, 1162, 1244 and 1476, which deal with the sale and transfer of the franchises of the Compañia de Tranvias de Filipinas to the plaintiff in April, 1904.

On March 27, 1903, the plaintiff, then known as "Manila Railway and Light Company", acquired the said franchise from Charles M. Swift, together with all the rights, privileges and obligations appurtenant thereto.

The plaintiff has since then established electric car lines along certain streets of the City of Manila and suburbs, which have now and then been altered with the express consent either of the City of Manila or of the Philippine Legislature. As grantee of the franchise, the plaintiff corporation agreed to pay, and has to date been paying, to the City of Manila, 2½ per cent "of the fares collected and tickets sold within the limits of the City of Manila, and the same percentage of fares collected and tickets sold without the said limits to the proper municipality or municipalities of the Province of Rizal." (Par. 19, Act No. 484.)

In 1927, the plaintiff applied for and obtained from the Public Service Commission certificates of public convenience to operate as it did in 1929, an autobus service along the streets, districts and suburbs of the City of Manila, not covered by its electric car lines (Exhibits D and E).

Alleging that this autobus service was included in the franchise granted the plaintiff, under Ordinance No. 44, the defendant and appellee City of Manila collected from the plaintiff—who had to pay under protest—a tax of 2½ per

cent of the fares collected and tickets sold on its autobus lines within the City of Manila from April, 1929 to November, 1932, amounting to P43,868.06. The present action was instituted to recover this tax.

The plaintiff issues transfer tickets which entitle the holder of a regular fare to transfer from a street car to an autobus and vice-versa without extra charge, although this privilege is not extended to zone fare passengers.

The only major question to be decided in this appeal is whether or not the autobus business of the plaintiff is included in the franchise granted to it by Ordinance No. 44 of the City of Manila, and in case it is, if the defendant has any right to collect the tax of 2½ per cent from the fares collected and tickets sold in said business, as prescribed in said ordinance.

Section 2 of Act No. 1112, amending Ordinance No. 44 of the City of Manila, inserted between paragraphs 2 and S of the first part of said ordinance, the following paragraph 2 (a):

"Par. 2(a). The Manila Electric Railroad and Light Company shall be authorized to make excavations and constructions for the purposes prescribed in Part One of said Ordinance Numbered Forty-four, upon such further streets, thoroughfares, bridges, and public places within the City of Manila as may, from time to time, be approved by the Municipal Board."

The purpose of this legal provision authorizing the Manila Electric Company to make excavations and constructions upon further streets, thoroughfares, bridges, and public places within the City of Manila, is no other than the construction and maintenance of a net of electric car lines. This broadening of the authorization cannot be construed as permitting the plaintiff to establish autobus lines along the streets of Manila and suburbs, not specified in the original authorization, because, as we have already said, the purpose of the additional authorization was to enable the plaintiff to construct and maintain a net of electric car lines in other streets of Manila. Furthermore, to establish autobus lines, it is not necessary to make excavations upon the streets. This is only required when laying out rails for electric cars.

Neither the letter nor the spirit of the law, therefore, authorizes that the franchise granted the plaintiff by the City of Manila be construed to include the establishment of autobus lines.

It is true that in the case of the City of Manila vs. Public Service Commission (52 Phil., 515), this court, interpreting paragraph 4 of Act No. 484, which authorizes the plaintiff, by virtue of its franchise, to modify, improve or change its system of electric railways such as the progress of science and the development of motive power may make reasonable and proper, said that the plaintiff might abandon the use of electric cars and substitute autobusses in their stead, which is a better means of transportation, and under the franchise, the grantee is authorized to make improvements in its system, with the approval of the City of Manila. That case dealt with the substitution of autobus lines along the same streets and public thoroughfares where electric car lines already existed. It was not the intention of this court, and it has not so declared, that the Manila Electric Company cannot establish autobus lines along streets and public thoroughfares where electric railways have not yet been established.

When public convenience so requires, the Philippine Legislature can authorize other transportation companies to use the streets and public thoroughfares where the Manila Electric Company has not established electric railways, nor signified its intention to do so, since such authorization does not violate the terms and conditions of the plaintiff's franchise. Impliedly, this was done, when it created the office of the Public Service Commission charged with the task of looking after the comfort of the public as regards transportation, with power to grant a certificate of public convenience to a company desiring to operate a passenger transportation service, when, in its judgment, it will serve the interest of the public. Like any other company engaged in passenger transportation, the Manila Electric Company has the right to secure from the Public Service Commission a certificate of public

convenience authorizing it to establish autobus lines for public transportation. This means of transportation being distinct and different from the one authorized under the franchise granted to it, the Manila Electric Company is not controlled by that franchise with respect to its autobus service, but by the law that regulates the operation of land transportation companies rendering service to the public. Neither can it be compelled to pay to the City of Manila the tax of 2½ per cent of the fares collected and tickets sold within the city limits for using autobusses, which have no relation at all with its electric railways already existing or yet to be established. The fact that the Manila Electric Company issues transfer tickets which permit purchasers of regular fares (not zone fares) coming from outside the City of Manila, to transfer from a street car to an autobus, and vice-versa, does not make plaintiff's autobus system a part of its railway system, since such issuance of transfer tickets is only accidental and not essential in the operation of its railway system established under the authority of its franchise.

Having reached this conclusion, the other questions raised in this court being mere corollaries thereto, have impliedly been settled.

Wherefore, the appealed judgment is reversed and the defendant-appellee City of Manila is hereby ordered to reimburse to the plaintiff-appellant Manila Electric Company the taxes erroneously collected under the purported authority of Ordinance No. 44, in the sum of P43,868.06, and to pay the costs in both instances. So ordered.

Avanceña, C. J., Abad Santos, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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.