

SANTIAGO SAMBRANO, APPLICANT AND APPELLANT, VS. PUBLIC SERVICE COMMISSION, OPPOSITOR AND APPELLEE.

G.R. No. 45503. September 20, 1938

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is a motion filed by the Public Service Commission praying for the reconsideration of the decision of this court of July 27, 1938, rendered in this case, upon the following grounds:

- "1. That the order of February 25, 1937, sought to be reviewed, was entered by the commission in the legitimate exercise of the powers conferred upon it by law.
- "2. That the aforesaid order was issued by the commission in accordance with the policy of nationalization of public services enunciated by His Excellency, the President of the Philippines, under the provisions of the Constitution.
- "3. That the decision of this Supreme Court reversing the aforesaid order is of such a scope that it will impede, if not defeat, the policy of nationalization of public services to be adopted by the government.
- "4. That the aforesaid order does not prejudice the applicant, but on the contrary protects his interest and, at the same time, promotes national and not local or regional public interest.
- "5. That the aforesaid order is only temporary and interlocutory and not subject to review."

The Public Service Commission contends that under Commonwealth Act No. 146 it has ample powers to issue the order sought to be reviewed dismissing case No. 41712 wherein Santiago Sambrano is applicant and Northern Luzon Transportation Co., Inc. is oppositor after the said applicant and the oppositor had presented their evidence in support of the application and the opposition respectively.

In support of its theory, the Public Service Commission cites sections 13, 11, 17 and 29 of the aforesaid Commonwealth Act No. 146 providing as follows:

"Sec. 13. * * * the Commission shall have general supervision and regulation of, jurisdiction and control over, all public services, and also over their property, property rights, equipment, facilities, and franchises so far as may be necessary for the purpose of carrying out the provisions of this Act, and in the exercise of its authority it shall have the necessary powers * * *.

"Sec. 11. The Commission shall have the power to make needful rules for its government and other proceedings not inconsistent with this Act * * *.

"Sec. 17. The Commission shall have power, without previous hearing, * * *:

* * * * *

"(j) To require any public service to comply with the laws of the Philippines and with any provincial resolution or municipal ordinance relating thereto and to conform to the duties imposed upon it thereby or by the

provisions of its own charter, whether obtained under any general or special law of the Philippines.

"Sec. 29. All hearing and investigations before the Commission shall be governed by rules adopted by the Commission, and in the conduct thereof the Commission shall not be bound by the technical rules of legal evidence * * *."

Upon a careful examination of the sections of Commonwealth Act No. 146 cited by the movant in support of the first ground of its motion for reconsideration, we find nothing therein expressly or impliedly authorizing the Public Service Commission to dismiss *motu proprio* an application for permission to increase the hours of trip after the applicant had adduced his evidence in support of his application and while the oppositor is presenting evidence in support of its opposition. It is true that section 29, cited by the movant, provides that the hearings and investigations before the commission shall be governed by the rules which it may promulgate and that in its proceedings it shall not be subject to the technical rules of evidence; but we have not been referred to any rule of the Public Service Commission authorizing it to dismiss an application for permission to increase the hours of trip at the stage of the proceedings in which the case before us was found when it was dismissed. In the absence of rules promulgated by the Public Service Commission regulating the procedure which should be followed in the hearing of applications before it, there have been followed up to the present the provisions of the Code of Civil Procedure regulating the hearing of judicial cases. Section 127 of the aforesaid procedural Code speaks of only one case where a court may dismiss an action *motu proprio* without the petition of any party, namely, when the plaintiff fails to prosecute his case for an unjustified period of time, permitting, however, the plaintiff to file his complaint anew based upon the same grounds.

In the case before us, the action of the Public Service Commission in provisionally dismissing the application of Santiago Sambrano that he be permitted to increase his hours of trip, at the stage in which the proceedings were then found, is not authorized, as we have said, either by law, by practice, or by any rule promulgated by it.

The policy of nationalization of public services enunciated by His Excellency, the President of the Philippines, in accordance with the provisions of the Constitution, does not and cannot authorize the violation of the rules of procedure established by the Code of Civil Procedure. Had the commission proceeded with the trial of the case until its termination, in accordance with the rules of procedure, it would have complied with the policy of nationalization of public services which it invokes, rendering the decision which the case warrants. The decision of this court reversing the order of dismissal of the Public Service Commission will not, therefore, impede or defeat the policy of nationalization to be adopted by the government because it is in the power of the Public Service Commission to comply with that policy which it can do by following the procedure marked out by the Code of Civil Procedure.

Wherefore, finding no merit in the motion for reconsideration, the same is denied. So ordered.

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

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