

PAMPANGA BUS COMPANY, INC., PLAINTIFF AND APPELLEE, VS. FERNANDO ENRIQUEZ, DEFENDANT AND APPELLANT.

G.R. No. 46174. November 29, 1938

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by the defendant Fernando Enriquez from the decision of the Court of First instance of Manila, the dispositive part of which reads:

"Wherefore, this court holds that the defendant is guilty of contempt for violating the terms of the permanent injunction, the said, violation consisting in having filed an application before the Public Service Commission to pick up and drop passengers in the territory occupied by the Pampanga Bus Co., by virtue of which this court orders the defendant, within ten days from the date he receives copy of this decision, to withdraw the application filed in case No. 48802 of the Public Service Commission, or to ask for the revocation of any authority which may have been granted to him under the said application. Otherwise, it is ordered that the defendant be arrested and imprisoned until he complies with the conditions of this decision. (B. E., pp. 42, 43.)"

On November 15, 1934, in civil case No. 45149 of the Court of First Instance of Manila between the same parties in this case, a decision was rendered containing the following dispositive part:

"Therefore, let judgment be entered:

"(1) Declaring the preliminary injunction issued in this case, permanent, and restraining the defendant Fernando Enriquez from picking up or dropping passengers at point where he is not authorized to pick and drop passengers by his certificate of public convenience;

"(2) Enjoining the plaintiff from carrying passengers from Masantol and Macabebe to the City, of Manila, and from carrying passengers or making local service between Sta. Lucia and Calumpit; and

"(3) Requiring the parties to this case to comply with the terms of the agreement contained in Exhibit 1 dated November 9, 1929; without awarding to either party any damages and without any finding as to costs. So ordered."

The agreement referred to in the aforesaid decision, which was signed by the attorneys for the Pampanga Bus Company, Inc. and by Fernando Enriquez, respectively, is of the following tenor:

"Comes now the undersigned attorney and to this Honorable Commission respectfully states:

"1. That Fernando Enriquez withdraws the three motions presented in the above-entitled cases.

"2. That Fernando Enriquez withdraws his application to operate in all points served by the Pampanga Bus Company and agrees not to present any application in the territory now occupied by the Pampanga Bus Company.

"3. That the Pampanga Bus Company agrees to withdraw its opposition to the application of Fernando Enriquez from additional hours from Masantol to Manila with the right to pick up passengers in Macabebe and Apalit.

"4. That the Pampanga Bus Company agrees to permit Fernando Enriquez to carry passengers between Masantol and Macabebe and Calumpit on his regular trips on Tuesdays only.

"5. That the Pampanga Bus Company agrees not to establish a direct service between Masantol and Manila or Masantol and Calumpit on Tuesdays.

"6. That Fernando Enriquez agrees not to acquire any competing line of the Pampanga Bus Company.

"Manila, November 9, 1929."

For violation by Fernando Enriquez of the conditions of said agreement, the Pampanga Bus Company filed a complaint in civil case No. 45159 of the Court of First Instance of Manila, with a prayer for a writ of injunction against Fernando Enriquez, who filed a counter-complaint with a counter-petition for a writ of injunction. Both petitions were granted, a writ of preliminary injunction having been issued against each of the said parties.

On April 6, 1937, Fernando Enriquez filed before the Public Service Commission, in case No. 48802, an application wherein he asked for the lifting of the restrictions imposed in his certificates of public need and convenience issued in cases Nos. 20450 and 22476. The Pampanga Bus Co., Inc. objected to said application alleging that the filing thereof is in violation of the agreement of November 9, 1929, above-quoted, and asked for the dismissal of the said application.

The commission not having acted on the said petition for dismissal, the Pampanga Bus Company, Inc. filed in civil case No. 51550 of the Court of First Instance of Manila, a complaint with a prayer for injunctive relief wherein It was asked:

"Wherefore, it is respectfully prayed that the defendant, his attorneys, agents and other representatives, be restrained and enjoined from prosecuting his application to remove restrictions presented to the Public Service Commission in case No. 48802 find that he be required to withdraw and retire the said application;

"And, further, that during the pendency of this case a preliminary injunction be issued prohibiting the defendant, his attorneys, agents and representatives from prosecuting the said application before the Public Service Commission.

"Manila, P. I., July 12, 1937."

The Court of First Instance of Manila denied the said petition for a writ of injunction. Whereupon, the Pampanga Bus Company, Inc., tiled in the same court, in civil case No. 45159, a complaint against Enriquez wherein it was asked:

"Wherefore, it is respectfully prayed that after proper hearing, the defendant b3 adjudged guilty of contempt of court, and be committed to prison until he withdraws the application, or asks for the cancellation and revocation of any authority that might be granted him in case No. 48802 of the Public Service Commission.

"Manila, P. I., August 12, 1937."

After the hearing on the complaint and the presentations of the evidence, the Court of First Instance of Manila, on November 27, 1937, rendered a decision the dispositive part of which is above-quoted.

The principal question to decide in the present appeal is whether or not the trial court erred in finding the defendant-appellant Fernando Enriquez guilty of contempt for having violated the permanent writ of injunction

which had been issued against him whereby he was ordered to comply with the conditions of the agreement Exhibit 1 of November 9, 1929, in the sense that he would not proceed with the application to lift the restrictions imposed on his certificates.

In the decision rendered in the case of Pampanga Bus Company vs. Enriquez (G. R. No. 46040), promulgated at the same time as this one, we have said that "An agreement, entered into by the operator of & public land transportation service with a rival in the same business, whereby the former binds himself not to apply for the lifting of the restrictions imposed on his certificates of public need and convenience, is illegal and void, because it constitutes a waiver against public interest of a right granted by law, and does not bind the Public Service Commission."

In view of the nullity, because of illegality, of the agreement whose terms the Court of First Instance of Manila would compel Fernando Enriquez to respect, and which the latter did not respect, finding him guilty of contempt for disobeying the injunction prohibiting him from proceeding with his application to lift the aforesaid restrictions upon his aforesaid certificates, both the said writ of injunction as well as the judgment finding the herein defendant-appellant Fernando Enriquez guilty of contempt for having violated the said writ, are erroneous and void because they have for their purpose the enforcement of an illegal and, therefore, void agreement.

In view of the foregoing considerations, we are of the opinion and so hold that a decision finding an operator of a land transportation company guilty of contempt, for violating a permanent writ of injunction that is illegal and void, is also illegal and void.

Wherefore, the appealed decision is reversed, with the costs to the plaintiff and appellee Pampanga Bus Company, Inc. So ordered.

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

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