

AURELIO GONZALES, PETITIONER, VS. PABLO IGNACIO, RESPONDENT.*G.R. No. 46327. November 09, 1939*

Ponente: DIAZ, J.

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The respondent applied to the Public Service Commission in case No. 50125, begun in September, 1937, for authority to sell the excess production of ice in his soft drinks factory located in the barrio of Sibul, municipality of San Miguel, Province of Bulacan, to satisfy the demand for said article in that barrio. The petitioner who has been engaged in the business of manufacturing and selling ice for nine years in the same municipality of San Miguel, of which Sibul is a barrio, opposed the application of the respondent, alleging that no need existed that ice be sold there by another for he has been doing so himself, since Sibul is within his territory. He contended that should the authority asked for by the respondent be granted, there would arise a ruinous unnecessary competition between the two. The Public Service Commission, after; receiving the evidence in the case and hearing the interested parties and the investigator it had sent to make the necessary observations, granted the petition of the respondent, but with the limitations therein set forth, stating that the public interest called for the manufacture and sale of ice in Sibul; and that, considering the conditions existing in the locality, there would and could not be any ruinous competition between the two parties aforementioned.

The Public Service Commission found, and we cannot gainsay it because it is sustained by the evidence, that notwithstanding the fact that the petitioner has been engaged in the manufacture and sale of ice in the municipality of San Miguel, Province of Bulacan, since the year 1929, he has not produced more than one and a half tons of ice of the five tons which he had been required in his certificate to produce, and that notwithstanding also the fact that he has two ice-making machines, he has used only one of them during all that time; that the quantity of ice which he used to send to Sibul was not sufficient to supply the hotels, restaurants, eating places, and refreshment halls in the locality; that the respondent has installed a soft drinks factory in Sibul and that for the conservation of the products thereof, he manufactures more ice than what his business requires; that the owners of hotels, restaurants, eating places, and refreshment halls in Sibul used to ask him to sell them ice, but having no authorization or license therefor, he refused to do so; that the distance between the same municipality of San Miguel and the barrio of Sibul is thirteen kilometers; that the agency of the San Miguel factory in the municipality of Baliuag from which the barrio of Sibul also usually obtained ice, is thirty-eight kilometers from said barrio; and that no evidence at all has been adduced to show that the business of the respondent in the ice market would result in ruinous competition for the petitioner.

After considering all the foregoing established facts, and as it is competent for the Public Service Commission to determine whether the public interest or convenience requires a service, and as, on the other hand, the decision of the Public Service Commission is not entirely devoid of basis, but is on the contrary supported by the evidence; and bearing in mind the reasons set forth by the court in the case of *San Miguel Brewery vs. Espiritu* (60 Phil., 745), and in that of *Cebu Ice and Cold Stores Corp. vs. Velez* (57 Phil., 309), which are also applicable to the

present one, for it is undoubtedly more advantageous to have an ice plant in the same locality than to obtain that article from another source, we hold that the decision referred to of the Public Service Commission should be, as it is hereby, affirmed, denying accordingly the writ sought by petitioner, with costs against the latter. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Concepcion, and Moran, JJ., concur.

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