

**SANTIAGO SAMBRANO, PETITIONER, VS. RED LINE
TRANSPORTATION COMPANY, INC., AND NORTHERN LUZON
TRANSPORTATION COMPANY, INC., RESPONDENTS.***G.R. No. 46484. September 30, 1939*

Ponente: DIAZ, J.

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This is a petition for the review of the decision rendered by the Public Service Commission in case No. 52391 of said commission, entitled "Red Line Transportation Co., Inc., and Northern Luzon Transportation Co., Inc., applicants", approving the sale made by the former company to the latter of the line that had been granted it, whereby it could engage in the land transportation business by means of autobuses, between Camalaniugan and Pamplona, of the Cagayan Valley. The petition alleges that the Public Service Commission, in rendering the decision in question, erred: (1) in accepting as valid the sale approved by it, and (2) in approving the sale.

The facts held to have been established in the appealed decision and are furthermore inferred from the documents or exhibits mentioned therein are as follows: That when the respondents, in said case No. 52391, asked for the approval of the sale referred to therein, the commission ordered the petition of the respondents to be heard as in an ordinary trial at 9 o'clock a. m. on July 25, 1938, and at the same time directed that its order so rendered be published, as it was in fact published, in accordance with the provisions of section 20, paragraph (g), of Commonwealth Act No. 146, for the information of the public, for the period fixed therein; that the line which constituted the subject matter of the sale, that is, the one from Camalaniugan to Pamplona, for which they sought the commission's approval, formed part of other lines which had been authorized and granted to the Interprovincial Transportation Company which had applied for them in case No. 22047; that shortly after said company had obtained the corresponding certificate of public convenience to have said lines, it sold the line from Camalaniugan to Pamplona to the respondent Red Line Transportation Co., Inc.; that the latter afterwards sold the same line to the Northern Luzon Transportation Co., Inc., which purchased other ten new autobuses to be assigned to its business on said line; that only after the hearing of case No. 52391 had been held, as previously announced, did the herein petitioner appear therein for the first time in order to file an undated pleading entitled "Manifestation", for the purpose of opposing the joint petition of the two respondents and that of the Northern Luzon Transportation Co., Inc., for permission to extend its line to Aparri, via Camalaniugan and Pamplona, and for authority to increase its equipment by other ten new buses; that the Public Service Commission, believing that the pleading filed by the petitioner was really an opposition, ordered the reopening of the case, setting it again for hearing, with the knowledge and consent of the parties including the petitioner, on August 12, 1938; that when the case was called for hearing on said date, it was agreed to postpone the hearing to the 16th, at the express petition of the petitioner and the respondents, each party then considering himself notified of said postponement; that, notwithstanding the same, when the case was again called for hearing on the 16th, the petitioner did not appear either by himself or by counsel, and that in view thereof, the commission overruled the petitioner's opposition and later proceeded to render the decision appealed from.

As a preliminary question, inasmuch as the respondents raise the same with an earnestness not devoid of reason, it should be determined first whether or not the petitioner has a right of action to institute this proceeding.

Section 114 of the Code of Civil Procedure provides that every action must be prosecuted in the name of the real party in interest. Section 36 of Commonwealth Act No. 146, in turn, provides that the orders, rulings or decisions of the Public Service Commission may be reviewed by the Supreme Court only on the application of any person or public service affected thereby, within the period, in the manner and under the conditions set forth therein.

We do not believe the petitioner to be a party in interest in this proceeding in the sense that he has a real interest herein because he showed he had none when case No. 52391 was yet being heard before the Public Service Commission. His failure to appear in said case during the various dates set for the hearing thereof, precisely so that he might state everything he wished to state in support of his opposition to the application of the respondents, could not and can not be interpreted otherwise. While it is true that the petitioner alleged in his opposition entitled "Manifestacion" certain facts that seem really to give him a right of action, however, there is much difference between what is alleged and what is proved with facts, because a mere allegation does not prove anything and does not even constitute an evidence adverse to the person against whom it is presented.

It is to be noted that the transfer made by the former respondent to the latter was with the express approval of the Public Service Commission, upon observance of the formalities prescribed in said paragraph (g) of section 20 of Commonwealth Act No. 146, without any founded objection or protest on the part of any real party in interest. This being so, it appears clear that the petitioner had no right to institute this proceeding, not only for the reasons abovementioned, but also under the ruling laid down in the case of *Posas vs. Toledo Transportation Co.* (58 Phil., 390); his condition of being a Filipino citizen, who by chance may sometime avail of the services of the Northern Luzon Transportation Co., Inc., in the line in question, being insufficient, because, following the very opinion of the Supreme Court of the United States set forth in the case of *Ex-parte Levitt* (302 U. S., 633; 82 Law. ed., 493), such reason is insufficient to entitle him to invoke the judicial power to determine whether an action is valid or not. He must show, and he has not done so, that he has sustained, or is immediately in danger of sustaining, an injury as a result of that action, and it is not sufficient that he has merely a general interest common to all members of the public. His interest must be of such nature as to be susceptible of valuation. On the other hand, we cannot review the ruling laid down by the commission because the party applying therefor is not affected by said decision. Furthermore, there being, as there already was, an open road between Camalaniugan and Pamplona when the decision sought to be reviewed was rendered, and the commission having held that the public convenience demanded the establishment of said line, said order appears to be justified, and we are not authorized to substitute our judgment for that of the commission, by determining now, on our own account, whether or not the public convenience demands the establishment of said line, or whether or not the same should be placed in the hands of the respondent Northern Luzon Transportation Co., Inc.

For all the foregoing, the aforesaid decision of the Public Service Commission is hereby affirmed, with the costs to the petitioner. So ordered.

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

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