

RADIO COMMUNICATIONS OF THE PHILIPPINES, INC., PETITIONER, VS. NATIONAL TELECOMMUNICATIONS COMMISSION AND KAYUMANGGI RADIO NETWORK INCORPORATED, RESPONDENTS.

G.R. No. 68729, May 29, 1987

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-68729/>

GUTIERREZ, JR., J.:

This petition seeks the reversal of the decision of the National Telecommunications Commission (NTC) ordered petitioner Radio Communications of the Philippines, Incorporated (RCPI) to desist from operating its radio telephone services in Catarman, Northern Samar; San Jose, Occidental Mindoro; and Sorsogon, Sorsogon.

Petitioner has been operating a radio communications system since 1957 under its legislative franchise granted by Republic Act No. 2036 which was enacted on June 23, 1957.

In 1968, the petitioner established a radio telegraph service in Sorsogon, Sorsogon. In 1971, another radio telegraph service was put up in San Jose, Mindoro followed by another in Catarman, Samar in 1976. The installation of radio telephone services started 1971 in San Jose, Mindoro; then in Sorsogon, Sorsogon and Catarman, Samar in 1983.

In a decision dated June 24, 1980 in NTC Case. No. 80-08, private respondent Kayumanggi Radio Network Incorporated was authorized by the public respondent to operate radio communications systems in Catarman, Samar and in San Jose, Mindoro.

On December 14, 1983, the private respondent filed a complaint with the NTC alleging that the petitioner was operating in Catarman, Samar and in San Jose, Mindoro without a certificate of public convenience and necessity. The petitioner, on the other hand, counter-alleged that its telephone services in the places subject of the complaint are covered by the legislative franchise recognized by both the public respondent and its predecessor, the Public Service Commission. In its supplemental reply, the petitioner further stated that it has been in operation in the questioned places long before private respondent Kayumanggi filed its application to operate in the same places.

After conducting a hearing, NTC, in its decision dated August 22, 1984 ordered petitioner RCPI to immediately cease or desist from the operation of its radio telephone services in Catarman, Northern Samar; San Jose, Occidental Mindoro; and Sorsogon, Sorsogon stating that under Executive Order No. 546, a certificate of public convenience and necessity is mandatory for the operation of communication utilities and services including radio communications.

On September 4, 1984, the petitioner filed a motion for reconsideration which was denied in an order dated September 12, 1984.

On October 1, 1984, the present petition was filed raising the issue of whether or not petitioner RCPI, a grantee of a legislative franchise to operate a radio company, is required to secure a certificate of public convenience and necessity before it can validly operate its radio stations including radio telephone services in Catarman, Northern

Samar; San Jose, Occidental Mindoro; and Sorsogon, Sorsogon.

The petitioner's main argument states that the abolition of the Public Service Commission under Pre-sidential Decree No. 1 and the creation of the National Telecommunications Commission under Executive Order No. 546 to replace the defunct Public Service Commission did not affect sections 14 and 15 of the Public Service Law (Commonwealth Act No. 146, as amended).

The provisions of the Public Service Law pertinent to the petitioner's allegation are as follows:

"Section 13 (a) The Commission shall have jurisdiction, supervision, and control over all public services and their franchises, equipment and other properties, and in the exercise of its authority, it shall have the necessary powers and the aid of public force: xxx.

"Section 14. The following are exempted from the provisions of the preceding section:

xxx xxx xxx

"(d) Radio companies except with respect to the fixing of rates;

xxx xxx xxx

"Section 15. With the exception of those enumerated in the preceding section, no public service shall operate in the Philippines without possessing a valid and subsisting certificate from the Public Service Commission, known as 'certificate of public convenience, or 'certificate of convenience and public necessity,' as the case may be, to the effect that the operation of said service and the authorization to do business will promote the public interests in a proper and suitable manner. xxx"

We find no merit in the petitioner's contention.

Pursuant to Presidential Decree No. 1 dated September 23, 1972, reorganizing the executive branch of the National Government, the Public Service Commission was abolished and its functions were transferred to three specialized regulatory boards, as follows: the Board of Transportation, the Board of Communications and the Board of Power and Waterworks. The functions so transferred were still subject to the limitations provided in sections 14 and 15 of the Public Service Law, as amended. With the enactment of Executive Order No. 546 on July 23, 1979 implementing P.D. No. 1, the Board of Communications and the Telecommunications Control Bureau were abolished and their functions were transferred to the National Telecommunications Commission (Sec. 19(d), Executive Order No. 546). Section 15 of said Executive Order spells out the functions of the National Telecommunications Commission as follows:

"Sec. 15. Functions of the Commission. - The Commission shall exercise the following functions:

"a. Issue Certificate of Public Convenience for the operation of communications utilities and services, radio communications systems, wire or wireless telephone or telegraph system, radio and television broadcasting system and other similar public utilities;

"b. Establish, prescribe and regulate areas of operation of particular operators of public service communications; and determine and prescribe charges or rates pertinent to the operation of such public utility facilities and services except in cases where charges or rates are established by international bodies or associations of which the Philippines is a participating member or by bodies recognized by the Philippine Government as the proper arbiter of such charges or rates;

"c. Grant permits for the use of radio frequencies for wireless telephone and telegraph systems and radio communication systems including amateur radio stations and radio and television broadcasting systems;

"d. Sub-allocate series of frequencies of bands allocated by the International Telecommunications Union to the

specific services;

"e. Establish and prescribe rules, regulations, standards, specifications in all cases related to the issued Certificate of Public Convenience and administer and enforce the same;

"f. Coordinate and cooperate with government agencies and other entities concerned with any aspect involving communications with a view to continuously improve the communications service in the country;

"g. Promulgate such rules and regulations, as public safety and interest may require, to encourage a larger and more effective use of communications, radio and television broadcasting facilities, and to maintain effective competition among private entities in these activities whenever the Commission finds it reasonably feasible;

"h. Supervise and inspect the operation of radio stations and telecommunications facilities;

"i. Undertake the examination and licensing of radio operators;

"j. Undertake, whenever necessary, the registration of radio transmitters and transceivers; and

"k. Perform such other functions as may be prescribed by law.

It is clear from the aforequoted provision that the exemption enjoyed by radio companies from the jurisdiction of the Public Service Commission and the Board of Communications no longer exists because of the changes effected by the Reorganization Law and implementing executive orders. The petitioner's claim that its franchise cannot be affected by Executive Order No. 546 on the ground that it has long been in operation since 1957 cannot be sustained.

A franchise started out as a "royal privilege or (a) branch of the King's prerogative, subsisting in the hands of a subject." This definition was given by Finch, adopted by Blackstone, and accepted by every authority since (*State v. Twin Village Water Co.*, 98 Me 214, 56 A 763 (1903)). Today, a franchise, being merely a privilege emanating from the sovereign power of the state and owing its existence to a grant, is subject to regulation by the state itself by virtue of its police power through its administrative agencies. We ruled in *Pangasinan Transportation Co., Inc. v. Public Service Commission* (70 Phil. 221) that:

"xxx statutes enacted for the regulation of public utilities, being proper exercise by the State of its police power, are applicable not only to those public utilities coming into existence after its passage, but likewise to those already established and in operationxxx"

Executive Order No. 546, being an implementing measure of P.D. No. 1 insofar as it amends the Public Service Law (CA No. 146, as amended) is applicable to the petitioner who must be bound by its provisions. The petitioner cannot install and operate radio telephone services on the basis of its legislative franchise alone.

The position of the petitioner that by the mere grant of its franchise under RA No. 2036 it can operate a radio communications system anywhere within the Philippines is erroneous. Section 1 of said statute reads:

"Section 1. Subject to the provisions of the Constitution, and to the provisions, not inconsistent herewith, of Act Numbered Three thousand eight hundred and forty-six, entitled 'An Act providing for the regulation of radio stations and radio communications in the Philippine Islands, and for other purposes;' Commonwealth Act Numbered One hundred forty-six, known as the Public Service Act, and their amendments, and other applicable laws, there is hereby granted to the Radio Communications of the Philippines, its successors or assigns, the right and privilege of constructing, installing, establishing and operating in the Philippines, at such places as the said corporation may select and the Secretary of Public Works and Communications may approve, radio stations for the reception and transmission of wireless messages on radiotelegraphy and/or radiotelephony, including both coastal and marine telecommunications, each station to consist of two radio apparatus comprising of a receiving and sending radio apparatus." (Underscoring ours).

Section 4(a) of the same Act further provides that:

"Sec. 4(a). This franchise shall not take effect nor shall any powers thereunder be exercised by the grantee until the Secretary of Public Works and Communications shall have allotted to the grantee the frequencies and wave lengths to be used, and issued to the grantee a license for such case." (Underscoring ours).

Thus, in the words of R.A. No. 2036 itself, approval of the then Secretary of Public Works and Communications was a precondition before the petitioner could put up radio stations in areas where it desires to operate. It has been repeated time and again that where the statutory norm speaks unequivocally, there is nothing for the courts to do except to apply it. The law, leaving no doubt as to the scope of its operation, must be obeyed. (*Gonzaga v. Court of Appeals*, 51 SCRA 381).

The records of the case do not show any grant of authority from the then Secretary of Public Works and Communications before the petitioner installed the questioned radio telephone services in San Jose, Mindoro in 1971. The same is true as regards the radio telephone services opened in Sorsogon, Sorsogon and Catarman, Samar in 1983. No certificate of public convenience and necessity appears to have been secured by the petitioner from the public respondent when such certificate was required by the applicable public utility regulations. (See Executive Order No. 545, sec. 15, *supra*.; *Philippine Long Distance Telephone Co. v. City of Davao*, 15 SCRA 75; *Olongapo Electric Light and Power Corp. v. National Power Corporation, et al.*, G.R. No. L-24912, promulgated April 9, 1987.)

It was well within the powers of the public respondent to authorize the installation by the private respondent network of radio communications systems in Catarman, Samar and San Jose, Mindoro. Under the circumstances of this case, the mere fact that the petitioner possesses a franchise to put up and operate a radio communications system in certain areas is not an insuperable obstacle to the public respondent's issuing the proper certificate to an applicant desiring to extend the same services to those areas. The Constitution mandates that a franchise cannot be exclusive in nature nor can franchise be granted except that it must be subject to amendment, alteration, or even repeal by the legislature when the common good so requires. (Art. XII, sec. 11 of the 1986 Constitution). There is an express provision in the petitioner's franchise which provides compliance with the above mandate (RA 2036, sec. 15).

In view of the foregoing, we find no reason to disturb the public respondent's findings of fact, and conclusions of law insofar as the private respondent was authorized to operate in Catarman, Samar and San Jose, Mindoro. As a rule, the Commission's findings of fact, if supported by substantial evidence, are conclusive upon this Court. We may modify or ignore them only when it clearly appears that there is no evidence to support reasonably such a conclusion. (*Halili v. Daplas*, 14 SCRA 14). The petitioner has not shown why the private respondent should be denied the authority to operate its services in Samar and Mindoro. It has not overcome the presumption that when the public respondent disturbed the petitioner's monopoly in certain areas, it was doing so pursuant to public interest and the common good.

WHEREFORE, the challenged order of the public respondent dated August 22, 1984 is hereby AFFIRMED. The petition is dismissed for lack of merit.

SO ORDERED.

Fernan, (Chairman), Paras, Padilla, Bidin, and Cortes, 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.