

DAGUPAN ICE PLANT CO., INC., PETITIONER, VS. CONSUELO A. DE LUCERO AND GERARDA L. GONZALES-TABORA, RESPONDENTS.

G.R. Nos. 45682, 45683. August 25, 1938

Ponente: ABAD SANTOS, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-nos-45682/>

ABAD SANTOS, J.:

This controversy grew out of two cases heard and decided together, by the Public Service Commission.

Case No. 48684 was an application for approval by the commission of the sale made by the respondent Consuelo A. de Lucero in favor of the other respondent Gerarda L. Gonzales-Tabora of a certificate of public convenience for the operation of an ice plant and the sale of the ice thus produced in, to quote from the record, "the municipalities of Bauang, Damortis, Aringay, Caba, and Naguilian of the Province of La Union and in Baguio, Mountain Province."

Case No. 49216 was entitled "escrito de oposicion y contra solicitud", wherein the petitioner Dagupan Ice Plant Co., Inc., opposed the application above mentioned and at the same time applied for authority to sell ice in the territory covered by the certificate of public convenience involved in said case No. 48634, the cancellation of which was also asked by the petitioner. To this petition the respondents duly objected.

At the hearing, evidence was presented showing that the respondent Gerarda L. Gonzales-Tabora is a citizen of the Philippines and financially able to operate an ice plant. On the other hand, the petitioner announced that he had witnesses ready to prove that the respondent Consuelo A. de Lucero had abandoned the operation of the ice plant originally erected by her in the municipality of Bauang, Province of La Union. To this proffer of proof, the respondents objected on the ground that the evidence sought to be introduced was immaterial and irrelevant, since the only question presented for determination by the commission was whether the purchaser of the certificate had financial capacity to undertake the operation of the ice plant, and whether the sale of the certificate would promote public convenience. The objection was sustained by the commission, and this is one of the errors assigned here by the petitioner.

Considering that the two cases, No. 48684 and No. 49216, were being heard jointly, and that one of the objects sought in the second case was the cancellation of the certificate involved in the first, we are of opinion that the commission erred in sustaining the objection. While the evidence was irrelevant in the first case, it was clearly relevant to the issues involved in the second. But the error is not a reversible one. The commission declared in the challenged decision that the alleged abandonment was known and sanctioned by it. The commission can take cognizance of the facts disclosed by its own records. (*Manila Yellow Taxicab Co. vs. Araullo*, 34 Off. Gaz., 241; *Sambrano vs. Northern Luzon Transportation Co.*, 35 Off. Gaz., 2271.)

Upon the basis of its own records, the commission held that the barrio of Damortis is included in the territory covered by the certificate of public convenience issued to the respondent Consuelo A. de Lucero. We cannot say that the decision of the commission in this respect is not reasonably supported by the evidence before it; and the jurisdiction of this court to modify or set aside a decision of the commission is limited to cases where it clearly

appears that there was no evidence before the commission reasonably to support such decision, or that the commission acted without jurisdiction. (Calabia vs. Orlanes & Banaag Transportation Co., 55 Phil., 659.)

Having reached the conclusion that there was no abandonment of service by the respondent Consuelo A. de Lucero such as would justify the cancellation or forfeiture of her certificate of public convenience, the commission was empowered, under section 33 of Commonwealth Act No. 146, to decree that its decision take effect immediately.

It results that the challenged decision should stand and remain in full force and effect.

It is so ordered, with costs against the petitioner.

Avanceña, C. J., Villa-Real, Imperial, Diaz, and Concepcion, 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.