

SECOND DIVISION

[G.R. No. 213088, June 28, 2017]

**LAND TRANSPORTATION FRANCHISING AND REGULATORY
BOARD (LTFRB), PETITIONER, VS. G.V. FLORIDA TRANSPORT,
INC., RESPONDENT.**

D E C I S I O N

PERALTA, ** J.:

Before the Court is a petition for review on *certiorari* seeking the reversal and setting aside of the Decision^[1] of the Court of Appeals (CA), dated June 26, 2014 in CA-G.R. SP No. 134772.

The pertinent factual and procedural antecedents of the case are as follows:

Around 7:20 in the morning of February 7, 2014, a vehicular accident occurred at Sitio Paggang, Barangay Talubin, Bontoc, Mountain Province involving a public utility bus coming from Sampaloc, Manila, bound for Poblacion Bontoc and bearing a "G.V. Florida" body mark with License Plate No. TXT-872. The mishap claimed the lives of fifteen (15) passengers and injured thirty-two (32) others.

An initial investigation report, which came from the Department of Transportation and Communications of the Cordillera Administrative Region (*DOTC-CAR*), showed that based on the records of the Land Transportation Office (*LTO*) and herein petitioner, License Plate No. TXT-872 actually belongs to a different bus owned by and registered under the name of a certain Norberto Cue, Sr. (*Cue*) under Certificate of Public Convenience (*CPC*) Case No. 2007-0407 and bears engine and chassis numbers LX004564 and KN2EAM12PK004452, respectively; and that the bus involved in the accident is not duly authorized to operate as a public transportation.

Thus, on the same day of the accident, herein petitioner, pursuant to its regulatory powers, immediately issued an Order^[2] preventively suspending, for a period not exceeding thirty (30) days, the operations of ten (10) buses of Cue under its CPC Case No. 2007-0407, as well as respondent's entire fleet of buses, consisting of two hundred and twenty-eight (228) units, under its twenty-eight (28) CPCs. In the same Order, respondent and Cue were likewise directed to comply with the following:

1. Inspection and determination of road worthiness of the authorized PUB unit of respondents-operators bringing the said buses to the Motor Vehicle Inspection Service (MVIS) of the Land Transportation Office, together with the authorized representatives of the Board;
2. Undergo Road Safety Seminar of respondents-operators' drivers and conductors to be conducted or scheduled by the Board and/or its

authorized seminar provider;

3. Compulsory Drug Testing of the respondents-operators' drivers and conductors to be conducted by authorized/accredited agency of the Department of Health and the Land Transportation Office;

4. Submit the Certificates of Registration and latest LTO Official Receipts of the units, including the names of the respective drivers and conductors; and

5. Submit the video clippings of roadworthiness inspection, Road Safety Seminar and Drug Testing.^[3]

Furthermore, respondent and Cue were ordered to show cause why their respective CPCs should not be suspended, canceled or revoked due to the said accident.

Thereafter, in its Incident Report dated February 12, 2014, the DOTC-CAR stated, among others: that the License Plate Number attached to the ill-fated bus was indeed TXT-872, which belongs to a different unit owned by Cue; that the wrecked bus had actual engine and chassis numbers DE12T-601104BD and KTP1011611C,^[4] respectively; that, per registration records, the subject bus was registered as "private" on April 4, 2013 with issued License Plate No. UDO 762; and that the registered owner is Dagupan Bus Co., Inc. (*Dagupan Bus*) while the previous owner is herein respondent bus company.

As a result, Dagupan Bus was also ordered to submit an Answer on the DOTC-CAR Incident Report, particularly, to explain why the bus involved in the above accident, which is registered in its name, was sporting the name "G.V. Florida" at the time of the accident.

Subsequently, Dagupan Bus filed its Answer claiming that: it is not the owner of the bus which was involved in the accident; the owner is G.V. Florida; Dagupan Bus entered into a Memorandum of Agreement with G.V. Florida, which, among others, facilitated the exchange of its CPC covering the Cagayan route for the CPC of Florida covering the Bataan route; and the subsequent registration of the subject bus in the name of Dagupan Bus is a mere preparatory act on the part of G.V. Florida to substitute the old authorized units of Dagupan Bus plying the Cagayan route which are being operated under the abovementioned CPC which has been exchanged with G.V. Florida.

On the other hand, Cue filed his Position Paper contending that: License Plate No. TXT-872 was issued by the LTO to one among ten public utility buses under CPC No. 2007-0407^[5] issued to him as operator of the Mountain Province Cable Tours; the application for the extension of the validity of the said CPC is pending with petitioner; the subject CPC, together with all authorized units, had been sold to G.V. Florida in September 2013; and thereafter, Cue completely ceded the operation and maintenance of the subject buses in favor of G.R. Florida.

In its Position Paper, herein respondent alleged that: it, indeed, bought Cue's CPC and the ten public utility buses operating under the said CPC, including the one which bears License Plate No. TXT-872; since Cue's buses were already old and

dilapidated, and not wanting to stop its operations to the detriment of the riding public, it replaced these buses with new units using the License Plates attached to the old buses, pending approval by petitioner of the sale and transfer of Cue's CPC in its favor; and it exercised utmost good faith in deciding to dispatch the ill-fated bus notwithstanding the absence of prior adequate compliance with the requirements that will constitute its operation legal.

On March 14, 2014, herein petitioner rendered its Decision canceling Cue's CPC No. 2007-0407 and suspending the operation of respondent's 186 buses under 28 of its CPCs for a period of six (6) months. Pertinent portions of the dispositive portion of the said Decision read as follows:

WHEREFORE, premises considered and by virtue of Commonwealth Act 146 (otherwise known as "The Public Service Law"), as amended, and Executive Order No. 202, the Board hereby ORDERS that:

a. The Certificate of Public Convenience of respondent-operator NORBERTO M. CUE, SR. under Case No. 2007-0407, now under the beneficial ownership of respondent-operator G.V. FLORIDA TRANSPORT, INC., be **CANCELLED** and **REVERTED** to the State. Therefore, upon receipt of this Decision, respondent-operator G.V. FLORIDA TRANSPORT, INC. is hereby directed to CEASE and DESIST from operating the Certificate of Public Convenience under Case No. 2007-0407 involving ten (10) authorized units, to wit:

x x x x

b. Upon finality of this Decision, the above-mentioned for hire plates of respondent-operator NORBERTO M. CUE, SR. are hereby ordered **DESTRUCTED** (sic) and **DESTROYED** prior to their turn over to the **Land Transportation Office (LTO)**.

x x x x

c. All existing Certificates of Public Convenience of respondent-operator G.V. FLORIDA TRANSPORT, INC. under case numbers listed under case numbers listed below are hereby **SUSPENDED** for a period of **SIX (6) MONTHS** commencing from March 11, 2014, which is the lapse of the 30-day preventive suspension order issued by this Board, to wit:

x x x x

[d.] During the period of suspension of its CPCs and as a condition for the lifting thereof, respondent-operator G.V. FLORIDA TRANSPORT, INC. must comply with the following:

1. All its authorized drivers must secure the National Competency III issued by the Technical Education and Skills Development Authority (TESDA)

2. All its conductors must secure Conductor's License from the Land Transportation Office (LTO);
3. Submit all its authorized units that have not undergone inspection and determination of roadworthiness to the Motor Vehicle Inspection Service of the LTO, together with the authorized representatives of the Board; and
4. Compulsory Drug Testing of all its authorized drivers and conductors to be conducted by the authorized accredited agency of the Department of Health and the Land Transportation Office at least thirty (30) days before the expiration of its suspension.

[e.] The Show Cause Order issued against respondent-operator **DAGUPAN BUS CO., INC.** is hereby **SET ASIDE**.

The Information Systems Management Division (**ISMD**) is also directed to make proper recording of this Decision for future reference against subject vehicles and respondents-operators. During the period of suspension of its CPCs, respondent-operator G.V. FLORIDA TRANSPORT, INC. is allowed to confirm its authorized units subject to submission of all requirements for confirmation.

The **Law Enforcement Unit of this Board, the Land Transportation Office (LTO), the Metro Manila Development Authority (MMDA), the Philippine National Police-Highway Patrol Group (PNP-HPG),** and other authorized traffic enforcement agencies are hereby ordered to **APPREHEND** and **IMPOUND** the said vehicles, if found operating.

SO ORDERED.^[6]

Respondent then filed with the CA a petition for *certiorari* under Rule 65 of the Rules of Court, with prayer for the issuance of a preliminary mandatory injunction, assailing petitioner's above Decision.

On June 26, 2014, the CA promulgated its questioned Decision, disposing as follows:

WHEREFORE, the instant petition is **PARTIALLY GRANTED**. The Decision dated March 14, 2014 of the Land Transportation Franchising and Regulatory Board is **MODIFIED** as follows:

1. The Order canceling and reverting to the State of the Certificate of Public Convenience of operator Cue under Case No. 2007-0407, under the beneficial ownership of petitioner G.V. Florida Transport, Inc. is **AFFIRMED**;
2. The penalty of suspension for a period of six (6) months against all existing 28 Certificates of Public Convenience of

petitioner G.V. Florida, Transport, Inc., is **REVERSED and SET ASIDE**;

3. The condition set forth in the Decision for the lifting of the penalty of suspension is **DELETED**; and

4. The order to apprehend and impound petitioner G.V. Florida Transport, Inc.'s 186 authorized bus units under the 28 CPCs if found operating is **RECALLED**

Accordingly, petitioner G.V. Florida Transport, Inc. prayer for mandatory injunctive relief is hereby **GRANTED**. The Land Transportation and Franchising Regulatory Board is hereby ordered to immediately **LIFT** the order of suspension and **RETURN** or **CAUSE the RETURN** of the confiscated license plates of petitioner G.V. Florida Transport, Inc.'s 186 authorized bus units under its 28 Certificates of Public Convenience without need of further order from this Court. Said Office is further **DIRECTED** to submit its Compliance within five (5) days from receipt thereof.

SO ORDERED.^[7]

Hence, the present petition grounded on a lone issue, to wit:

DOES THE LTFRB HAVE THE POWER TO SUSPEND THE FLEET OF A PUBLIC UTILITY THAT VIOLATES THE LAW, TO THE DAMAGE OF THE PUBLIC?^[8]

The main issue brought before this Court is whether or not petitioner is justified in suspending respondent's 28 CPCs for a period of six (6) months. In other words, is the suspension within the powers of the LTFRB to impose and is it reasonable?

Petitioner contends that it is vested by law with jurisdiction to regulate the operation of public utilities; that under Section 5(b) of Executive Order No. 202 (*E.O. 202*),^[9] it is authorized "[t]o issue, amend, revise, suspend or cancel Certificates of Public Convenience or permits authorizing the operation of public land transportation services provided by motorized vehicles, and to prescribe the appropriate terms and conditions therefor;" and that petitioner's authority to impose the penalty of suspension of CPCs of bus companies found to have committed violations of the law is broad and is consistent with its mandate and regulatory capability.

On the other hand, respondent, in its Comment to the present Petition, contends that the suspension of its 28 CPCs is tantamount to an outright confiscation of private property without due process of law; and that petitioner cannot simply ignore respondent's property rights on the pretext of promoting public safety. Respondent insists that the penalty imposed by petitioner is not commensurate to the infraction it had committed.

The Court rules in favor of petitioner.

Section 16(n) of Commonwealth Act. No. 146, otherwise known as the *Public Service Act*, provides: