

THIRD DIVISION

[G.R. No. 149717, October 07, 2003]

**EASTERN ASSURANCE & SURETY CORPORATION (EASCO),
PETITIONER, VS. LAND TRANSPORTATION FRANCHISING AND
REGULATORY BOARD (LTFRB), RESPONDENT.**

D E C I S I O N

PANGANIBAN, J.:

The operation of monopolies is not totally banned by the Constitution. However, the State shall regulate them when public interest so requires. In the present case, the two consortia of insurance companies that have been authorized to issue passenger insurance policies are adequately regulated by the Land Transportation Franchising and Regulatory Board (LTFRB) to protect the riding public. While individual insurance companies may somehow be adversely affected by this scheme, the paramount public interest involved must be upheld. In any event, all legitimate insurance companies are allowed to become members of the consortia. Thus, there is no restraint of trade or unfair competition involved.

The Case

Before us is a Petition for Review^[1] under Rule 45 of the Rules of Court, seeking to set aside the August 20, 2001 Decision^[2] of the Court of Appeals^[3] (CA) in CA-GR SP No. 63149. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, in view of the foregoing premises, the Petition is hereby DISMISSED for lack of merit. No costs."^[4]

The Facts

The factual antecedents of the case are summarized by the CA as follows:

"[I]n its desire to improve public service and its assistance to the victims of road accidents involving PUVs [public utility vehicles], the [Land Transportation Franchising and Regulatory] Board conducted a thorough investigation on the sufficiency of existing insurance policies for PUVs. In the course of its investigation, the Board discovered that insurance coverage of PUVs was only P50,000.00 for the entire vehicle regardless of the number of passengers or persons killed or injured.

"The Board, then, undertook x x x nationwide consultations among the transport operators and insurance companies and held meetings with the officials of the Insurance Commission.

"Thereafter, the Board issued **Memorandum Circular No. 99-011** fixing

the insurance coverage of PUVs on the basis of the number of persons that may be killed or injured instead of the entire vehicle alone. The coverage is denominated as *Passenger Accident Insurance Coverage* (PAIC), which fixes the coverage of P50,000.00 per passenger.

"During the effectivity of *Memorandum Circular No. 99-011*, the Board received several complaints from various transport organizations such as the Federation of Jeepney Operators and Drivers Association of the Philippines (*FEJODAP*), Pagkakaisa ng mga Samahan ng Tsuper at Operator Nationwide (*PISTON*), and the Philippine Confederation of Drivers Organization, Alliance of Concerned Transport Operators (*PCDO-ACTO*). The thrust of their complaints are: (1) the proliferation of fake insurance policies; (2) the predatory pricing among competing insurance firms; (3) the proliferation of fixers in the premises of the LTFRB endorsing certain insurance companies; and (4) the 'moonlighting' by personnel of the LTFRB who induced operators to secure their policies from favored companies.

"To address these complaints, the Board held a series of meetings with the officers of various transport groups composed of operators of bus, jeepney and taxi as well as representatives of several insurance companies and officials of the Insurance Commission.

"In a meeting held on 12 December 2000, where herein petitioner Eastern Assurance & Surety Corporation (*EASCO*, for brevity) was represented by a certain Dante Baronia, the transport groups proposed the creation of [a] 'two-group system' and of [a] 'blacklisting scheme.'

"In a letter dated 19 January 2001, the aforesaid proposal was then referred by the Board to the Insurance Commission for confirmation, to wit:

`1. The Commission interposes no objection to, there being no legal obstacle to the same, x x x the suggestion of various insurance groups to allow only two (2) groups to participate in the Passenger Accident Insurance Program (PAIP) of the LTFRB. It is understood that all insurance companies accredited by the Commission may participate in the program by joining any of the groups.

`2. The Commission interposes no objection, there being no legal obstacle to the same, to the suggestion of the various transport groups to create an accreditation and de-listing criteria to be used in the implementation of the PAIP, x x x and

`3. The Commission also is of the position that the LTFRB may, on its own set up, require and implement the two groups system and/or the accreditation and de-listing criteria without need of prior approval from the Commission.' x x x

"On 30 January 2001, Insurance Commissioner Eduardo Malinis wrote LTFRB Chairman Dante M. Lantin, the whole text of which, reads:

`We hereby confirm the points enumerated in your letter of January 19, 2001 regarding the implementation of the Passenger Personal Accident Insurance Program (PAIP) of the LTFRB, as the same aim to achieve a simple and systematic implementation of said program.'

"Thus, on 1 February 2001, public respondent LTFRB issued the herein assailed **Memorandum Circular No. 2001-001** that reads, as follows:

`MEMORANDUM CIRCULAR NO. 2001-001

`SUBJECT: Amending Memorandum Circular No. 99-011
(Passenger Accident Insurance Requirement of PUV Operators)

`I. PREFATORY STATEMENT

`In response to numerous complaints from passenger accident victims involving public utility vehicles, the Board passed Memorandum Circular No. 99-011 dated June 22, 1999 requiring all public utility vehicles to secure a 'no fault' passenger accident insurance. This circular was further refined with the passage of Memorandum Circular No. 2000-010 dated March 27, 2000.

`After a year of implementation, the Board now has received numerous complaints coming from various transport groups and from its regional offices. These complaints [range] from non-payment or late payment of claims, fake certificates of cover, predatory pricing, non-payment or under payment of taxes, graft and corruption, and the non implementation of the computerized data bank of all public utility vehicles.

`In addressing these concerns, the different transport groups proposed the creation of a two (2) group system whereby all insurance companies who would like to participate in the passenger accident insurance program of the LTFRB must join any of the two groups, and that the passenger insurance requirement of the PUV operators be divided between these two groups on the basis of the number of their respective LTO license plates. The transport group argue that through this scheme the following objectives will be attained:

- `1. Fake certificates of cover will be minimized, if not eradicated, due to better monitoring of operations as there would only be two kinds of certificates that would be circulating.

- ` 2. Payment of the proper taxes can be assured.
- ` 3. Graft and corruption will be minimized, if not eliminated, since discretion as to which insurance company to patronize will be removed.
- ` 4. Payment of claims will be prompt due to better monitoring.
- ` 5. The proposed computerized data bank of all PUV[,] nationwide will be attained without a single cost to government.'

` It must be noted that the passenger accident insurance program of the LTFRB was implemented after numerous dialogues with all the transport organizations nationwide, and only after all issues raised have been sufficiently addressed. More importantly, this program is without any cost to the government. The added insurance expense is shouldered by the PUV operators.

` In pursuing this proposal further, the Board conducted meetings and conferences with the transport operators and with the insurance companies. It also met [with] the Insurance Commission where the latter, in its letter dated January 30, 2001, confirmed that it has no objection to the proposal of the various transport groups, there being no legal impediment to the same.

` II. AMENDMENTS

` AMENDMENTS TO M.C. NO. 99-011

` IN VIEW OF THE FOREGOING PREMISES, and upon the clamor of the transport operators who are the ones paying the added insurance cost, paragraph seven (7) of Memorandum Circular No. 99-011 is hereby amended to read as follows:

` In order to make sure that future claims of PUV operators and passenger accident victims are paid within the required time, and in order to minimize, if not eliminate, fake certificates of cover and graft and corruption, as well as to ensure the payment of the proper taxes much needed by the government, as well as to create a computerized data bank without any cost to the government which is necessary for transport planning[,] the Board will only accept, as proof of compliance of this program, insurance polic[i]es/certificates of cover duly approved by the Insurance Commission specifically for this project, and issued by any of the two groups as authorized by the Board.'

` CREATION OF THE TWO GROUP SYSTEM

` Accordingly, as there is already one group duly authorized by the Board to participate in this program in the person of the Passenger Accident Managers, Inc. (PAMI for brevity), THERE IS A NEED TO FORM ANOTHER GROUP IN ORDER TO FULLY IMPLEMENT THE PROGRAM. All other insurance companies who wish to continue participating in the program, therefore, are hereby required to either join PAMI or form a second group.

` In order to maintain their good standing with the Board, each group must maintain and present to the Board proof of compliance with the following minimum requirements:

- ` 1. Membership of at least ten (10) insurance companies with valid and subsisting license issued by the Insurance Commission;
- ` 2. Aggregate paid-up capitalization of P500 Million;
- ` 3. Compliance with the computerized data as required by the Board;
- ` 4. Payment of all claims within seven (7) calendar days from submission of all documents;
- ` 5. Issuance of one (1) certificate of cover with the standard form and contents duly approved by the Insurance Commission and the Board; and
- ` 6. Submission and compliance with all other reports x x x and requirements of the Board.'

` ODD-EVEN SYSTEM

` In order to address the issue of graft and corruption, there is a need to remove discretion on the part of government officials. Accordingly, the Board supports the proposal of the transport groups and hereby adopts the following system:

` All PUV's covered by this program whose LTO license plate, as per latest LTO Official Receipt, has an even middle number must have an insurance policy/certificate cover coming from the first insurance group (in its case PAMI), while those with an odd middle number must have a policy/cover coming from the second group. This odd-even system shall be interchanged on a year to year basis in order to ensure equality and fairness in distribution. Accordingly, the Board will not accept, as proof of compliance with this program, any insurance policy/cover that does not comply with this odd-even scheme, except in the following cases where the operator may choose the insurance group of its choice provided it is one of the two authorized by the Board, to wit: