

RUBEN TIBURCIO, BENJAMIN SAMSON, LUCIO CRUZ AND DANIEL SAN JOSE, PETITIONERS, VS. THE MUNICIPAL COURT OF MARIKINA, PROVINCE OF RIZAL, THE BOARD OF ELECTION TELLERS OF BARRIO BAR...*G.R. No. L-34374. May 30, 1972*

Ponente: FERNANDO, J.

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Petitioners, the first named, Ruben Tiburcio, being then the barrio captain and the others being then barrio councilors of Barrio Barangka, Marikina, Rizal,[1] filed on November 18, 1971 a suit for certiorari and prohibition with preliminary injunction against the Municipal Court of Marikina and the other respondents. Its purpose was to restrain respondent Court from further proceeding with the recount of the ballots cast on the January 14, 1968 election in Barrio Barangka, Marikina, Rizal on the ground that there was no protest filed and that the party seeking judicial recount was without legal authority to do so, the only remedy, after a proclamation duly made, being a protest. On November 25, 1971, there was a resolution by this Court requiring respondent to comment on such petition. The respondent Municipal Court filed such a pleading on December 17, 1971, the other respondents submitting their comments even earlier, on December 11, 1971. There was thereafter on the part of petitioners a motion for extension of time to file a rejoinder to the comments received by this Court on December 27, 1971. Then on January 21, 1971 another motion for a further extension of twenty days was received by this Court from petitioners, the said motion being granted by resolution of January 27, 1972.

In the meanwhile, the terms of office of petitioners expired; the barrio elections for the four-year term beginning the year 1972 were duly held as required by law. Under such circumstances, a resolution to this effect was adopted by us on February 24, 1972: "Considering the allegations of the issues raised and the arguments adduced in the petition for certiorari and prohibition with preliminary injunction, the comments of the respondents thereon and the rejoinder of the petitioners to said comments, [The Court resolved) to require the petitioners to show cause, within ten (10) days from notice hereof, why this case should not be considered as moot." [2] There was on March 9, 1972 a manifestation on the part of petitioners objecting to their petition being declared moot. While they did submit arguments not entirely lacking in plausibility as to why a ruling on the legal questions raised would be of significance, still this Court following a series of pronouncements has no choice but to declare the petition moot. As was so clearly expressed in a resolution of such tenor penned by Justice Zaldivar in *Gonzaga vs. Bico*: [3] "We find, however, that the matter to be decided in the present case refers to officers of the barrio assembly of Barrio Lag-asan, Bago, Negros Occidental who were proclaimed elected on January 14, 1962, as to whether they were legally elected or not. Under Republic Act 2370, otherwise known as Barrio Charter, the term of office of the barrio lieutenant and members of the barrio council is only for a period of two years. It follows, therefore, that the term of office of those that were elected in the barrio elections of January 14, 1962 has already expired. As a matter of fact, another barrio elections were held throughout the Philippines on January 12, 1964. We consider, therefore, that the question to be decided in the present case has become academic, so that this case

has become moot." [4] It only remains to add that only last February, such a principle was adhered to in *Bautista vs. Primicias, Jr.*, [5] in a resolution with Justice Teehankee as ponente.

WHEREFORE, the petition for certiorari and prohibition with preliminary injunction is dismissed for being moot and academic. No costs.

Reyes, J.B.L., Acting C.J. Makalintal, Zaldivar, Teehankee, Barredo, Makasiar, and Antonio, JJ., concur.

Castro, J., took no part.

Concepcion, C.J., on official leave.

[1] The other respondents named are Province of Rizal, the Board of Election Tellers of Barrio Barangka, Marikina, Rizal and Alfonso Mendoza.

[2] Resolution dated February 24, 1972.

[3] G.R. No. L-20291, February 27, 1965, 13 SCRA 363. Cf. *Tuanda vs. Simplicio Donaldo*, G.R. No. L-20117, July 15, 1966, 17 SCRA 646; *Paranpan, Juan vs. Querubin*, G.R. No. L-22102, Nov. 24, 1966, 18 SCRA 787; *Lofranco vs. Jimenez, Sr.*, G.R. No. L-27583, Jan. 30, 1968, 22 SCRA 330; *Dirampaten vs. Alonto*, G.R. No. L-25052, March 15, 1968, 22 SCRA 1083; *Valencia vs. Crisologo*, G.R. No. L-25646, Oct. 14, 1968, 25 SCRA 535; *Milanes vs. de Guzman*, G.R. No. L-23967, Nov. 29, 1968, 26 SCRA 163; *Descuatan vs. Balayon*, G.R. No. L-29865, Feb. 28, 1969, 27 SCRA 208; *Dumlao vs. Hon. Diaz*, G.R. No. L-24476, Sept. 30, 1969, 29 SCRA 595; *Abesamis vs. Judge Reyes*, L-23435, Jan. 30, 1970, 31 SCRA 178 and *Villareal vs. Santos*, G.R. No. L-28736, Aug. 31, 1970, 34 SCRA 432.

[4] *Ibid*, p. 365.

[5] G.R. No. L-33583, February 12, 1972, 43 SCRA 234.

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