

GENARO NATASO, PETITIONER VS. HON. JOSE L. MOYA, ET AL., RESPONDENTS.

G.R. No. L-16869. March 30, 1963

Ponente: PADILLA, J.

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PADILLA, J.:

This is a petition for writs of certiorari and injunction to annul certain orders entered by the Court of First Instance of Camarines Sur in Election Case No. 4754 and to restrain it from further proceeding with the hearing of the case.

It appears that after the general elections held on 10 November 1959 the Municipal Board of Canvassers of the municipality of Del Gallego, province of Camarines Sur, after canvassing the election returns of all the precincts of the municipality proclaimed on 12 November 1959 elected, in addition to the mayor and vice mayor, the following as councilors:

- Celerina Talan
- Jose Vereceluz
- Senador Atenas
- Francisco Belgica
- Jose Mendoza
- Genaro Natano (under proi* Election Case No. 4754) (Annex A of the petition in Election Case No. 4754)

After the name of Genaro Natano, who appeared to have been elected, as the sixth councilor, the words under protest enclosed, in parenthesis were written because when the Municipal Board of Canvassers canvassed the returns on that day (12 November 1959) it stated in its minutes that-

On the proceeding, it was found out that Election Return of Precincts No. 3 and 3-A were not duly Seal (Election Form No. 23).. But there was no discrepancies as to result of the return. The Election return of Precinct No. S-A omitted the name of one candidate for Municipal Councilor Silveeio Balanlayos and also the corresponding votes.

The Board proceeded on (with) the proceeding for the Municipal Councilors:

The following, candidates got the six highest votes as per the said return excluding the name of Silyerto Balanlayos from the election return of precinct No. 8-A.

1. Celerina Talan
2. Jose Vereceluz
8. Senador Atenas

4. Francisco Belgica

5. Jose" Mendoza

6. Genaro Natano, under protest not proclaimed, but as per the Election Result submitted by the Board of Election Inspectors to the Municipal Treasurer, Precinct No. 8-A; Silverio Balanlayos got 99 votes, having the total votes for all the fifteen precincts of this municipality Silverio Balanlayos got 1073 grand total, supposed to be the fourth winning candidate for municipal councilor.

The legal counsel of the Liberal Party made their own statement «f certificate of proclamation Mayor and Vice Mayor and a separate statement for Municipal Councilors and let the Board of Canvassers sign hereof. (Annex B)

On 13, November 1959 the Board of Election Inspectors of precinct No. 8-A signed a certification to the effect that Silverio Balanlayos, a candidate for councilor, obtained 99 votes as reported and submitted by the Board of Inspectors to the Municipal Treasurer (C.E.P. No. Election Result) but failed to write his name and the 99 votes cast for him in the Election Return, E. F. No. 23 (Annex G).

On 16 November 1959 the Municipal Board of Canvassers of the municipality of Del Gallego again met, and taking note of the inadvertent omission in the Election Return of precinct No. 8-A of the name of candidate Silverio Balanlayos and 99 votes cast for him, the Board passed Resolution No. 1, certifying and proclaiming as the duly elected councilors of the municipality of Del Gallego, Camarines Sur, the following candidates—

1. Celerina Talan

No. of votes: 1,140

2. Jose Vereceluz

No. of votes: 1,129

3. Senador Atenas

No. of votes: 1,087

4. Silverio Balanlayos

No. of votes: 1,073 '

5. Francisco Belgica

No. of votes: 1,061

6. Jose Mendoza

No. of votes: 1,041 (Annex D).

On 28 November 1959, in the Court of First Instance of Camarines Sur, respondent Silverio Balanlayos filed a petition, docketed as Election Case No. 4754, wherein after reciting the foregoing facts he prayed that after hearing judgment be rendered— .

a. Declaring the proclamation of respondent Genaro Natano as councilor-elect of Del Gallego, Camarines Sur, in the last November 10. elections, by the Municipal Board of Canvassers of Del Gallego as embodied in C. E. Form No. 29, null and void;

b. Declaring Resolution No. 1 dated November 16, 1959, of the Municipal Board of Canvassers of Del

Gallego, legal and valid,, consequently declaring petitioner Silverio Balanlayos' one of the elected councilors of Del Gallego, Camarines Sur, in the last November 10 elections;

c. That in the remotest possibility that subparagraph (6) may wijt bo given favorable consideration, to' order and authorize ths Municipal Board of Canvassers o£ Del Gallego, Camarines Sur, to open the ballot box of Precinct No. 8—A,,now in the custody of the Municipal Treasurer of Del Gallego, to retrieve the official tally sheet therein of the Board of Election Inspectors of said ' Precinct No. 8-A to check or find out the true and correct number of votes east in favor of petitioner Silverio Balanlayos, and that whatever votes petitioner Balanlayos obtained in said precinct be credited to or counted in his favor in addition to the number of votes that he obtained in all other precincts, and the sum total thereof be made the basis in the computation' in the consideration of the six (6) would be councilors of. Del Gallego in the last November 10 elections;

d. To order the said Municipal Board of Canvassers of Del Gallego, Camarines Sur, proclaim the first six councilors elected m the last November 10 elections in Del Gallego who garnered the first six highest number of votes;

e. To order respondents pay the cost of this petition; and

f. For such other reliefs that this Honorable Cotirt may deem jusfc and equitable under the premises.

On 28 December 1959 respondent Genaro Natafio filed a motion to dismiss and on 15 January 1960 petitioner Silverio Balanlayos, an objection thereto. The motion wa# denied. On 22 February 1960 a motion for reconsideration of the order denying the motion to dismiss was filed. On 26 February, the motion was denied for the reason that the respondent therein, petitioner herein, was not proclaimed. On 8 March;, a second motion for reconsideration and on 18 March, ah objection thereto, were filed. The last motion was also, denied on 21 March 1960 for the same reason as, that stated in the previous order, and the court directed the respondent therein, to file his answer.

Considering that the proclamation of the herein petitioner as the sixth elected councilor of the municipality of Del Gallego, Camarines Sur, is disputed, respondent JSilverio Balanlayos contending that the former was not proclaimed as such, and this contention seems to find support in Resolution No. 1 passed or adopted by the Municipal Board of Canvassers on 16 November 1959 which in turn is supported by the certification signed and issued on 13 November 1959 by the precinct board of inspectors concerned, and there being a discrepancy between the election return where the name of the respondent Balanlayos and the number of votes he had obtained in the precinct ;referred to at such election were omitted or left put and the report of the precinct board of inspectors submitted to the municipal treasurer of Del Gallego, the controversy comes under the provisions of section 168 in connection with section 163 of the Revised Election Code and not under the provisions of section 174 of the same Code.

The petition for a writ of certiorari is denied and. the writ of preliminary injunction issued heretofore is dissolved, with costs against the petitioner.

Bengzon, C. J., Bautista Angelo,, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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