

**RAMON GONZAGA, ET AL. PETITIONERS AND APPELLANTS, VS.
TERTULINO BICO AND MANUEL H. JAVELONA (JUSTICE OF THE
PEACE OF THE MUNICIPALITY OF BAGO), RESPONDENTS AND
APPELLEES.**

G. R. No. L-20291. February 27, 1965

Ponente: ZALDIVAR. J.

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ZALDIVAR. J.:

This is an appeal from the decision of the Court of First Instance of Negros Occidental direct to this Court on a question of law.

The petitioners, Ramon Gonzaga and others filed in the Court of First Instance of Negros Occidental a petition for certiorari against the respondents Tertulino Bico and Manuel H. Javelona, Justice of the Peace of the Municipality of Bago. Briefly the facts are as follows:

On January 14, 1962 barrio elections were held in Barrio Lag-asan, Bago, Negros Occidental. Cesar Alvarez was proclaimed elected barrio lieutenant together with others who were elected in various positions in the barrio assembly. On January 18, 1962 Tertulino Bico filed a protest before the Justice of the Peace of Bago, Negros Occidental, naming Ramon Gonzaga, Natividad Garcia and Narciso Toledo as protestees. Bico however failed to allege in his protest that he was voted for any office in the barrio elections, and he also failed to include the name of Cesar Alvarez who was the duly proclaimed elected barrio lieu tenant. On March 7, 1962 the protest was called for hearing by the respondent Justice of the Peace. The protestees, thru counsel, moved for the dismissal of the protest on the ground that the Justice of the Peace had no jurisdiction to hear the case. The protestant asked for leave to file an answer to the motion to dismiss, but instead of filing an answer he filed a motion for leave to admit his amended election protest which included Cesar Alvarez as protestee. At first the respondent Justice of the Peace denied the admission of the amended election protest but he later reconsidered his order and admitted the amended election protest. In the amended election protest, Cesar Alvarez, along with the original protestees Ramon Gonzaga, Natividad Garcia and Narciso Toledo and other members of the barrio assembly were included. It appears, however, that when the amended election protest was admitted by the respondent Justice of the Peace more than two weeks had elapsed since the proclamation of the elected barrio lieutenant and members of the barrio council who were included as protestees. Having failed to obtain the reconsideration by the respondent Justice of the Peace of his order admitting the amended election protest, the protestees (petitioners herein filed in the Court of First Instance of Negros Occidental a petition for certiorari. Two grounds were alleged in the petition for certiorari, namely:

1. That the original election protest did not allege that petitioner Tertulino Bico was a candidate who was duly voted for the position of barrio lieutenant; and
2. That the amended election protest which included Cesar Alvarez as protestee, whose name was not mentioned in the original protest, was filed outside the reglementary period of two weeks from the date of the proclamation

of said protestee, as provided in Sec. 174 of the Revised Election Code.

Issues were joined in the Court of First Instance of Negros Occidental and, after hearing, the Court of First Instance of Negros Occidental rendered a decision finding that the petition for certiorari was without merit and thereby dismissed the same. Hence this appeal of the petitioners from that decision of the Court of First Instance of Negros Occidental.

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 237A 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.

WHEREFORE, the present case is dismissed, without costs.

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

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