

JOSEPH EJERCITO ESTRADA, PETITIONER, VS. HON. PEDRO C. NAVARRO, BRAULIO STO. DOMINGO AND MUNICIPAL BOARD OF CANVASSERS OF SAN JUAN, RIZAL, RESPONDENTS.

G.R. No. L-28340 & L-28374. December 29, 1967

Ponente: MAKALINTAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/2be3de17bdbc/>

MAKALINTAL, J.:

These two cases, although filed separately, were argued by the parties and submitted for decision jointly.

Petitioner Joseph Ejercito Estrada and respondent Braulio Sto. Domingo were contending candidates for the position of Municipal Mayor of San Juan, Rizal, in the election held on November 14, 1967.

G. R. No. L-28340. This is an original petition for certiorari with a prayer for preliminary injunction, directed against an order of respondent Judge Pedro C. Navarro of the Court of First Instance of Rizal, Pasig Branch. The petition alleges in substance that by order dated September 15, 1967, the Court of First Instance of Rizal, Quezon City Branch, had authorized petitioner, whose real name is Joseph Ejercito, to use his screen name "Joseph Estrada;" that his certificate of candidacy for the position in question carries the name "Joseph Ejercito Estrada;" that in precinct No. 93 of San Juan, Rizal, the board of election inspectors, by a vote of two to one resolved not to count in favor of petitioner ballots wherein he was voted for under the names "Joseph Ejercito Estrada," "Joseph," "J. Estrada," or "Estrada" on the ground that none of them is his real name; that pursuant to such resolution at least 36 votes cast for petitioner were not counted or included in the tally; that subsequently, or on November 20, 1967, two of the three members of the board of election inspectors (Josefino A. Bueno and Emilia Suarez) filed with the court of respondent Judge a petition for correction or amendment of the election return in the afore-said precinct by adding at least 36 votes to those credited therein to petitioner; that petitioner herein as well as respondent Braulio Sto. Domingo were allowed to intervene in the proceedings below; that upon motion to dismiss filed by said respondent the court dismissed the petition, and denied the motion for reconsideration subsequently filed by petitioner.

We gave due course to the petition and issued a temporary restraining order to prevent the proclamation of any of the candidates for the municipal office of San Juan, Rizal.

The only question here is whether under the allegations in the petition the correction of the election return in precinct No. 93 of San Juan, Rizal, is justified and proper and may be judicially ordered. Section 154 of the Revised Election Code provides:

"Section 154.- Alterations in the statement. After the announcement of the result of the election in the polling place, the board of inspectors shall not make any alteration or amendment in any of its statements, unless it be so ordered by a competent court."

In a number of decisions this Court has held that there are two requisites that must concur in order to make out a case for correction of an election return: (1) there must be an error therein; and (2) the members of the board of

election inspectors must be unanimous in the fact that such an error exists and they are willing to rectify the same. *Benitez vs. Paredes and Dizon*, 52 Phil. 1; *Board of Inspectors of Bongabong vs. Sison*, 55 Phil. 914; *Gumpal vs. C.F.I. of Isabela*, G. R. No. L-16409, Nov. 19, 1960; *Astilla vs. Asuncion, et al.*, G. R. No. L-22245, Feb. 29, 1964.

The reason for the requirement of unanimity is that the proceeding for correction is a summary one, is not supposed to raise controversial issues, and does not call for a recount or revision of the ballots themselves, either of which contemplates a different remedy.

In the instant case the aforesaid requisites are not present. In the first place, there is no error alleged as to the election return itself. The error lies in the appreciation of the ballots or, more specifically, in the decision of the election inspectors not to count in favor of petitioner those ballots wherein the names "Joseph Ejercito Estrada," "Joseph, "J. Estrada," or "Estrada" appear. The return, in other words, reflects accurately the result of the tally of votes as read and counted, and consequently cannot be considered erroneous for purposes of correction under Section 154 of the Revised Election Code.

In the second place, there is no unanimity among the members of the board of election inspectors. In support of the motion to dismiss filed by respondent Braulio Sto. Domingo before the court below, there is attached an affidavit signed by the third inspector (Santiago Cardona) and by the poll clerk (Evangeline Salgado), stating as follows: "That we are not aware of the existence of any error or mistake in said election statement or returns and we are not giving our consent or conformity to the correction or amendment of the same." This may not be as categorical an opposition to the petition for correction as might be desired, but it certainly shows such a lack of unanimity among the members of the board as to preclude summary correction and call instead for an examination of the ballots themselves to determine whether or not they tally with the number of votes credited to petitioner.

Moreover, the petition itself is not even definite as to the error that is sought to be corrected. It alleges that "at least 36 votes validly cast for one or another of the names hereinabove mentioned were not counted in favor of herein petitioner." The evidence presented in the lower court and referred to in the instant petition consists of (a) the minutes of voting, showing that 158 votes cast in precinct No. 93 were tallied and counted; and (b) the certificate of votes which shows that at least 156 of the said 158 votes were counted for one or another of four candidates for Vice-Mayor, while only 122 votes were counted for one or another of the only four candidates for Municipal Mayor. From this evidence, together with the admitted fact that the inspectors, by a vote of two to one, had resolved not to count for petitioner the ballots wherein the names hereinbefore mentioned appear, petitioner draws the conclusion that the difference of 36 votes (between the 158 tallied and the 122 counted for him) must be the number of votes to be additionally credited in his favor. This conclusion, while seemingly logical, is too tenuous and speculative to justify simple correction of the return. For to properly consider those additional 36 votes involves more than mere mathematical computation. It would require looking into the ballots themselves, ascertaining the names of the candidate or candidates for mayor written thereon, their legibility, their placement, even the very fact that any particular name is written at all.

We are not unmindful of the apparent injustice to petitioner in the resolution of the board of election inspectors of precinct No. 93 of San Juan, Rizal, considering that there was already a court decision authorizing him to use the name "Joseph Estrada." The resolution assumes more serious implications, directly affecting public interest, in view of the allegations in the petitions, both here and below, supported by the affidavit of one of the election inspectors that they had been threatened and intimidated by men belonging to the faction of respondent Sto. Domingo, and ordered to ignore ballots cast for petitioner wherein the sur-name "Estrada" was written. A timely remedy should have been obtained then and there from the Commission on Elections or its representative so that

the popular will would be accorded free, untrammelled and legitimate expression. As it is, the pro-ceeding now resorted to, namely, correction of the return, is not justified under the facts and circumstances of this case. For the petition assumes the existence of an error in the election return itself - which is not true - and assumes likewise certain other facts as to the contents of the uncounted ballots, as to which facts there is no unanimity among the election inspectors.

G. R. No. L-28374. This is a petition for review of an order of the Commission on Elections involving the election return in precinct No. 94 of San Juan, Rizal. Petitioner applied to the Commission for an order directing the municipal board of canvassers to reject or disregard the said return on the ground that it was "clearly manufactured." Reliance is placed on the decision of this Court in the case of Lagumbay vs. Commission on Elections, G. R. No. L-25444, January 31, 1966. The return in question shows the following data:

Number of voters registered in
precinct Four hundred nine - 409
Number of voters who actually
voted Two hundred twenty nine- 229
Ballots found in compartment
for valid ballots..... Three Hundred - 300

The same election return shows the following number of votes received by the various candidates for Mayor, to wit:

NAMES OF CANDIDATES

TOTAL VOTES OBTAINED (In Words)

TOTAL VOTES

OBTAINED

(In figures)

1. Domingo, Braulio Sto.

One hundred seven

107

2. Estrada, Joseph

Eighty two

82

3. Ibuna, Nicanor

One hundred eight

108

4. Lenon, Enrique

One

1"

It is claimed by petitioner that the return is obviously manufactured, considering that while there were only 229 voters who actually voted 300 ballots were found in the box for valid ballots. Upon its face the claim would seem clear and irrefut-able, for it is mathematically impossible for 229 voters to cast 300 valid votes, or 298 votes in the aggregate for the four contending candidates for the position of Municipal Mayor.

However, a conclusion that an election return is obviously manufactured or false and consequently should be disregarded in the canvass must be approached with extreme caution, and only upon the most convincing proof. The decision in the Lagumbay case speaks of "inherent improbability" in the data shown on the return. Any plausible explanation, one which is acceptable to a reasonable man in the light of experience and of the probabilities of the situation, should suffice to avoid outright nullification with the resulting disfranchisement of those who exercised their right of suffrage. In this case there is such an explanation. The minutes of voting prepared and signed by the election inspectors in precinct No. 94 show that the total number who voted is two hundred ninety-nine (299), in both words and figures, and that of the 300 ballots in the box for valid ballots one (1) was found to be marked and placed in the envelope for "marked ballots." These minutes of voting constitute an official document, accomplished pursuant to Section 142 of the Revised Election Code. It is a fair presumption that the number 229 entered in the election return as the number of those who actually voted is a mere clerical error, and that the correct figure is 299 as shown in the minutes of voting. The correctness of this figure is supported by the other entries in the return, and by the fact that the sum total of the votes counted for the four candidates for Municipal Mayor is 298, with one ballot rejected and placed in the envelope for marked ballots.

Everything considered, we find no justifiable ground on which the return in question may be annulled.

Both petitions are therefore dismissed, and the restraining orders we issued in the two cases are lifted. No pronouncement as to costs.

Concepcion, C.J., Reyes, JBL, Bengzon, Zaldivar, Ruiz Castro, and Angeles, JJ., concur.

Dizon and Fernando, JJ., took no part.

Sanchez, J., concurs in a separate opinion.

Clean Clean 6 pt 6 pt 0 3 MicrosoftInternetExplorer4 st1:{behavior:url(#ieooui) } /* Style Definitions */
table.MsoNormalTable {mso-style-name:"Table Normal"; mso-tstyle-rowband-size:0; mso-tstyle-colband-size:0;
mso-style-noshow:yes; mso-style-parent:""; mso-padding-alt:0in 5.4pt 0in 5.4pt; mso-para-margin:0in;
mso-para-margin-bottom:.0001pt; mso-pagination:widow-orphan; font-size:10.0pt; font-family:"Times New
Roman";}

CONCURRING OPINION

SANCHEZ, J.:

I fully agree with the Court's opinion so ably presented by Mr. Justice Querube C. Makalintal. I would want, though, to make the following observations:

Moulding the controversy in this case is the lack of unanimity on the part of the inspectors to amend the election returns for Precinct No. 93. The mere fact that votes cast for Estrada, J. Estrada and Joseph Ejercito Estrada were excluded from the counting, would not shape up a compelling reason for the abandonment of the doctrine of unanimity so steadfastly adhered to by this Court.

It has been said that the rationale of the remedy under Section 154 of the Revised Election Code is to make way for the correction of honest mistakes in the preparation of the returns.[1] Unless therefore all the inspectors concur in the court petition for correction, the veracity or the extent of the mistake becomes doubtful and controversial. Deter-mination thereof would require another proceeding.

Refusal by an inspector and the poll clerk to consent to the correction is their own privilege. The law, however, creates sufficient safeguards against such human frailties as those that constitute violations of Section 150 of the Revised Election Code. Under this codal provision, the inspectors are required to certify that the returns prepared by them are correct. By Section 183 of the same code, violation of the provisions of Section 150 is a serious election offense, which prescribes in two years under Section 188.

In the situation presented, petitioner is not really left adrift. A protracted and expensive election protest is not the only recourse open to him. And, unless absolutely necessary, we should be reluctant to push petitioner into the hazards of an election protest. Because the consequences are so grave. Chief Justice Cesar Bengzon aptly said in *Lagumbay vs. Climaco*: [2]

"The well-known delay in the adjudication of election protests often gave the successful contestant a mere pyrrhic victory, i.e., a vindication when the term of office is about to expire, or has expired. And so the notion has spread among candidates for public office that the 'important thing is the proclamation; and to win it, they or their partisans have tolerated or abetted the tampering or the 'manufacture' of election returns just to get the proclamation, and then let the victimized candidate to file the protest, and spend his money to work for an empty triumph.

It is generally admitted that the practice has prevailed in all previous elections. Never was the point pressed upon us in a more clear-cut manner. And without, in any way, modifying our stand as out-lined in the *Nacionalista Party vs. Commission* deci-sion, we feel the mores of the day require application - even extension - of the principle in the *Mitchell* deci-sion, which is realistic and commonsensical even as it strikes a blow at such pernicious 'grab-the-proclamation- prolong-the-protest' slogan of some candidates or parties."

A glaring fact not denied by any of the inspectors, as reflected in the certificate of challenge, does not escape notice. Several ballots cast for Joseph Estrada were not accredited to petitioner. He has filed his certificate of candidacy under the name Joseph Ejercito Estrada. At least two members of the board of inspectors had knowledge of the order of the Court of First Instance of Rizal dated September 15, 1967 - long before the November 14 elections - authorizing petitioner to use his stage or screen name Joseph Estrada in addition to his real name of Joseph Ejercito.[3] Those ballots have been validly cast under Section 149 of the Revised Election Code, which sets forth the rules for appreciation of ballots. No justifiable reason exists why said ballots should not have been so considered. The action of the inspectors was clearly unwarranted. The prejudice to petitioner is patent. And yet, Section 154 cannot apply.

Petitioner should have resorted, in the first instance, to the Commission on Elections to set aright errant election officials who are wont to commit flagrant violations of the election laws and make a mockery of the will of the voters. The Commission possesses abundant powers respecting the maintenance of free, honest and orderly elections as well as the enforcement of all laws relative to the conduct of elections. The Commission, I am confident, would not close its eyes to such an unbridled display of arbitrary authority. It could have very well issued the proper directive to the board of inspectors, and enforced it. Indeed, this Court has upheld actions of the Commission as coming within the latter's general administrative and supervisory powers defined in the Constitution and in the Revised Election Code.

Citing parallel cases may not be out of context. In a number of instances, this Court has been consistently hesitant in unduly delimiting the powers of the Commission, a constitutional body charged with the essential objective of preserving the integrity of our elections. Thus, this Court has confirmed the authority of the Commission to investigate irregularities accompanying a canvass, annul an illegal canvass and order the board of canvassers to hold another canvass.[4] For, as emphasized by this Court, speaking thru Mr. Justice Calixto O. Zaldivar, in *Cauton vs. Commission on Elections*: "The purity of the elections is one of the most fundamental requisites of popular government. The Commission on Elections, by constitutional mandate, must do everything in its power to secure a fair and honest canvass of the votes cast in the elections." [5] This is an echo of the earlier case of *Sumulong vs. Commission on Elections*, [6] which pronounced that the Commission "should be allowed considerable latitude in devising means and methods that will insure the accomplishment of the great objective for which it was created - free, orderly and honest elections."

I believe that had the Commission been seasonably asked - during the counting in the precinct concerned - to give proper instructions to the board of inspectors, the situation now before us could have been obviated.

[1] *Dizon vs. Board of Canvassers of Laguna*, 52 Phil. 47, 54.

[2] L-25444, January 31, 1966; underscoring supplied.

[3] Par. II and Annex "A" of the petition; par. 1 of answer of re-spondent Sto. Domingo.

[4] *Mintu vs. Enage*, L-1836, December 31, 1947; *Ramos vs. Commission on Elections*, 80 Phil. 722; *Abendante vs. Relato*, 94 Phil. 8; *Lacson vs. Commission on Elections*, L-16261, December 28, 1959; *Santos vs. Commission on Elections*, L-16413, January 26, 1960; *Chiongbian vs. Commission on Elections*, L-19202, December 11, 1961; *Albano vs. Arranz*, L-19260, January 31, 1962; *Olano vs. Ronquillo*, L-17912, May 31, 1963; *Javier vs. Commission on Elections*, L-22248, January 30, 1965; *Cauton vs. Commission on Elections*, L-25467, April 27, 1967; *Espino vs. Zaldivar*, L-22325, December 11, 1967.

[5] 1967B Phil. 248, 255.

[6] 73 Phil. 288, 294.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.