

RECAREDO B. CASTILLO, ETC., ET AL., PETITIONERS AND APPELLANTS, VS. THE PROVINCIAL BOARD OF CANVASSERS, SURIGAO DEL SUR, ETC., ETC., ET AL. RESPONDENT AND APPELLEES. RECAREDO B....

G.R. Nos. L-22765 and L-24038. January 30, 1965

Ponente: BARRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/5ab8ed478913/>

BARRERA, J.:

This is an appeal from an order of the Court of First Instance of Surigao del Sur (in Sp. Civil Case No. 1) dismissing the petition for mandamus or recounting of votes filed by Recaredo B. Castillo et al., against the Provincial Board of Canvassers of Surigao del Sur and the respective municipal Board of canvassers for the municipalities of Tago, Tamlag, San Miguel, Cagwait, Maribatag, Oteiza, Barobo, Bislig, and Lingig in Surigao del Sur. Insofar as pertinent to this proceeding, the facts are as follows:

At the start of the canvass by the Provincial Board of Canvassers of the returns of the general elections held on November 12, 1963, Recaredo B. Castillo and others, candidates for the positions of governor, vice-governor, and provincial board members of Surigao del Sur, and the municipal positions in the municipalities of Tandag, Tago, San Miguel, Marihatag, Cagwait, Oteiza, Bislig and Lingig, same province, filed a petition in the Court of First Instance of Surigao del Sur to compel the respondents provincial and municipal boards of canvassers to recount the votes cast in all the precincts of the named municipalities, on the ground that the election returns therefrom were dictated by armed bands and constabulary soldiers, and that votes cast for petitioners were read and counted by the election inspectors in favor of their opponents, candidates of the Liberal Party.

In their respective answers to the petition, the Provincial Board of Canvassers set up, among others, the defense of lack of cause of action; while the municipal board of canvassers of Tago alleged that, there having been a proclamation of the elected officials for said municipality on November 18, 1963, said body had already become *functus officio*. The respondent municipal board of canvassers of Oteiza claimed that, it being a new municipality, the canvass of the election returns from Oteiza would be undertaken by the provincial board of canvassers as provided by law.

There being no writ of preliminary injunction issued by the court,[[1]]the canvass of the election returns proceeded. In the course of such partial canvass, certain discrepancies between the returns and tally sheets in certain precincts were alleged to have been noted. Thus, on December 2, 1963, petitioners filed a supplemental petition specially pointing out such discrepancies, involving Precinct No. 5 of Tago, and Precincts Nos. 26 and 12 of Cantilan, which were not originally included in the petition, and which discrepancies allegedly would affect the result of the election.

In fact, the petition for preliminary injunction was actually withdrawn by the petitioners themselves on December 5, 1963.

After hearing the matter of absence of cause of action set up by the respondent Provincial Board of Canvassers, the court, in its order of December 9, 1963, dismissed the petition, on the ground that although the employment of force and intimidation resulting in falsification of an election return could be the basis of a recount under Section 163 of the Revised Election Code, because in such instance it would be as if there has been no return for said precinct, yet in the present case, such irregularity has not been shown to exist. It was also pointed out that the original petition failed to show by specific figures, the difference in votes produced by the alleged employment of armed bands and perpetration of fraud, which could have materially affected the result of the election. Furthermore, the action was declared improperly directed against the board of canvassers which under the Revised Election Code have no authority to conduct a recount of the votes, the said authority properly belonged only to the court of first instance. As a consequence of the aforesaid dismissal of the petition for recount, the canvass of the returns was continued and the elected candidates were proclaimed on December 14, 1963. These proclaimed winners, accordingly, took their oath of office on January 1, 1964. Upon the other hand, petitioners Recaredo Castillo, et al. appealed the order of dismissal of the petition for recount to this Court.

It is evident from the nature of this case that the present appeal will no longer serve the original purpose for which the petition was filed in the lower court. Proclamation of the declared winners having been made and the latter having already started discharging the functions of their respective offices, the remedy left to petitioners is only to contest their election. And this remedy was already availed of specifically by petitioner Recaredo B. Castillo, whose protest against the proclamation of Adela Serra Ty, as governor-elect of Surigao del Sur, is pending resolution of the Court of First Instance of said province (Civil Case No. 26, Elec. Case No. 2). It is clear, therefore, that this appeal has already become moot and academic. The Court's authority to review, revise, reverse, modify, or affirm final judgments or decrees of the lower courts is understood to refer to the determination of live, justiciable issues for the purpose of settling or putting an end to the controversy between the parties, in a particular case.

This is a new petition for mandamus, filed by Recaredo B. Castillo, as protestant in Civil Case No. 26, Election Case No. 2 of the Court of First Instance of Surigao del Sur, to compel the respondent Judge to continue with the revision or examination of the contested ballots subject of said proceedings.

It was alleged that in the course of the proceeding in said election protest, and after the parties had appointed their respective commissioners preparatory to the revision and recounting of the ballots, respondent Judge issued an order dated November 21, 1964, restraining the commissioners from setting a date for such revision and recounting of ballots, until the appeal from the order of dismissal of Election Case No. 1 (G.R. No. L-22765, Castillo, et al. vs. Provincial Board of Canvassers, et al.) has been finally decided or withdrawn by the protestant, allegedly to forestall the possibility of duplicating the commissioners' work.

In view of the conclusion we have reached in G.R. No. L-22765, the proceedings in Election Case No. 2 must now proceed until the contest therein is finally terminated.

WHEREFORE, the appeal in G. R. No. L-22765 is (hereby dismissed for being moot and academic. And since the reason given by the respondent Judge in G. R. No. L-24038 for not proceeding with the election protest no longer exists, the petition for mandamus is likewise dismissed. No costs in both cases.

SO ORDERED.

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

[1] In fact, the petition for preliminary injunction was actually withdrawn by the petitioners themselves on December 5, 1963.

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.