

CESARIO ABESAMIS, EMILIO BIANZON, CLARO DE LA CRUZ, PABLO PADILLA, SILVESTRE MATEO, FRANCISCO ABESAMIS, DOMINGO SERRANO, MARCELO FERNANDEZ, DEMETRIO NAGA, RUFINO POLICARPIO, AND...*G.R. No. L-23435. January 30, 1970*

Ponente: SANCHEZ, J.

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In the case before us, two sets of proclamation were made following the barrio elections of January 12, 1964 in San Josep, Peñaranda, Nueva Ecija. The petition originally filed by herein private respondents with the Municipal Court of Peñaranda[1] avers that on January 12, 1964 the Board of Election Tellers composed of Marcelo Fernandez, as chairman, and Demetrio Naga and Rufino Policarpio, as members, proclaimed petitioners herein, Cesario Abesamis, as barrio captain, and his co-petitioners, Claro de la Cruz, Pablo Padilla, Silvestre Mateo, Francisco Abesamis, Domingo Serrano, and Emilio Bianzon, as barrio councilmen, allegedly without the benefit of an election required under the provisions of the Revised Barrio Charter (Republic Act 3590). In that same petition, it was also alleged that in the election of barrio officials held on January 12, 1964 a different board of election tellers with the same Marcelo Fernandez, as chairman, and Elsa Hernandez and Gorgonia Rollo, as co-chairmen, together with Ruperto Abesamis, Ernesto Salazar, Gregorio Miranda, Andres Bolisay, Constancio del Valle, and Alfonso Leabres, as members, proclaimed as duly elected herein respondents Isagani Gaba, as barrio captain, and Dionicio Abesamis, Virgilio Ison, Servando Santos, Juanito Ramos, Exequiel Madrid, and Galiciano Ladores, as barrio councilmen. Herein respondents Isagani Gaba and others there contended that the proclamation of the Cesario Abesamis group was illegal and that, upon the other hand, the proclamation of the group of Isagani Gaba was lawful.

Admittedly, the petition was filed 23 days after the proclamation of Cesario Abesamis and others, as barrio captain and barrio councilmen, respectively.

The municipal judge, on March 5, 1964, dismissed the case upon the ground that it was filed beyond the two-week period prescribed for the filing of election protests in Section 174 of the Revised Election Code. On motion to reconsider, however, the municipal judge, on March 19, 1964, reversed his former order of March 5, 1964 and directed that the case be set for hearing on April 4, 1964. A motion to reconsider this last named order was rejected on April 15, 1964.

Petitioners herein - respondents in the municipal court went to the Court of First Instance of Nueva Ecija on certiorari.[2] That court, however, dismissed the petition on July 15, 1964; it ruled that the municipal judge acted correctly. A move to reconsider was rejected on August 11, 1964. Hence, the present petition for certiorari before this Court.

Sole question raised is whether or not the provisions of Section 174 of the Revised Election Code limiting the period of election protest to two weeks from proclamation should be held applicable in the elections of barrio

officials.

1. This question is not new. The expositor of the law on the subject is *Falcotelo vs. Gali* (L-24190, January 8, 1968), 22 SCRA 16. Speaking thru Mr. Chief Justice Roberto Concepcion, we there ruled that Section 174 of the Revised Election Code applies to barrio election protests. We pronounced that "the eligibility of a local elective official may be contested only within one (1) week after the proclamation of his election, whereas his election may be contested, upon grounds other than ineligibility, within two (2) weeks after said proclamation." [3] We there stated:

"Indeed, the Revised Election Code (Republic Act No. 180, as amended) governs 'all elections of public officers' in the Philippines (Section 2 of said Act), and the very same public interest and public policy which demand that the qualifications and election of provincial and municipal officials be contested, if defective, within the peremptory periods of one (1) week and two (2) weeks, respectively, after proclamation, render it imperative that the corresponding actions, as regards barrio officials - who are, likewise, municipal officials - be filed within the same periods of time.

We are aware of the fact that, our decision in *Bautista vs. De la Cruz* (L-21107, December 24, 1963) contains a passage to the effect that Sections 173 and 174 of the Revised Election Code 'do not apply to the election of barrio officials.' It should be noted, however, that said statement was made in connection with the question whether the original jurisdiction to hear the case was vested in the justice of the peace court, as provided in Republic Act No. 2370 (now Republic Act No. 3590), or in the court of first instance, as provided in said sections of the Revised Election Code, and, that we then held that Republic Act No. 2370 was the law applicable to said case. This, of course, is correct, but, only insofar as it refers to the jurisdiction over the subject-matter of the case, there being a conflict, in connection therewith, between the Barrio Charter and Republic Act No. 180; but, no such conflict exists between the latter, on the one hand, and either said charter or the Revised Barrio Charter, on the other, as regards the procedure to be followed and the periods within which the corresponding actions should be filed. At any rate, to the extent that it may be in conflict with the pre-sent decision, that of *Bautista vs. De la Cruz* should be deemed modified accordingly." [4]

Certiorari should have been granted by respondent judge, for the reason that the municipal court did not acquire jurisdiction to entertain the protest filed out of time.

2. One good reason would prevent us from allowing the election protest to continue. The case has become moot and academic. The barrio officials' term of office has expired. [5] It is purposeless now for the courts of justice to resolve the election protest. Any decision therein would be of no practical effect. [6]

FOR THE REASONS GIVEN, the petition for certiorari is granted; and considering that the election case has become moot and academic, the Court of First Instance of Nueva Ecija is hereby directed to order the Municipal Court of Peñaranda, Nueva Ecija, to dismiss Election Case No. 3 of the latter court, entitled "*Isagani Gaba, et al., Petitioners, versus Cesario Abesamis, et al., Respondents.*"

No costs.

SO ORDERED.

Concepcion, C.J., Dizon, Zaldivar, Castro, Fernando, Teehankee, and Barredo, JJ., concur.
Reyes, J.B.L., and Makalintal, JJ., in the result.

[1] Election Case No. 3, entitled "*Isagani Gaba, Dionicio Abesamis, Virgilio Ison, Servando Santos, Juanito Ramos, Exequiel Madrid, and Galicano Ladores, Petitioners, versus Cesario Abesamis, Emilio Bianzon, Claro de*

la Cruz,, Pablo Padilla, Silvestre Mateo, Francisco Abesamis, Domingo Serrano, Marcelo Fernandez, Demetrio Naga, Rufino Policarpio, and Conchita Abesamis, Respondents."

[2] Civil Case No. 4390, entitled "Cesario Abesamis, Emilio Bianzon, Claro de la Cruz, Pablo Padilla, Silvestre Mateo, Francisco Abesamis, Domingo Serrano, Marcelo Fernandez, Demetrio Naga, Rufino Policarpio, and Conchita Abesamis, Petitioners, versus Miguel Jardiel, Jr., in his capacity as Mun. Judge of Peñaranda, Nueva Ecija, Isagani Gaba, Dionicio Abesamis, Virgilio Ison, Servando Santos, Juanito Ramos, Exequiel Madrid and Galicano Ladores, Respondents."

[3] Section 174, Revised Election Code, reads:

"SEC. 174. Contested elections for provincial and municipal offices. - A petition contesting the election of a provincial or municipal officer-elect shall be filed with the Court of First Instance of the province by any candidate voted for in said election and who has presented a certificate of candidacy, within two weeks after the proclamation of the result of the election. Each contest shall refer exclusively to one office, but contests for the offices of the vice-mayor and councilor may be consolidated in a single case."

[4] At pp. 22-23.

[5] Section 8 of the Revised Barrio Charter, Republic Act 3590, in part, provides:

"SEC. 8. Election of the barrio council. - On the second Sunday of January immediately following the regular elections for municipal and provincial officials, a regular election shall be held to elect a barrio lieutenant and six councilmen. x x x."

[6] *Agawin vs. Cabrera* (L-23885, April 25, 1968), 23 SCRA 198, 200, citing *Gonzaga vs. Bico*, L-20291, February 27, 1965, and *Tuanda vs. Dionaldo* (1966), 17 SCRA 646.

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