

**MAURO G. AGDA, PETITIONER, VS. CRISPIN N. SAN JUAN AND
HONORABLE JUDGE BUENAVENTURA J. GUERRERO OF THE COURT
OF FIRST INSTANCE OF RIZAL, BR. XXIV, RESPONDENTS.**

G.R. No. L-36008. November 28, 1980

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

This is a petition for review on certiorari of the decision dated December 14, 1972 of the Court of First Instance of Rizal, Branch XXIV, which declared private respondent the duly elected 8th councilor by a plurality of one (1) vote only.

Petitioner and private respondent were candidates for the office of municipal councilor in the said municipality at the general elections of November 8, 1971. On November 16, 1971, the municipal board of canvassers proclaimed the winning candidates but withheld proclamation for the 8th slot in the municipal council pursuant to the resolution dated November 12, 1971 of the Commission on Elections. However, on December 14, 1971, petitioner was proclaimed winner for the 8th position of the elected councilors with a total votes of 2,849 as against private respondent's 2,848 votes.

On December 24, 1971, private respondent filed an election protest before the respondent court questioning the correctness of the count and canvass and the election returns in Precinct Nos. 18, 19-A, 20, 20-A, 21, 21-A, 22, 22-A, 23 and 36-B, or a total of ten (10) precincts. Petitioner, the winning candidate, in turn filed a counter--protest impugning the election result in Precinct Nos. 23, 23-A, 23-B, 24, 24-B, 25, 26, 26-A, 26-B, 27, 40, 40-A, 41 and 42, or a total of fourteen (14) precincts.

In the course of the proceedings, respondent court appointed two committees of three commissioners each - one appointed by the court, the other two each by petitioner and private respondent, respectively - to conduct the revision of the ballots and election documents contained in the ballot boxes questioned for the purpose of making an actual and physical count of the votes received by the parties and segregating the contested ones. After the revision of the ballots in the protested and counter-protested precincts and the trial, respondent court rendered judgment in favor of private respondent, hence the present petition was instituted before this Court.

The main thrust of the petition is that respondent court erred in the appreciation of the disputed ballots.

The case is now moot and academic. With the new election for municipal officials last January 30, 1980, the term of those proclaimed elected in 1971 already expired. As We have ruled in the case of *Bitangcol vs. Court of Appeals*[1] and *Abirin vs. Comelec*[2] it will serve no useful purpose for this Court to make any pronouncement on the matter.

WHEREFORE, in view of the foregoing, the petition is dismissed. No costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

[1] 76 SCRA 95.

[2] G.R. No. L-36157, promulgated August 29, 1980.

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