

CUSTODIO O. PARLADE, PETITIONER, VS. THE BOARD OF GOVERNORS OF THE INTEGRATED BAR OF THE PHILIPPINES AND PONCIANO M. MORTERA, RESPONDENTS.

G.R. No. L-56532. September 21, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

In the election of the officers of the Quezon City chapter of the Integrated Bar of the Philippines, held in the City Hall on February 28, 1981, the two candidates for president, Custodio O. Parlade and Ponciano M. Mortera, each obtained 327 votes.

To break the tie, the chapter's election committee resolved to require Parlade and Mortera to draw lots as prescribed in section 12(k) of the IBP by-laws.

At that juncture, Mortera called the committee's attention to the ballot of Eduardo E. Arroyo, Sr. whose vote for Mortera was not counted because it was prepared by Pedro R. Acierto. Arroyo's ballot was placed in the envelope for spoiled and invalid ballots. Mortera moved that Arroyo's vote be counted in his favor.

The election committee held a hearing on Mortera's motion. The committee heard the testimonies of Acierto and Manuel C. Cortes, who explained why the ballot of Arroyo was confiscated by Cesar P. Javier, the chairman of the board of canvassers for Precinct No. 2, Arroyo's precinct.

The committee upheld the invalidation of Arroyo's ballot by the board of canvassers. Mortera asked for the reconsideration of that ruling. The committee denied his motion.

Before the lots were drawn, Mortera manifested in writing to the election committee that his assent to the drawing of lots was without prejudice to his recourse to any appropriate legal remedy.

Parlade drew the winning lot. The election committee proclaimed him as the duly-elected president. Diosdado P. Peralta, the incumbent chapter president, in his letter dated March 3, 1981 apprised the president of the IBP that Parlade and others were elected officers of the Quezon City chapter. Parlade took his oath of office on March 5.

But before that oath-taking, or on March 3, Mortera filed with the IBP Board of Governors a protest wherein he prayed that Arroyo's vote be counted in his favor, that Parlade's proclamation be set aside and that he, Mortera, be adjudged the duly elected president. Parlade answered the protest.

After hearing and consideration of the evidence of the parties, the Board declared Mortera the duly elected president. The Board's resolution dated March 26, 1981 reads:

"x x x Finding that witness Eduardo Arroyo, Sr. did in fact vote for candidate Ponciano Mortera because he actually authorized and directed Pedro Acierto to write 'Mortera' in his ballot and that Arroyo's subsequent disclaimer of this authority and instruction was a mere afterthought which is not entitled to credence, and on motion duly seconded, the Board after agreeing to accept the written votes of absent Governors,

Resolved (Res. No. 4-81-47) to reverse and set aside the ruling of the Board of Canvassers of Precinct No. II and of the Committee on Elections in the 28 February 1981 Quezon City Chapter elections declaring invalid the contested ballot and to count this ballot in favor of petitioner Ponciano M. Mortera, and further resolved that petitioner Mortera be, as he hereby is, declared the duly elected President of the Quezon City Chapter for the term 1981-1983."

On March 27, Mortera took his oath of office. On March 30, Parlade filed in this Court the instant special civil actions of certiorari and prohibition wherein he assailed the Board's resolution. In this Court's resolution of April 9, 1981, Leovillo C. Agustin, the duly elected vice-president, was directed to administer the affairs of the Quezon City chapter in an acting capacity.

Annexed to Parlade's petition is an affidavit of Arroyo dated March 2, 1981, or two days after the election, wherein he alleged that he asked Acierto to hold his blank ballot while he (Arroyo) familiarized himself with the election materials and made up his mind as to the candidates for whom he would vote. He averred that he intended later on to request Acierto to write in the ballot the names of his (Arroyo's) candidates.

After some interval, Arroyo asked Acierto for his ballot. He was informed that Acierto had already filled it up by writing the name of Mortera in the space for president and that the ballot was confiscated by a member of the board of canvassers as a void ballot because voting by proxy is not allowed and its pre-paration violated the secrecy of the ballot.

Arroyo further alleged that Acierto was not authorized to fill up his ballot because he had not as yet apprised Acierto of his (Arroyo's) choices among the candidates for the different elective positions (p. 35, Rollo).

The crucial fact in this case is that Arroyo freely voted for Mortera with the assistance of Acierto. His vote was decisive. It gave Mortera a majority of one over Parlade.

There is no question that Arroyo, 69 (admitted to the bar in 1939), was afflicted with a physical infirmity brought about by a cerebral stroke. It may be true, as contended by Parlade, that Arroyo could sign his name as shown in his signature in the voter's list and in his aforementioned affi-davit (Exh. 1 and 4-A) but then that is a habitual act on his part amounting to a reflex action.

Writing the names of other persons would be a different thing and that would explain why he had to seek Acierto's assistance. Arroyo even protested against the confiscation of his ballot by Javier by saying: "Wala namang violation doon. Mababali wala naman ang pagpunta ko rito" (p. 25, Rollo). Arroyo did not complain that he did not authorize Acierto to fill up his (Arroyo's) ballot.

We hold that the Board of Governors did not act with grave abuse of discretion in regarding Arroyo's ballot as a valid vote for Mortera. Hence, certiorari does not lie to annul its resolution.

As correctly observed by the respondents, the decision of the Board of Governors in election contests is final (Sec. 13, IBP By-Laws). And one of the governing principles in the integration of the bar is "maximum Bar autonomy with minimum supervision and regulation by the Supreme Court" (Report of the Commission on Bar Integration, quoted in the Resolution of this Court on Bar Integration, 69 O.G. 593, 49 SCRA 22, 25).

WHEREFORE, the petition is dismissed. The resolution of the IBP Board of Governors is affirmed. No costs.

SO ORDERED.

Fernando, C.J., Concepcion, Jr., Fernandez, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur. Barredo and Teehankee, JJ., on leave.

Makasiar, J., reserves his vote.

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