

MARCOS ALIDO, PETITIONER AND APPELLEE, VS. FAUSTINO ALAR (MUNICIPAL TREASURER OF BORONGAN, SAMAR), RESPONDENT AND APPELLANT.

G.R. No. L-16822. November 29, 1961

Ponente: PAREDES, J.

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PAREDES, J.:

In a petition for Mandamus filed by Marcos Alido with the CFI of Samar, asking that Faustino Alar, Municipal Treasurer of Borongan, Samar, be compelled to issue to him copies of Election Results (Comm. on Elections Form No. 8), as called for in the Instructions for Boards of Inspectors, the Court rendered judgment on the pleadings, the dispositive portion of which states:

"IN VIEW OF THE FOREGOING CONSIDERATIONS, the respondent or his successor is hereby ordered to furnish or issue to the petitioner within twenty-four (24) hours from receipt of this decision certified copies of C. E. Form No. 8, election results, corresponding to the forty-one (41) precincts of Borongan of the last general elections (Nov. 10, 1959), and to pay the costs."

Against this judgment the present appeal was interposed.

Petitioner Marcos Alido was one of the voted candidates for councilor for Borongan, Samar, in the November 10, 1959 Elections. The results of the Election in the 41 precincts were contained in Commission on Elections Form No. 8, which was required to be accomplished in the Instructions for Boards of Inspectors, and which form was submitted to the respondent Treasurer. It is claimed that the results (Form No. 8) are public and/or official documents which may be shown and/or released to the public upon demand; that notwithstanding repeated demands, both oral and written, made by petitioner upon the respondent, for the issuance of certified copies of the election results, as contained in the Commission on Elections Form No. 8, to him, respondent refused to do so; and that he has no other adequate, speedy and plain remedy in the ordinary course of law.

Respondent's Answer, aside from the customary admissions and denials, interposed the affirmative defense that "there is no provision in the Revised Election Code that makes it the duty of the Municipal Treasurer to issue a certificate or copies of certificates of election results of any candidate", and that the document was only intended by the Commission on Elections for specific purposes and that he was not empowered to issue certificates of said document, since it is only the Board of Inspectors in the respective precincts, which are bound to release a certificate, as to the number of votes received by any candidate, upon demand by said candidate or his watcher (Sec. 153, Election Code).

Upon the basis of the above facts, as contained in the respective pleadings of the parties, the decision on review was rendered.

In his appeal, respondent assigned a singular error: That the trial court erred in issuing the writ of mandamus.

We share the view of respondent-appellant. The writ of mandamus has no legal basis at all, in so far as the case at

bar is concerned. The petitioner has not shown any law which enjoins the respondent to issue the certificates he sought. Neither was he able to show (at least by his pleadings) that he has a clear right to be furnished with such certificates. The fact that he was a candidate for councilor did not, to our mind, entitle him to ask the certificate. No mention was made for what purpose petitioner was asking it. If it is for the purpose of showing any discrepancy or irregularity in the other documents connected with the election, it was premature, since it is alleged that no proclamation had then been made as to who was elected. No election protest was pending, wherein the petitioner would use said certificates. And even if there was such protest, the proper procedure would have been to ask the court to issue a sub-poena duces tecum for the production of said documents in court. The form in question, had been intended by the Commission on Elections for a specific purpose.

"Election Result (C. E. Form No. 8). In addition to the Election Return (Election Form No. 23) each board shall accomplish the Election Result for numbers of votes received by each candidate in the precinct. Only one copy of this form shall be prepared and shall be submitted by the board to the city/municipal treasurer. This form shall be used exclusively for the purpose of enabling the city/municipal treasurer to make an unofficial release to the public of the results of the election in each precinct and to wire the Commission on Elections through the provincial treasurer the complete official results of the election for senator in the city/municipality."

It would seem, therefore, that the said form is intended to be used for the purpose of enabling the municipal treasurer to make an unofficial release to the public of the results of the election in each precinct and to wire the Commission on Elections, through the provincial treasurer, the complete official results of the election for senator in the municipality. The main object of the directive is to facilitate the work of the Commission on Elections in promptly gathering advanced information as to the results of the election for senators in the Philippines, which is of general public concern and interest. It is true that the herein petitioner is a part of the public, and he has the right to know the results of the election in his municipality, but this fact alone does not entitle him, as a matter of right, to a certified copy thereof, in the absence of a specific provision of law to that effect. To allow any inhabitant of a municipality to come at any time to the municipal treasurer and demand certified copies of such documents in all the precincts (41 all told in the municipality in question), would be to burden unnecessarily the office of such official. The directive of the Commission did not have such an intention. To compel the respondent, by mandamus, to issue the certificates, would amount to imposing upon him something not covered by the instructions. Surely enough, this is not the province of mandamus. The right asserted must be clear and the duty enjoined must, in the same way, be clearly defined.

In order that mandamus will lie, "the duties to be enforced must be such as are clearly and peremptorily enjoined by law or by reason of official station (*Tabique vs. Duvall*, 16 Phil., 324).

Moreover, there are other remedies available to petitioner in which he may ask for the issuance of the certificate. Inasmuch as the form is a directive issued by the Commission on Elections, and of administrative character, a disobedience thereof should have been brought first to the attention of the said Commission, for appropriate action.

In view of all the foregoing, the decision appealed from is hereby reversed and another entered, finding that the petitioner-appellee is not entitled to the writ of mandamus. Case is, therefore, dismissed, with costs against petitioner Marcos Alido.

Bengzon, C. J., Padilla, Baustista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Dizon, and De Leon, JJ., concur.

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