

FELIX MEDENILLA, PETITIONER, VS. HONORABLE UNION C. KAYANAN, JUDGE OF THE COURT OF FIRST INSTANCE OF QUEZON, NINTH JUDICIAL DIS-TRICT BRANCH IV, LUCENA CITY, ANACLETO C. ALCALA,...

G.R. Nos. L-28448-49. July 30, 1971

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Petitioner Felix Medenilla instituted on December 23, 1967 this certiorari proceeding praying for the nullification of the order dated November 2, 1967 of the respondent Judge dismissing his two petitions for exclusion of voters and condemning the petitioner herein to reimburse private respondents the sum of P4,000.00 as attorney's fees as well as to pay the costs, and for an order directing the respondent Judge to receive evidence with respect to the petitions for exclusion of voters, with costs.

On October 21, 1967, herein petitioner filed two petitions for the exclusion of some 137 persons from the permanent list of voters in Precincts Nos. 10 and 11 of barrio Villa Reyes, San Narciso, Quezon, on the ground that said persons lack the required residence in the municipality, have not attained the legal age to vote and cannot read and write, the same grounds he invoked when he challenged the right of the said persons to register before the registration board, which rejected the challenge. Said petitions also allege that notice thereof was served on the election registration board and on the voters concerned setting the petition for hearing on November 2, 1967, accompanied by a sworn proof of notice of hearing to the effect that petitioner personally sent by registered mail copies of said petitions and notice of hearing to the respondents and that beginning October 22, 1967, he shall cause the posting of at least three copies of the petition in three conspicuous places in the municipality (Annexes A & B, pp. 7-12, rec.). Said two petitions were docketed as Election Cases Nos. C-03 and C-04 of the Court of First Instance of Quezon, Branch IV, presided over by the respondent Judge, Honorable Union C. Kayanan.

On October 31, 1967, herein private respondents Anacleto C. Alcala, Amparo S. Lavides, Godofredo Tan, Proceso de Cala, Dante Diamante and Aguinaldo Fontanilla, who were candidates in the November 14, 1967 election respectively for governor, vice-governor, provincial board members of Quezon province, and mayor of San Narciso, Quezon, as intervenors under paragraph (e) of section 123 of the Revised Election Code as amended, filed a motion to dismiss on the ground (1) that the petitions were not accompanied by the required proof of notice to the registration board and the challenged voters as the registry receipts and registry return cards were not attached to the petitions; (2) that the petitions failed to allege the jurisdictional facts, for omitting to specify which applications of voters were validated or approved on or before September 15, 1967, the petition for exclusion of such voters being required by Republic Act No. 5178 to be filed not later than September 30, 1967, and which applications were validated after September 15, 1967, the petition for exclusion of such voters being required by the said Republic Act No. 5178 to be filed not more than ten (10) days from the date of the publication of such validation in the bulletin board but not later than October 30, 1967; (3) that the petitions failed to specify the

grounds raised against each of the respondents; and (4) that the petitions violate the provision of Republic Act No. 5178 requiring that such petitions should be decided within seven (7) days counted from the date of the filing of such petition under Section 15 of Republic Act No. 3588 (pp. 13-19, rec.). The motion to dismiss likewise prays that the petitioner should be condemned to pay treble costs and other incidental expenses in connection with the proceedings.

On the scheduled date of hearing on November 2, 1967, herein private respondents filed a "rejoinder" (should be supplement) to their motion to dismiss, claiming that they were constrained by the petitions for exclusion filed by herein petitioner to pay P4,000.00 for the services of their counsel to protect their interest as well as the right of suffrage of the challenged voters who are poor tenants and farmers in barrio Villa Reyes, San Narciso, Quezon, considering that said petitions for exclusion imperilled the right of said voters to vote and the victory of the herein private respondents in the 1967 local elections; and that paragraph (d) of section 123 of the Revised Election Code authorizes the respondent Judge to condemn the culpable party to pay the costs and incidental expenses should it appear that the petitions were filed for the purpose of molesting the adverse party and causing him to incur expenses; and praying that the herein petitioner be directed to pay to herein private respondents as intervenors in the lower court the sum of P4,000.00 as indemnity for damages (Annex I, pp. 20-22, rec.).

At the hearing on November 2, 1967, counsel for petitioner, upon his motion, was given twenty-four (24) hours within which to file his opposition to the motion to dismiss and the "rejoinder" thereto (Annex I, p. 61, rec.); but a few hours later, said petitioner's counsel entered the respondent Judge's chamber and manifested that he chose not to file any opposition any more and submitted the cases for resolution without further argument (see Annex E, p. 24, rec.).

In an order dated November 2, 1967, respondent Judge sustained the position of herein private respondents as intervenors, dismissed the two petitions and directed herein petitioner to reimburse the intervenors the amount of P4,000.00 and to pay the costs.

Herein petitioner filed his motion for reconsideration dated November 29, 1967, which as he himself admitted, was twelve (12) days after he received the questioned order of November 2, 1967 dismissing the two petitions and directing him to reimburse the herein intervenors the amount of P4,000.00, on the ground that said order of November 2, 1967 was issued without the intervenors adducing evidence to support their claim and that adverse party referred to in paragraph (d) of section 123 of the Revised Election Code as entitled to reimbursement for incidental expenses are the challenged voters, and not the private respondents who are merely intervenors by reason of their being candidates in the 1967 local elections; and that the claim for P4,000.00 as indemnity for damages is within the exclusive jurisdiction of the municipal court and not within the jurisdiction of the respondent District Judge of the Court of First Instance (Annex F, pp. 27-29, rec.).

Intervenors through counsel filed their opposition dated December 1, 1967 to the aforementioned motion for reconsideration of herein petitioner, contending that:

- (1) Section 123(e) of the Revised Election Code as amended allows a candidate who may be affected by the proceeding to intervene and present his evidence;
- (2) the term "adverse party", as a consequence, in paragraph (d) of Section 123 of the Revised Election Code comprehends the intervenors, who had to intervene to protect their interests as candidates and those of the challenged voters, who actually voted for them in the election of 1967;
- (3) the respondent court, as an incident of its jurisdiction over an exclusion case, has wide discretion to grant damages pursuant to the expressed statutory authority therefor under paragraph (d) of section 123 of the Revised Election Code as amended, regardless of the amount actually claimed; and

(4) more than fifteen (15) days had already lapsed from the time herein petitioner was furnished copies of the decision of the respondent Judge dated November 2, 1967 and therefore said order of November 2, 1967 had already become final and executory (see Annex C, pp. 30-33, rec.).

Herein petitioner filed a supplemental petition for reconsideration dated December 4, 1967 stating among others that the seven-day period for decision of exclusion cases is directed to the court; that the seven-day period for decision should be counted from the submission of the case for decision as the law does not require that the period should be reckoned from the filing of the petition; that notice to the election registration board and the challenged voters of the hearing may be made by registered mail or if the same is not practicable, by posting a copy in a conspicuous place in the municipal building and in two other conspicuous places within the municipality at least ten (10) days prior to the date of hearing under paragraph (b) of Section 123 of the Revised Election Code as amended, which period of ten (10) days had not been repealed or reduced by Congress; that petitioner in making his notice of publication and certification under oath as to his having complied with the required notice merely followed paragraph (b) of Section 123 of the Revised Election Code as amended; that when the challenged voters failed to appear on the first day set for hearing the judge may postpone the hearing and may direct that notice thereof be effected in such manner and within such period of time as he may desire under paragraph (b) of Section 123 of the Revised Election Code as amended; that the right of any registered voter to challenge the qualifications of a prospective voter should not be discouraged; that attorney's fees are not included in the term "costs and incidental expenses"; that costs are not awarded in these cases; that there is no proof that petition was filed for the purpose of molesting the respondent voters sought to be excluded as evidence has never been taken by the respondent court in the proceeding; that attorney's fees under costs cannot exceed twenty pesos (P20.00) citing section 10 of Rule 132 of the Rules of Court; and that the order dismissing his exclusion petitions without hearing is a violation of his civil rights and his right of due process; and praying that the order dated November 2, 1967 be reconsidered and that the case be set for hearing for the reception of the evidence (Annex H, pp. 34-39, rec.).

In an order dated December 11, 1967, respondent Judge denied the motion for reconsideration for lack of merit and on the ground that the order of November 2, 1967 was already final and executory before the filing of the said motion for reconsideration (Annex III-3, p. 27, rec.) dated November 29, 1967, which was filed as admitted by petitioner twelve (12) days after his receipt of the order of November 2, 1967 (see par. 10 of instant petition, p. 5, rec.).

It likewise appears that in the local elections held on November 14, 1967, herein private respondent Pelagio Aguinaldo Fontanilla was proclaimed mayor-elect and his opponent Jesus Cortez, who lost by a margin of ninety-four (94) votes, filed an election protest against him docketed as Election Case No. C-09 before the Lucena City Court of First Instance on the ground, among others, that the protestee Pelagio Aguinaldo Fontanilla succeeded in registering approximately 356 persons, who are not residents of San Narciso, Quezon as voters in Precincts 10 and 11 of barrio Villa Reyes, San Narciso, Quezon (Annex IV, pp. 78-86, rec.).

I

Because 137 challenged voters were not excluded, they actually voted in the 1967 local elections for herein respondents Alcala, Lavides, Tan, de Gala, Diamante as well as for Aguinaldo Fontanilla, who were candidates respectively for provincial governor, vice-governor and provincial board members of Quezon province as well as for municipal mayor of San Narciso, Quezon. As aforesaid, Jesus Cortez, the losing candidate for municipal mayor, filed a protest against the election of respondent Aguinaldo Fontanilla claiming among others that three hundred fifty-six (356) disqualified voters illegally voted in Precincts 10 and 11 of barrio Villa Reyes, San Narciso, which number of voters ostensibly includes the one hundred thirty-seven (137) voters sought to be

excluded from the permanent list of voters for said Precincts 10 and 11 in the two petitions for exclusion filed by herein petitioner before the respondent Judge of the Court of First Instance, who dismissed such petitions which dismissal is now questioned by herein petitioner before Us. Consequently, the issue as to whether said one hundred thirty-seven (137) voters should be excluded from the permanent list of voters of Precincts 10 and 11 of barrio Villa Reyes, San Narciso, Quezon, has become moot and academic, as maintained by herein private respondents.

It has been held that the proclamation of a winning candidate renders moot and academic a mandamus suit filed by a candidate to compel the provincial board of canvassers to recount the votes in certain precincts on the ground that the election returns therefrom were prepared at gun-point, for his remedy is to file an election protest.[1] By analogy, the same principle should apply to the instant petition, by reason of the election and proclamation of respondent Aguinaldo Fontanilla as mayor of San Narciso, against whom an election protest was actually filed by the losing candidate.

Moreover, once a candidate is proclaimed elected, the law regards the permanent list of voters as conclusive with respect to the question as to who had the right to vote in said election (section 176(f), Revised Election Code as amended), without pre-judice to the criminal liability of the persons who voted despite their alleged lack of qualifications. Criminal prosecution of the one hundred thirty-seven (137) challenged voters was then available to herein petitioner within two years from the date of the commission of the offense (section 188, Revised Election Code, as amended).

II

As found by the respondent Judge, herein petitioner failed to prove that he actually sent by registered mail copies of the petitions and notices of hearing to the local registration boards and to each of the one hundred thirty-seven (137) challenged voters in Precincts 10 and 11 of barrio Villa Reyes, San Narciso, on October 21, 1967 when he filed the petitions or that he caused to be posted such petitions and such notices of hearing in the municipal building and in two other conspicuous places in the municipality of San Narciso; because he did not attach the corresponding registry receipts to the petitions he filed on October 21, 1967. Neither did he submit such registry receipts and the registry return cards or the affidavit of posting of the copies of the petitions and notices at the hearing on November 2, 1967, twelve (12) days after he filed the two petitions on October 21, 1967, to refute the absence of actual notice which was one of the grounds invoked by the intervenors in their motion to dismiss. Instead of submitting such registry receipts and registry return cards of affidavit of posting, petitioner submitted his petitions and the motions to dismiss for resolutions without argument, after abandoning his right to file an opposition to the motion to dismiss within twenty-four (24) hours from November 2, 1967 granted to him by the respondent Judge upon his own motion; nor did he submit evidences of actual receipt by the challenged voters of the copies of the petition and notice or of such posting when he filed on November 29, 1967 his motion for reconsideration of the order dated November 2, 1967- after the lapse of about thirty-seven (37) days from the filing of the two petitions for exclusion on October 21, 1967, which period is more than sufficient for the registry return cards to reach the hands of petitioner if he really sent on October 21, 1967 by registered mail copies of the petitions and notice of hearing.

Again petitioner failed to submit documentary proof of such receipt or posting, when he filed his supplemental petition for reconsideration dated December 4, 1967, about forty-two (42) days from October 21, 1967 when he filed his petitions for exclusion.

It is significant to note that petitioner's motion for reconsideration and supplemental motion for reconsideration respectively dated November 29 and December 4, 1967 did not allege that the challenged voters actually received

the copies of the petitions and notice of hearing or that the posting of such copies and notice was actually effected.

Petitioner was not even able to submit such documentary evidence at the oral argument on March 11, 1969 before US. It was only on March 15, 1969 -- over one year and four months from the filing of the petition on October 21, 1967 -- that herein petitioner submitted to this Court registry receipts on which appears stamped the date October 21, 1967 (see pp. 89-102, rec.). But until this very late date, herein petitioner has not submitted the best evidence of actual receipt by the challenged voters, namely the registry return cards, and not even evidence or affidavit of actual posting of the petition and notice of hearing. And the genuineness of the registry receipts is extremely doubtful; because if he had said receipts on October 21, 1967, he should have attached them to the petitions he filed or submitted them at the hearing on November 2, 1967.

All these requirements of due process for the Court to acquire jurisdiction over the subject matter of the petitions and over the persons of the challenged electors as well as the registration board, were not complied with by the petitioner, which non-compliance justified the finding of the respondent Judge that the petitioner filed the petitions solely to harass or molest the challenged voters and their candidates, the herein intervenors, which malicious intent became more manifest upon a consideration of certain geographical and physical facts.

Barrio Villa Reyes is about fifteen (15) kilometers from the poblacion of San Narciso which is about one hundred (100) kilometers from Lucena City where the respondent Judge holds court. There is no road connecting San Narciso and Lucena City. To reach Lucena City from San Narciso, one has to take a boat to the town of Tagkawayan which is about four hours by boat in fair weather from San Narciso, and then from Tagkawayan to Lucena City another five hours by express train or about seven hours by the regular train (p. 9 of Answer and p. 13 of Annex 2, pp. 53, 94, rec.). Mails from Lucena City to San Narciso are transported by boat. One can visualize the great difficulty of actually serving copies of the petitions and notice of hearing on the one hundred thirty-seven (137) challenged electors in barrio Villa Reyes, San Narciso, or even posting just three copies of such petitions and notice at least ten (10) days from October 21, 1967 to the hearing on November 2, 1967. It would be harder still and most expensive for the challenged electors, who are poor farmers and tenants, to be able to attend the hearing.

Without passing upon the question whether Republic Act No. 5178 requires that petitions for exclusion should be initially filed only in the municipal court, under section 11 of Republic Act No. 4730 amending Section 15 of Republic Act No. 3588, petitions for exclusions may be filed before the justice of the peace court or the court of first instance. Hence, as a matter of fairness to the one hundred thirty-seven (137) challenged voters, herein petitioner could have filed the two petitions for exclusion in the municipal court of San Narciso. Instead, he filed said petitions in the Court of First Instance in Lucena City which is remote and not easily accessible from barrio Villa Reyes, San Narciso, the residence of the challenged electors.

III

Respondent Judge had likewise cogent reasons in holding that the two petitions for exclusion failed to allege jurisdictional facts; because both petitions omitted to specify the challenged voters whose applications were validated or approved on or before September 15, 1967, and the date of the publication in the bulletin board of the challenged voters whose applications were validated after September 15, 1967, to enable the court to determine whether the petitions were filed on time, as the law enjoins that a petition for exclusion should be filed not later than September 30, 1967 against voters whose applications were approved on or before September 15, 1967, and within ten (10) days from the publication of such approval in the bulletin board but not later than October 30, 1967 against voters whose applications were approved after September 15, 1967 (sec. 1, R.A. No. 5178).

Had the petitioner specified in his two petitions for exclusion the dates of the approval and publication of such

approval of the applications for registration by the challenged voters, the court could have determined with facility whether the petitions were filed on time, so that the electors whose registration is being challenged beyond the period fixed by the law, will not be unduly harassed and exposed to the necessity of incurring expenses considering that, as alleged by herein private respondents, which is not denied by herein petitioner, the challenged voters are poor tenants and farmers in the distant barrio of Villa Reyes, San Narciso, about one hundred fifteen (115) kilometers from Lucena City, where respondent Judge sits. Such omission aggravates the malevolence of petitioner.

The respondent Judge, also had grounds in ruling that the petitions were defective for omitting to particularize the corresponding disqualifications raised against which specific voters. The petitions, shotgun-like, raised the same three grounds -- lack of residence, non-age, and illiteracy -- against all the one hundred thirty-seven (137) challenged voters. This circumstance likewise accentuates the mischievous intent of petitioner to unduly molest the challenged voters and their candidates, herein private respondents.

IV

Then, too, the respondent Judge was not without reason in concluding that the petitions violated Section 1 of Republic Act No. 5178, which directs that such petition for exclusion shall be decided within seven days from filing; because petitioner set the petitions for hearing on November 2, 1967, or twelve (12) days after they were filed. If a petitioner is allowed to fix any date of hearing, as argued by intervenors, petitioner could set the petition for hearing on the eve of or on Election Day, thus affording the Judge practically no time to hear and decide the petitions before the polls close.

Contrary to the contention of herein petitioner, paragraph (f) of Section 123 of the Revised Election Code as amended, provides that non-appearance of a challenged elector at the hearing is prima facie evidence only that the registered voter is fictitious, not that he is a non-resident or below age or illiterate, which are the three grounds of the two exclusion petitions filed by herein petitioner against the one hundred thirty-seven (137) challenged voters.

That the seven-day period for decision should be counted from the date of the filing of the petition, is supported by the previous statutory provisions on the matter, in view of the urgent character of such petitions for exclusion, so that the challenged elector, who is qualified, may not be disenfranchised. Thus, under paragraph (g) of Section 123 of the Revised Election Code as amended, such petitions shall be decided by the Judge of the Court of First Instance "within six hours after the hearing and within ten (10) days after the receipt at the office of the clerk of court." Under Section 15 of Republic Act No. 3588, such petitions "shall be decided within fifteen days after filing." The right of appeal as provided for in existing laws shall be available to any interested party. Section 11 of Republic Act No. 4730 amending Section 15 of Republic Act No. 3588 reiterates the same provision.

As above intimated, the primary reason why the period of decision has been shortened is precisely because of the exigent nature of petitions for exclusion to preserve the right of suffrage of the challenged but qualified elector who is merely being harassed by the petition for exclusion.

V

Because paragraph (3) of Section 123 of the Revised Election Code as amended authorizes any candidate "who may be affected by the proceedings" to intervene and present his evidence in exclusion cases, herein private respondents as candidates for provincial governor, vice-governor, members of the provincial board of Quezon province as well as mayor of San Narciso, should be comprehended within the purview of the term "adverse party" in paragraph (d) of said Section 123, who are entitled to an award of "costs and incidental expenses," when

the Judge is satisfied that the application for exclusion has been filed solely for the purpose of molesting the "adverse party" and causing him to incur expenses. Because of such authorization in paragraph (e) of Section 123, the petitioner herein expected such intervention from the candidates to protect the right of suffrage of the challenged voters, who are their sympathizers and who actually voted for herein private respondents as candidates in the 1967 local elections, and consequently to protect their own candidacies.

By reason of such intervention, herein petitioner also anticipated that the intervenors will inevitably incur expenses consisting of attorney's fees for their counsel, transportation, and food and lodging for the challenged voters, who are poor tenants and farmers, had they been duly notified of the petition in accordance with the procedure prescribed by paragraph (e) of Section 1 of Republic Act No. 5178 in relation to Section 123 of the Revised Election Code. It should be noted that the challenged voters number one hundred thirty-seven (137) and one could imagine the expenses for their transportation, board and lodging should all of them appear at the hearing by reason of the two petitions for their exclusion, since they will have to come all the way from their barrio Villa Reyes, San Narciso, about four hours by boat and about five or seven hours by express or regular train via Tagkawayan to Lucena City where the respondent Judge holds court. Fortunately for herein petitioner, because of his failure to actually serve copies of the petition and notice of hearing on the said one hundred thirty-seven (137) challenged electors or to cause the required posting thereof, the expenses of herein intervenors were minimized.

VI

Generally, attorney's fees are not recoverable as costs unless expressly provided by the law or imposed by the Judge as costs.[2]

Section 6 of Rule 142 of the Revised Rules of Court provides that "no attorney's fees shall be passed as costs against the adverse party, except as provided by the Rules of Civil Law. xx xx."

Before the adoption of the new Civil Code, the uniform jurisprudence was to the effect that attorney's fees are not proper elements of damages and it was not a sound policy to place a penalty on the right to litigate, unless there is an expressed stipulation to that effect.[3]

Article 2208 of the new Civil Code authorizes attorney's fees in eleven (11) exceptional cases, among which are (1) in a case of clearly unfounded civil action or proceeding and (2) when the court deems it just and equitable to award attorney's fees and expenses of litigation.[4]

As above demonstrated, the respondent Judge found, from the failure of herein petitioner to submit proof of actual service of copies of the petitions and notice of hearing on the challenged voters and the registration board of San Narciso, that herein petitioner instituted the two exclusion petitions for the sole purpose of molesting the challenged voters and herein intervenors and causing them to incur expenses, considering that the challenged electors come from a remote and not easily accessible barrio about one hundred fifteen (115) kilometers from Lucena City.

However, it is required that there is need of proof as to the amount of damages for attorney's fees.[5] And Article 2208 of the Civil Code enjoins that in "all cases, the attorney's fees and expenses of litigation must be reasonable."

To determine the amount of attorney's fees, the following factors should be considered: (1) amount and character of the services rendered; (2) labor, time and trouble involved; (3) nature and importance of the litigation or business for which services are rendered; (4) responsibility imposed; (5) amount of money or value of property affected by the controversy; (6) skill and experience called for in the performance of the services; (7) professional

character and social standing of the attorney; (8) results secured; and (9) whether or not the fee is absolute or contingent[6] -always subject to the principle that the award of attorney's fees and expenses of litigation rest with the discretion of the court,[7] which may decree the same whenever it deems it just and equitable. This discretion may be exercised by the appellate court even when the trial court did not provide for attorney's fees and no appeal was interposed on this score before the appellate tribunal.[8]

While it is true that there was no proof of the amount of attorney's fees actually paid or to be paid by herein private respondents as intervenors in these two exclusion cases involving one hundred thirty-seven (137) registered electors, the fact that herein private respondents prayed for attorney's fees in their "rejoinder" to their motion to dismiss shows that the services of counsel of herein private respondents were rendered not gratis et amore. Considering the aforementioned factors enumerated in the case of *Umipig, supra*, we believe that herein private respondents have the right to recover attorney's fees in the reasonable amount of Five Hundred Pesos (P500.00) as well as costs.

WHEREFORE, the petitioner is hereby directed to pay herein private respondents attorney's fees in the amount of Five Hundred Pesos (P500.00). Thus modified, the order dated November 2, 1967 of the respondent Judge is hereby affirmed in all other respects. With costs against petitioner.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Fernando, and Villamor, JJ., concur.
Teahankee and Barredo, JJ., in the result.
Dizon and Ruiz Castro, JJ., did not take part.

[1] *Castillo vs. Prov. Board of Canvassers*, L-22765 & L-24038, Jan. 30, 1965.

[2] *Belamino, et. al. vs. Alihan*, 56 O.G. 6935; *Montero vs. Guerrero*, L-12579, June 30, 1960.

[3] *Reyes, et. al. vs. Yatco*, 100 Phil. 964; *Koster, Inc. vs. Zulueta*, 99 Phil. 945; *Barreto vs. Arevalo, et. al.*, 99 Phil. 771.

[4] *Heirs of Justiva vs. Gustilo*, L-16396, Jan. 31, 1963; *Reyes, et.al. vs. Yatco, supra*; *Koster, Inc. vs. Zulueta, supra*; *Barreto vs. Arevalo, et. al., supra*; *Firestone, etc. vs. Chavez & Co., Ltd., et, al.*, 64 O.G. 1758; *Castueras vs. Bayona*, L-13657, Oct. 16, 1959; *Eastboard vs. Ysmael & Co., Inc.*, 102 Phil. 102; *Chuy vs. Phil. Am. Life*, 95 Phil. 282.

[5] *Warner, Barnes, & Co., Ltd. vs. Luzon Surety*, 95 Phil. 924.

[6] *Umipig, et. al. vs. Degala, et. al.*, 96 Phil. 77.

[7] *Guitarte vs. Sabato, et. al.*, 107 Phil. 437.

[8] *Fores vs. Miranda*, 105 Phil. 266.

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