

TIMOTEO CACHOLA, PETITIONER, VS. ANDRES CORDERO, ET AL., RESPONDENTS.

G. R. No. L-5780. February 28, 1953

Ponente: PARAS, C.J.

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PARAS, C.J.:

This is a petition originally instituted in this Court for the purpose of compelling the respondent Judge of the Court of First Instance of Ilocos Sur to dismiss the election protest (Civil Case No. 1024) filed by the respondent, Andres Cordero, against the petitioner, Timoteo Cachola, on the ground that the respondent Judge had failed to decide said case within six months after its presentation on November 28, 1951, the motion to dismiss having been filed by the petitioner on June 2, 1952.

The protest involves the position of municipal mayor. Section 177 of the Revised Election Code provides that "the court shall decide the protest within six months after it is presented in case of a municipal office." The petitioner contends that this provision is mandatory, there-by leaving the respondent Judge with no alternative except to dismiss the protest in accordance with petitioner's motion filed on June 2, 1952, or six months and five days after the filing of Civil Case No. 1024.

In the case of *Querubin vs. Court of Appeals, et al.*,[*] (46 Off. Gaz., 1554), the latest on the point (decided on December 2, 1948), we held that section 177 of the Revised Election Code is directory in nature. The following observations are controlling:

"The provision of section 178 of the Revised Election Code, that the appeal in election contests be decided 'within three months after the filing of the case in the office of the clerk of the court to which the appeal has been taken', the same as the provision in section 177 of the same code inquiring that the trial court shall decide a protest within six months or one year from its filing when contesting a municipal or a provincial office, is directory in nature. The purpose of the law in sections 177 and 178 of the Revised Election Code is to impress the need of speedy disposal of election contests, as imperatively demanded by public interest. The terms of office of elective positions are short. Any cloud as to the true result of an election should be dispelled as soon as possible.

"Public faith, confidence and cooperation, essential to the success of government, are jeopardized by controversies as to who have been actually chosen by the electorate. These controversies should be settled as soon as possible. Doubts as to the true expression of the will of the people in polls should be cleared out without delay. The legislative policy, as embodied in sections 177 and 178 of the Revised Election Code, of hastening the administration of justice in election contests, is aimed at making more effective the constitutional principle that sovereignty resides in the people. The lapse of the period of time provided for in said sections should not have the effect of defeating the purposes of the system of judicial settlement of protests.

"To dismiss an election contest or the appeal taken therein because the respective courts, regardless of cause or reason, have failed to render final decisions within the time limits of said sections, is to defeat the administration of justice upon factors beyond the control of the parties. That would defeat the purposes of the

due process of law and would make of the administration of justice in election contests an aleatory process where the litigants, irrespective of the merits of their respective claims, will be gambling for a deadline. The dismissal in such case will constitute a miscarriage of justice. The speedy trial required by the law would be turned into a denial of justice." (46 Off. Gaz., pp. 1556-1557.)

In the case at bar we are not prepared to hold that the delay in the termination of the protest was due to wilful dilatory maneuvers of either the protestant or the protestee. It is true that the protestant (respondent Cordero) filed motions for continuance which were granted by the respondent Judge, but the first was without objection on the part of the protestee (petitioner Cachola) and the second was with the latter's conformity. Upon the other hand, the respondent Judge also postponed the hearings to as late as May 21 and 28, 1952, upon petition of the protestee and even over the objection of the protestant. Besides, some delay was caused by the time consumed by the commissioners in revising the ballots and by the fact that, when the trial was resumed on May 28, 1952, the respondent judge had to continue it to June 2, 1952, because of an order from the Department of Justice transferring the Judge to Laoag, Ilocos Norte. By and large, we are inclined to hold that the protest was not disposed of by the respondent Judge within the statutory period of six months due to justifiable causes. To dismiss the suit as prayed for by the petitioner would thus "defeat the purposes of the due process of law and would make of the administration of justice in election contests an aleatory process where the litigants, irrespective of the merits of their respective claims, will be gambling for a deadline." It is not amiss to point out that, notwithstanding the ruling in the Querubin case, the lawmakers have so far not seen fit to amend the law so as to impose upon the court, in an unequivocal way, the mandatory or automatic duty to dismiss a protest not decided within the fixed period.

Section 177 of the Revised Election Code, while, directory in nature, of course enjoins the court to speed up the termination of election contests, and urges the parties to cooperate in this direction. The law, consistent with public interest, authorizes the court to dismiss a protest that drags on beyond the statutory period where either of the parties, or both, may be shown to be guilty of bad faith, with a design to frustrate the purposes of the law and the just administration of justice.

Wherefore, the petition will be as it is hereby dismissed, without costs. So ordered.

Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, Jugo, Bautista Angelo, and Labrador, J.J., concur.

[*] 82 Phil., 227.

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