

HADJI TAHER COROCORO, PETITIONER, VS. HADJI SINAL BASCARA, RESPONDENT.

G.R. No. L-19083. November 22, 1963

Ponente: DIZON, J.

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DIZON, J.:

Appeal by certiorari taken by Hadji Taher Corocoro, petitioner, from the decision of the Court of Appeals reversing that of the Court of First Instance of Lanao del Sur, and declaring Hadji Sinal Bascara, herein respondent, duly elected mayor of the Municipal District of Poonabayabao of said province.

Petitioner and respondent were, among others, candidates for mayor for the above-mentioned municipal district in the general election of 1959. After the canvass had been made, the Board of Canvassers found that petitioner had received 170 votes as against respondent's 196, and accordingly proclaimed the latter mayor-elect.

Petitioner filed the corresponding protest in the Court of First Instance of Lanao del Sur, impugning the election results in Precinct Nos. 2 and 4. After trial, said Court rendered judgment declaring petitioner duly elected mayor with a plurality of 12 votes over respondent. The latter appealed with the result stated heretofore.

Petitioner contends that the Court of Appeals erred (a) in adjudicating to the respondent the 30 votes marked as Exhibits C-5 to C-8; C-15 to C-17; C-20; C-23 to C-25; C-27; C-39; K; K-3; K-6; K-8; K-11 to K-12; K-16 to K-17; K-22 to K-23; K-27; K-29; K-33; K-37; and K-40, thereby contravening the provisions of paragraphs 2, 9, 13, and 15, Section 149 of the Revised Election Code, and (b) in admitting evidence aliunde to determine the intention of the voters who cast the questioned ballots.

The portions of the appealed decision material and pertinent to the questions thus raised read as follows:

"3. First to confront us is a batch of some 30 ballots on the space for mayor of which, as found by the trial court and admitted by the parties, the following appears:

Exhibit No.

Name Written

C-5

—Madaba

C-6

—Madamba

C-7

—Madamba

C-8

—Madamba

C-14

—Madamba

C-15

—Madum

C-16

—Madamba

C-17

—Madamba

C-20

—Madamba Macadidang

C-23

—Madaba

C-24

—Madama

C-25

—Madamba

C-27

—Madaba

C-39

—Madaba

K

—Madamba

K-3

—Madab

K-6

—Madamba

K-8

—Madum

K-11

—Madaba

K-12

—Madaba

K-16

—Madaba

K-17

—Madaba

K-22

—Madamba

K-23

—Madamba

K-27

—Madamba

K-29

—Madamba

K-33

—Madaba

K-35

—Madab

K-37

—Madamba

K-40

—Madamba

"Literally or upon the familiar rule of idem sonans, the name written on the space for mayor in the foregoing ballots is 'Madamba'. But, the trial court declared them as invalid votes for protestee.

"Protestee's position, however, is that said ballots should be counted as valid votes for him upon the ground that although his certificate of candidacy carried his name as Hadji Sinai Bascara, he is nevertheless known likewise by the name 'Madamba'. Upon the other hand, protestant challenged said ballots because the word 'Madamba' is neither a derivative nor a contraction of, or idem sonans with, protestee's given name.

"The evidence is overwhelming in that protestee, who was born in Poonabayabao, is known in that municipal district by the name Madamba. However, after his pilgrimage to Mecca, he was given the additional religious name 'Hadji Sinai Bascara', so that actually his full name is 'Madamba Bascara Hadji Sinal'. In all his dealings with the government, he was known as such 'Madamba'. Proof of this are his 1958 residence tax certificate, his tax clearance, his firearm license and the receipts for fees paid therefore, and the receipts for real estate taxes paid by him for a number of years. Not only that. In the militia forces during the guerilla days, protestee was registered as a lieutenant under the name 'Madamba'.

"Protestee's certificate of candidacy, it is true, did not carry the word 'Madamba' as part of his name. On November 2, 1959, however, he filed with the Commission on Elections an urgent petition for an order directing the counting in his favor of any votes for Sultan Madamba or Madamba. This move was denied by the Commission on Elections because the same involves the appreciation of ballots over which the tribunal had no jurisdiction. Protestee's efforts at reconsideration of said denial proved unavailing.

"Then, on the day preceding the election, the mayoralty candidates in Poonabayabao met with the members of the boards of inspectors. Protestee then proposed that the name 'Madamba' if written on the corresponding space for mayor be considered in his favor, as all those present knew him to be Madamba. The candidates—protestant included—agreed and signed a document, Exhibit 5, prepared by the principal teacher, clause 4 of which provides '4. That in the appreciation of the ballots the name Madamba will be counted in favor of Candidate Hadji Sinai Bascara since he has always been called by that name.'

"In a nutshell, the question is whether or not the 'Madamba' votes should be counted for protestee.

"Suffrage, in the words of the Supreme Court in *Perez vs. Suller*, 69 Phil., 196, 204, is 'the means by which the great reservoir of power must be emptied into the receptacular agencies wrought by the people through their Constitution'. With the recognition that the enfranchized citizen is 'a particle of popular sovereignty' and the 'ultimate source of the established authority' the Court there warned that the Judiciary, when called upon to act in justifiable cases, must give the voice of the electorate efficacy and not stifle or frustrate it (*id.*). Courts are accordingly enjoined to discharge this mandate with reasonable liberality to the end that the freest possible expression of the will of the voter be attained. *Pujol vs. Estrella*, CA-G.R. No. 18723-R, August 30, 1957.

"After all, the identification of the person voted for is the object of appreciation of ballots. Technical rules should never be allowed to stand as a roadblock astride the route to the discovery of the voter's intent.

"The record overwhelmingly shows that protestee is popularly known in Poonabayabao by the name 'Madamba'. One voter testified that he did cast his vote in protestee's favor by using the name aforesaid because that was the name familiar to him. Even protestee's rivals, in writing, conceded that mayoralty votes written 'Madamba' should be counted in his favor.

"Indeed, if the mere nicknames of a candidate is acceptable as a valid vote for him, a fortiori ballot bearing his actual name—one by which he is known in the community—cannot be treated with lesser solicitude. Here, so many voted the name Madamba. The intention to vote for protestee appears clearly discernible. The intention should be given effect.

"In fine, we rule that the thirty (30) ballots above enumerated should be as they are hereby declared valid votes for protestee."

Relative to the statement contained in the appealed decision to the effect that even respondent's rivals had conceded in writing that votes cast for "Madamba" should be counted in his favor, it appears that, a day before the election, the candidates for mayor, vice-mayor, and councilors of Poonabayabao had a meeting with the members of the boards of election inspectors. In said meeting respondent proposed that, as every one knew that "Madamba" was his real name, ballots containing this name on the space for mayor should be counted in his favor. Result of this was the written agreement now in the record as Exhibit 5 whereby the candidates for mayor (including petitioner), vice-mayor, and councilors expressly agreed to respondent's proposition. As petitioner signed this agreement freely and voluntarily, we do not see how he can now validly assail the rulings under consideration. We therefore find that the Court of Appeals committed no error in admitting the 30 questioned ballots.

Wherefore, the appealed decision is affirmed, with costs.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepción, Reyes, J.B.L., Barrera, Paredes, Regala, and Makalintal, JJ., concur.

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