

**GAUDIOSO M. TIONGCO, PROTESTANT AND APPELLANT, VS.
CARMELO, L. PORRAS, PROTESTEE AND APPELLEE.***G.R. No. L-16452. October 31, 1963*

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/796ccc6b44c2/>**BAUTISTA ANGELO, J.:**

Gaudioso M. Tiongco and Carmelo L. Porras were both candidates for the office of Mayor of Davao City in the November 1955 elections. On the 21st of said month, the Davao City Board of Canvassers proclaimed Porras as Mayor-Elect, having received 15,462 votes as against 13,398 votes for Tiongco. In due time, Tiongco filed an election protest against Porras with the Court of First Instance of Davao (Case No. 79), alleging that fraud, irregularities, terrorism and other illegal acts were committed in approximately 200 precincts. Porras filed his answer denying protestant's material allegations, with a counter claim for damages and attorney's fees, and a counter-protest alleging irregularities and anomalies in the appreciation of ballots in 41 precincts. Protestants filed a bond in the amount of P10,000.00 to answer for all expenses and costs incidental to his protest, while protestee was required to file a bond in the amount of P2,000.00 for the same purpose in connection with his counter-protest.

To facilitate the examination and recounting of ballots in the protested precincts, the court appoints eight teams of commissioners, each composed of three: one for the protestant, one for the protestee and one for the court, with a compensation of P5.00 per ballot box for each commissioner representing the protestant, and P10.00 for each of the commissioners representing the court and the protestee. With regards to the counter-protested ballot boxes, all the commissioner received from protestee the amount P10.00 per precinct, or the total sum of P1,230.00 for the 41 contested precincts.

After a delay of more than two years in the trial of the case due to numerous motions for postponements filed by the protestant, the court, on April 15, 1958, issued the following order:

"WHEREFORE, the Court finding the opposition to the motion for transfer well taken, hereby orders the dismissal of the above-entitled case, as well as the counter-protest, with costs against the protestant. Upon petition of counsel for the protestee, the request of the protestee to file a separate civil suit for damages against the protestant is hereby granted."

On June 18, 1958, the protestee filed a bill of costs and expenses with the Clerk of Court, as follows:

1.

For the answer

P 8.00

2.

For the attendance of attorney

10.00

3.

For the attendance of 10 witnesses for 25 days of trial at the rate of P1.00 each day

250.00

4.

For the payment of premium of bond of P2,000 filed by the protestee at the rate of P60.00 a year for three years

180.00

5.

For commissioner's fees paid by the protestee as per Order dated May 12, 1957

1,230.00

Total

P1,678.00

Despite protestant's opposition thereto, the Clerk of Court approved the aforesaid bill. This was affirmed by the court in its order dated February 13, 1959, the present being an appeal therefrom.

Appellant contents that there is no law or rule of court authorizing the award as costs of the amount of P1,230.00 paid to the commissioners and of the amount of P180.00 paid as premium on the bond posted by the protestee in connection with his counter protest. This contention is without merit. Section 180 of the Revised Election Code provides that before a component court may take cognizance of an election protest, the protestant shall file a bond, with two sufficient sureties and for such amount as the Court may fix, to answer for the payment of all expenses and costs incidental to the protest. Undoubtedly, the fees paid to the commissioners who revised the ballots cast in the precincts protested by appellant is an expense incidental to his protest. The allegations made in his pleading made inevitable the opening of the ballot boxes of the contested precincts and the revision of their contents by the commissioners appointed for the purpose. Under the law and the order of dismissal quoted heretofore, his liability therefore appears clear.

With respect to the fees of the commissioners who revised the ballots of the precincts covered by appellee's counter-protest, we likewise believe that appellant is liable.

The counter-protest was forced upon appellee by appellant's protest. Had the latter not filed any protest, there would have been no counter-protest. The latter not filed any protest. Consequently, the expenses incurred in connection therewith arouse from and may be deemed to be mere incident of appellant's protest.

Wherefore, finding the order appealed from to be in accordance with law, the same is hereby affirmed, with costs.

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

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.