

BATO ALI, PETITIONER VS. THE COURT OF FIRST INSTANCE OF LANA O AND NATANCOP INDOL, RESPONDENTS.

G.R. No. L-1888. March 23, 1948

Ponente: TUASON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/8084c4213da3/>

TUASON, J.:

These two motions of protest being companion cases and raising the same issues will be discussed and disposed of jointly. They present the identical question of the sufficiency of the allegations in the motions of protest to bring these under the jurisdiction of the court.

In case No. L-1888, the pertinent part of the motion of protest, copied verbatim, is as follows:

"That the Protestant and the Protestee are candidates for the Office of Municipal Mayor of the Municipality of Dansalan, Province of Lanao, in the last election on November 11, 1947;

"That on November 21, 1947, the Municipal Board of Canvassers of the Municipality of Dansalan, proclaimed the Protestee as the winner with a total number of two thousand two hundred sixty six (2,266) votes and the Protestant placed second with a total of one thousand nine hundred seventy six (1,976) votes."

The motion of protest in case No. L-1889 is couched in the same terms except that the municipality where the election was held is Malabang; the date of the proclamation by the municipal board of canvassers was November 15, and the numbers of votes said to have been polled by the protestant and the protestee are 610 and 558 respectively.

The protestees each filed a motion to dismiss and on denial of their motions instituted the present petitions to prohibit the respondent judge from proceeding with the trial of the protests on the merits.

The ground of the motions to dismiss was that the complaint does not allege that the protestant was a candidate voted for and "presented a certificate of candidacy."

In a long line of decisions both of this Court and of American courts, it has been uniformly held that courts of special and limited jurisdiction, as are the courts of first instance in election contests, do not acquire jurisdiction unless the jurisdictional facts are shown. *Tengco vs. Jocson*, 43 Phil. 750, is the Philippine leading case on the subject, and the principal case relied upon in the motions to dismiss.

We do not believe that decision and others cited support the petitioners. The allegation that the protestants were "placed second" in the voting more than suffices, in our judgment, to sustain the court's jurisdiction on the first point. The idea that the protestants were voted for is the clear import of such allegation. Stated otherwise, this allegation is a literal equivalent of the averment that each protestant was voted for. As this Court has put it, "No stretch of the imagination is needed to understand that when it is said that the contestants obtained a certain number of votes it means that they were voted for; how could they have obtained any votes if they have not been voted for? May the Board of Inspectors or the Municipal Board of Canvassers adjudicate votes to a person who did not obtain them in the election? May the Board adjudicate votes to a person who has not filed a certificate of

candidacy? Section 464 of the law itself answers, No." (Anis vs. Contreras, 55 Phil. 924.)

The other requisite jurisdictional fact that the protestant, in the language of Section 174 of the Revised Election Code, "presented a certificate of candidacy" is also apparent on the motions of protest. Although there is no direct averment to the effect that the protestants filed a certificate of candidacy, yet that is the necessary consequence and the explicit meaning of the averment that they were candidates and were each credited by the board of canvassers with a number of votes only lower to that received by the protestee. As the board of inspectors or the board of canvassers may not adjudicate votes to a person who has not filed a certificate of candidacy, (Anis vs. Contreras, ante), the reader is made to understand that the protestants filed such certificate, when they claim that they were candidates and that, according to the returns and the proclamation, the second highest number of votes was cast in their favor. Quite apart from this, the legal presumption that the protestants filed a certificate of candidacy springs from the averment that their names were included in the list of candidates, for such inclusion would not have been made had certificates of candidacy not been submitted. (Anis vs. Contreras, ante.)

To confer jurisdiction to a court of special and limited jurisdiction it is not necessary that jurisdictional facts be recited in precise and technical form, although that may be the better practice in proper cases. When, from the allegations of the pleadings, taken together, the matters required to be averred may be gathered, the court will entertain jurisdiction. It is enough that all the essential facts be substantially alleged, alleged in such a way as to enable the adverse party properly to plead.

As we have indicated, this is not a departure from the doctrine laid down in Tengco vs. Jocson, ante, and other cases cited. The Tengco-Jocson decision itself merely says that the jurisdictional facts should appear on the face of the proceedings, not that the sacramental words of the statute should be reproduced.

It cannot be too often emphasized that pleadings must be liberally and sensibly construed "in order not to nullify the rights of the parties." (Anis vs. Contreras, ante.) It has been frequently decided, and it may be stated as a general rule recognized by all courts, that statutes providing for election contests are to be liberally construed, to the end that the will of the people in the choice of public officers may not be defeated by merely technical objections. To that end immaterial defects in pleadings should be disregarded and necessary and proper amendments should be allowed as promptly as possible. Heyfrom vs. Mahoney, 18 Am. St. Rep. 757, 763; McCrary on Elections, 3rd Ed. Sec. 396. (Galang v. Miranda, 35 Phil. 269.)

Upon the foregoing considerations, the petitions are denied with the costs of their respective cases charged against the petitioners.

Moran, C.J., Paras, Feria, and Hilado, JJ., concur.

CONCURRING

PERFECTO, J.:

We concur in the majority decision as penned by Mr. Justice Tuason, but we cannot agree with the pronouncement made therein that the decision is not a departure from the doctrine first laid down in Tengco vs. Jocson, 43 Phil. 750, and followed in Tiola vs. Court of First Instance of Camarines Sur, 47 Phil. 849, and in a long line of decisions of this Supreme Court.

We are of opinion that the Tengco doctrine has become obsolete, as we have already explained in our opinion in the election protest of Sanidad vs. Vera, decided by the Senate Electoral Tribunal. The statement in the majority decision notwithstanding, there should not be any dispute anymore that the decision has given the final blow by

which the Tengco doctrine shall join the forgettable or unforgettable errors and blunders interred in the mausoleum of sad memories. The numerous cases of injustice committed under said doctrine, where the sovereign will of the people has been defeated, immolated in the altar of a wrong technicality, we hope, shall forever remain as a living and tangible lesson for tribunals never to sacrifice again substantial justice to conventional, controversial and fleeting matters of form.

That the Tengco doctrine has been definitely wiped out as a blocking stone in the administration of justice can be clearly gathered from the dissenting opinion of Mr. Justice Pablo. Said doctrine is absolutely incompatible with the following unconditional quotation, made at the end of the decision, which is expressive of Judicial wisdom:

"It has been frequently decided, and it may be stated as a general rule recognized by all courts, that statutes providing for election contests are to be literally construed, to the end that the will of the people in the choice of public officers may not be defeated by merely technical objections. To that end the material defects in pleadings should be disregarded and necessary and proper amendments should be allowed as promptly as possible."

The final purpose of an election contest is to determine the true choice of the people. The candidates elected by the majority, if deprived of their election through fraud or illegal maneuvers and manipulations, are entitled to relief and protection. They should not be allowed to be replaced by the candidates who have been defeated. Clean elections are indispensable in a true democracy. In no case is the duty of tribunals to dispense with mere technicalities so as to render substantial justice more imperative than in election contests where the general interest of the people is paramount. The interests of the candidates or of the parties supporting them are secondary. Although it is important that the winning party should not be deprived of the fruits of its triumph at the polls, it is still more important that the people should be ruled only by the officials they elected and not by intruders or impostors.

BRIONES, M., conforme:

A las razones expresadas en la ponencia me permito añadir la siguiente:

De las alegaciones planteadas en el escrito de protesta resulta establecida una presunción si bien *juris tantum*; la de que el protestante en cada caso había presentado un certificado de candidatura, pues de otra manera las juntas de inspectores de los diferentes precintos no le hubiesen adjudicado la totalidad de votos especificada en el acta de proclamación expedida por las juntas de escrutinio, conforme se alega en la protesta. Suponiendo que posteriormente en el curso de la vista se probase que, en realidad, no se había presentado ningún certificado a tenor de lo que categóricamente dispone la ley electoral, todavía el protestado podría volver a suscitar la cuestión y pedir el sobreseimiento inmediato de la protesta por el defecto esencial e incurable de la falta de certificado de candidatura.

PABLO, M.,concurrente y disidente:

Se trata de dos recursos de avocación (prohibition) en que se pide que este Tribunal ordene al Juzgado recurrido que desista de continuar conociendo de las dos protestas electorales Nos. 69 y 73 del Juzgado de Primera Instancia de Lanao. El recurrido en cada caso sostiene que la falta de alegación en la moción de protesta de que el protestante ha sido "candidato votado" y que "ha presentado su certificado de candidatura" no confirió jurisdicción al Juzgado recurrido para conocer de la protesta.

El artículo 174 del Código Electoral Revisado (Ley No. 180 de la República) dispone:

"La protesta contra la eleccion de un funcionario provincial o municipal electo debera presentarse al Juzgado de Primera Instancia de la provincia por cualquier candidato votado en dicha eleccion y que haya presentado certificado de candidatura, dentro de las dos semanas siguientes a la proclamacion del resultado de la eleccion."

Segun esta disposicion, dos hechos jurisdiccionales deben ser alegados en el escrito de protesta: (1) que el protestante es "candidato votado" y (2) "que ha presentado su certificado de candidatura". No hay controversia sobre el plazo dentro del cual se presentaron las protestas.

Es esencial la primera alegacion porque si nadie voto por 61, que derecho tiene para reclamar el cargo en las dos protestas, no hay alegacion de que el protestado ha sido votado; pero en la primera se alega que la junta municipal de escrutinio de Malabang proclamo al protestado como vencedor con 610 votos y al protestante, ocupando el segundo lugar, con 558 votos; y en la segunda la junta municipal de escrutinio de Dansalan proclamo al protestado vencedor con 2,266 votos y al protestante, ocupando el segundo lugar, con un total de 1976 votos. La afirmacion de que los protestantes en las dos causas nan recibido y 1976 votos respectivamente es equivalente a la de que han sido votados por 558 y 1976 electores. No hay diferencia sustancial en las dos expresiones. Ser votado por 558 electores y recibir 558 votos son completamente iguales en significado. Por eso concurrimos con la mayoria en cuanto a este punto.

En cuanto al segundo, disentimos de la opinion de la mayoria. La falta de alegacion de que "el protestante ha presentado su certificado de candidatura" es fatal, no confirio jurisdiccion al Juzgado para conocer de la protesta. El articulo ya copiado dice claramente que la protesta contra la eleccion de un funcionario provincial o municipal sere protestado por cualquier candidato votado (o que haya recibido votos) y "que haya presentado su certificado de candidatura." La presentacion de certificado de candidatura es hecho jurisdiccional que debe ser alegada, y esa es la doctrina de este Tribunal en una larga serie de decisiones. En la causa de Tengco contra Jocson, 3 Jur. Fil., 78, este Tribunal dijo:

"En vista de todas las decisiones que anteceden, debemos concluir que si de los terminos de la mocion de protesta no resulta que la ha presentado un "candidato registrado votado", el juzgado de primera instancia no adquiere competencia para ver y fallar la solicitud o mocion."

En la causa de Viola contra Juzgado de Primera Instancia de Camarines Sur, 7 Jur. Fil., 895 este Tribunal dijo:

"Si bien los juzgados de primera instancia son tribunales superiores de jurisdiccion general, al conocer de asuntos de protesta electoral ejercen jurisdiccion especial conferida por una ley especial (Art.Codigo Administrativo, tal como ha sido enmendado por el articulo de la Ley No. 330 y por el articulo 25 de la Ley No. 3210), bajo ciertas y determinadas condiciones sobre las cuales estan las siguientes, a saber: Primera, que la protesta se haga "a instancia de eualquier candidato registrado votado"; segunda, "que la protesta se presente al juzgado dentro de dos semanas despuds de la proclamacion." Del cumplimiento de estas condiciones depende el ejefcicio de la facultad especial conferida por la Ley Electoral a los juzgados de primera instancia para conocer de protestas electorales."

En la causa de Tabada contra Zanduetta y Vergara, 47 Jur. Fil., 906, este Tribunal declaro:

"La jurisdiccion sobre la persona de las partes la adquiere el juzgado por invocacion del demandante del ejercicio de sus faeultades y de su ayuda para obligar al demandado a darle lo que es suyo bajo la ley, y por emplazamiento o sumision voluntaria del demandado (15 C. J., 798). La jurisdiccion, bien sea general, bien sea especial, sobre la materia litigiosa se confiere por la ley o la Constitucion, y nunca se adquiere ni por convenio ni por sumision de las partes. El requisito de que la protesta electoral se presente "por un candidato registrado y votado" se refiere tanto a la capacidad para inlciar una protesta electoral, como a la jurisdiccion del juzgado para conocer de dicha protesta y fallarla, sin este requisito ningun candidato puede presentar ninguna protesta,

ni ningun juez conocer de la misma. Como quiera que los juzgados de primera instancia, en el conocimiento de protestas electorales, ejercen jurisdiccion especial y limitada (Tengco contra tiocson, 3 Jur. Fil., 78; Palisoc contra Tamondong y Medina Cu, 3 Jur. Fil., 827; Viola contra Juzgado de Primera Instancia de Camarines Sur, y Adolfo, pg. 895; ante), no pueden conocer de una protesta electoral a menos que en el escrito se aleguen los hechos de que depende el ejercicio de dicha racultaa y siendo el hecho de ser el protestante un andidato votado uno de esos requisios esenciales, debe alegarse en el escrito de protesta para que el juzgado pueda detorminar si ha adquirido o no jurisdiccion para conocer de dicha protesta."

En Acerden contra Tonolete, 52 Jur. Fil., 21, este Tribunal dijo:

"En una serie de casos, este tribunal, x x x na declarado que para conferir competencia se debe alegar en la mocion de protesta cue la misma se presenta por un candidato registrado."

En Estados Unidos hay numerosas decisiones del mismo tenor, dos de las cuales son las siguientes:

"We think it plain that no one but an elector can invoke the aid of the statute cited; and when the statute is so invoked, the party seeking its benefits must bring himself within its spirit and its letter. The law says an elector may contest an election for county and township offices. This excludes all others (except, perhaps, by appropriate proceedings in quo warrant), not electors, x x x. It was the letter and policy of the law that if the will of the people had not been correctly pronounced, if persons declared elected had not been in fact, electors might contest by simply following the provisions of the statute; but, on the other hand, to avoid vexatious intermeddling by those not interested in the political affairs of the county, the statute permits such contests to be instituted only by those qualified to vote themselves, and does not extend the right to any others. The person instituting such a statutory contest must therefore make it affirmatively appear by the statement that he is an elector, and thus entitled to institute the proceedings to give the court jurisdiction. x x x.

"This omission to aver on the face of the record that contestant was or is an elector (whether perhaps, immaterial) is therefore fatal." (Gillespie v. Dion, Pac, 95k.)

"Statutory proceedings regarding election contests such as are provided for in the foregoing sections are special and summary in their nature, and generally a strict observance of the statute so far as regards the steps necessary to give jurisdiction is required, and the jurisdictional facts must appear on the face of the proceedings, 9 R. C. L. 1157. It will be observed that these sections confine the authority to institute proceedings to contest an election to those who are electors. It is nowhere alleged in the statement that the contestant is a qualified elector of Mineral county, in conformity with the requirement in said section 70; and the failure to allege this statutory essential is, under well-settled principles of law, fatal to the jurisdiction of the court. The case of Adams v. McCormick, 216 111, 76, 74 N. E. 774, is directly in point. In this case a petition was filed by appellant to contest the election of the appellee to the office of circuit clerk. A general demurrer to the petition was sustained by the trial court. The appellate court said:

"The right to contest an election is created and wholly controlled by statute. Section 112 of chapter (Eurd's Rev. St. 1899), entitled 'Elections,' authorizes any one who is an elector in a county to contest the election of a circuit clerk in and for such county. The right to institute such a contest is confined exclusively to an elector of the county. (Citing former decisions of the same jurisdiction.) The petition filed by the appellant in the case at bar did not allege that the petitioner was an elector of Shelby county. The petition was therefore fatally defective, and the demurrer thereto was properly sustained." (Crown over v. Millar, 197 Pac., 817.)

En las dos protestas que son objeto de estos recursos, no se alego que el protestante ha presentado su certificado de candidatura. Esto lo admite la mayoria. Yet dice that is the necessary consequence and the explicit meaning of the averment that they were candidates and were each credited by the board of canvassers with a number of votes only lower to that received by the protestee. As the board of inspectors or the board of canvassers may not adjudicate votes to a person who has not filed a certificate of candidacy, (Anis vs. Contreras, ante), the reader is

made to understand that the protestants filed such certificate, when they claim that they were candidates and that, according to the returns and the proclamation, the second highest number of votes was cast in their favor. Quite apart from this, the legal presumption that the protestants filed a certificate of candidacy springs from the averment that their names were included in the list of candidates, for such inclusion would not have been made had certificates of candidacy not been submitted. (Anis vs. Contreras, ante.)"

En Anis contra Contreras en que se apoya la mayorla, no se decidio mas que una sola controversia: que la alegacion de que los protestantes "obtuvieron votos" es equivalente y tiene el mismo significado que la expresion "fueron votados." No habia discusion sobre la falta de alegacion de la presentacion de certificado de candidatura porque en la mocion de protesta se alegaba que tanto los protestantes como los protestados han presentado su certificado de candidatura correspondiente. Sin embargo, el Tribunal dijo:

"Lo que la ley requiere que debe alegarse para que el Juzgado adquiera jurisdiccion es que el protestante haya sido candidato votado en la eleccion y que haya presentado debidamente su certificado de candidatura. (Articulo 479 de la Ley Electoral, tal como ha sido tilmamente enmendado por la Ley No. 3387.) Estas calificaciones, que deben reunir los protestantes, constan afirmadas en la protesta, donde se alega que loe candidatos a Concejal en aquel Municipio, entre ellos los recurrentes y recurridos, presentaron certificados de candidatura."

La decision, pues, no es aplicable al caso presente.

En Galvez contra Salvador y otro, VI Lawyers' Journal, 691 es donde se planteo y se resolvió la falta de alegacion de la presentacion del certificado de candidatura, y este Tribunal dijo en su decision promulgada en 8 de Agosto de 1931:

"The only question presented is one of law and that is, whether or not the motion of protest alleges sufficient jurisdictional facts to enable the trial court to acquire jurisdiction over the case. x x x It should be observed that while in the motion it is averred that the protestants were candidates for the elective offices mentioned and that the protestant Emilio Galvez received the number of votes therein indicated, it is not alleged that the protestants or anyone of them "has duly filed his certificate of candidacy."

"We have already held that unless it is alleged in the motion of election protest that the protestant has duly filed his certificate of candidacy and received votes in the election, the Court of First Instance does not acquire jurisdiction over the protest. (Tengco v. Joe son, 3 Phil. 715. See also Viola v. Court of First Instance of Camarines Sur, 7 Phil. 89; Ferrer v. Gutierrez David and Lucot, 43 Phil. 795; Pobre v. Quevedo, 52 Phil. 359; Acerden v. Tonolet, 52 Phil. 9; Saldafia v. Kavarro, G. R. No. 2366; Anis v. Contreras, 55 Phil. 923.) It is argued that the term "candidate" when used in a motion of election protest should be given its legal significance and that, upon a liberal interpretation, an allegation that both the protestant and the protestees were candidates voted for in the election implies the filing of the corresponding certificates of candidacy as otherwise the inspectors of election would have considered the votes received by the protestant Emilio Galvez as scattering votes (sec. 464, Election Law; Anis v. Contreras, supra), instead of crediting him with 928 votes as against 96k votes received by the protestee, Alfonso Salvador. There seems to be some weight in this argument and as we are not insensitive to the appeal of counsel that this Court, disregarding technicalities, should give the protestants opportunity to prove the frauds and irregularities alleged in his motion of protest, we have endeavored to ascertain the source of the requirement with a view to a re-examination of our previous ruling on this point."

Despues de considerar las enmiendas a la primera Ley Electoral No. 1582 sobre quien puede presentar protesta, este Tribunal dijo:

"It will thus be seen that as originally provided in section 27 of the first Election Law (Act No. 1582) all that was required was that the motion of protest be filed "by any candidate voted for" until the enactment of Act

No. 3030 in 1922, when the qualification that the motion be presented by any registered candidate voted for was inserted.

* * * * *

"It was Act No. 3387, enacted in 1927, that provided for a further modification by requiring the motion of protest to be filed by "any candidate voted for and who has duly filed his certificate of candidacy", instead of by "any registered candidate voted for" as required in Act No. 3030."

* * * * *

"As already observed, the law on this point, as interpreted by this Court, continued undisturbed from 1927 to the present day, notwithstanding the subsequent amendments of the Election Law by Acts Nos. 3699 and 383 of the defunct Philippine Legislature and, quite recently, by.

"We are of the opinion that the Legislature has the undisputed right to provide for the mode and manner in which an election contest shall be instituted and for this purpose may impose reasonable conditions and restrictions. What these conditions and restrictions shall be is plainly a matter of legislative policy and is left to the wisdom of the coordinate department of the government. The requirement that the motion of protest shall be filed by a candidate who has duly filed his certificate of candidacy was, as indicated above, inserted for a good purpose. It was not designed to discourage contests but was intended to preclude the filing of protests by persons who, on the face of the pleading, are not, in the opinion of the Legislature, entitled to any recognition. If the contention of the petitioner that the term candidate means the candidate who has duly filed a certificate of candidacy, there was no need for amending the original provision of Act No. 1582 which permitted the filing of a contest by any candidate voted, for at an election. The Legislature has seen fit to insert the requirement in the law and he who institutes an election contest must allege the essential jurisdictional facts, if he wants the competent court to pay him any attention. (*Verceles v. Araneta Diaz*, 47 Phil. 813, 87.)"

Que razones poderosas tenemos hoy para cambiar la doctrina sentada en el asunto de Galvez contra Salvador? La regla de estare decisis no debe ser abandonada sino solamente cuando es manifiesto el error cometido en las decisiones anteriores.

La opinion de la mayoria, en mi concepto, desatiende las disposiciones de la Ley Electoral Enmendada y los precedentes ya consagrados por el tiempo. Es un signo peligroso. Estamos legislando judicialmente. Estamos enmendando la ley de la legislatura. Fueremos imponer nuestro criterio sobre el del poder legislativo.

La alegacion debe ser clara, concisa y directa no debe ser enigmatica, ni tortuosa. Obligar al recurrido que vaya haciendo deducciones de lo que aparece en el escrito de protesta es ponerle en situacion de no poder defenderse debidamente. El asunto de protesta electoral no es un juego de escondite, y el recurrido tiene derecho a ser informado claramente de las bases sobre que descansa. Por que se valieron los protestantes de dos alegaciones que fueron candidatos y que la Junta de escrutinio les adjudico votos cuando podian haber hecho una muy sencilla, a saber, que presentaron su certificado de candidatura?

En Saldaña contra Consunji, 52 Jur. Fil., 6, este Tribunal dijo:

"Si bien es verdad que en la mocion de protesta arriba transcrita consta que las elecciones generales en que fueron candidatos al cargo de Presidente Municipal de Samal, Bataan, tanto el recurrente como el recurrido, se verificaron el 5 de junio de 1928, y que dicha mocion de protesta se presents el 18 de junio de 1928, o sea trece dias despues, no constando, como no consta, en dicha mocion de protesta que haya habido proclamacion de candidato electo despues de dichas elecciones, el Tribunal a quo con vista so1o kde la repetida mocion no podia saber si tenia o no jurisdiccion para conocer de ello. Como quiera que los hechos que colfieren jurisdiccion especial no se presunen, sino que deben constar claramente en la mocion, el Tribunal a quo no podia adquirir jurisdiccion."

Esta decision exige que se alegue en la protesta que hubo proclamacion de candidato electo, y a falta de tal alegacion, este Tribunal declaro que el ouzgado de Primera Instancia de Bataan no adquirio jurisdiccion. El primer pdrrafo de la protesta presentada es del tenor siguientes Crispulo Consunji, Pedro Saldana, Dionisio Tolentino y Diosdado Valenzuela presentaron certificados de candidatura de conformidad con la ley para el cargo de presidente municipal del Municipio de Samal, Bataan, y han obtenido votos en las elecciones celebradas el 5 de junio de 1928 en la forma siguiente: Crispulo Consunji, 269 votos; Pedro Saldana, 255; Dionisio Tolentino, 180; y Biosdado Valenzuela.

Arguyendo como la raayoria, se puede deducir del porrafo transcrito que hubo proclamacion. Sin ella no sabrlamos el resultado de la eleccion. Con todo, fue declarada fracasada la protesta porque no se alego que hubo proclamacion. Dijo este Tribunal:

"Para que un juzgado de primera instancia pueda ejercer jurisdiccion y competencia sobre un asunto electoral es preciso que antes determine si las ha adquirido o no. Para ello necesita examinar la mocion de protesta a fin de ver si contiene todos los requisitos de fondo y forma que la ley exige para que pueda adquirir jurisdiccion. La mera presentacion de una mocion al efecto no es suficiente. Es imperativo que en ella consten todos los hecho esenciales que le confieren jurisdiccion y competencia para que con vista de ellos pueda deterrainar si las ha adquirido no. Piendo indispensable para la presentacion de una mocion de protesta que haya habido proclamacion de candidato electo, tal hecho debe constar en dicha mocion."

En Tengco contra Jocsotr supra, reproduciendo precedentes americanos, este Tribunal dijo:

"El juzgado de primera instancia, que es un tribunal de jurisdiccion especial, no tiene competencia para conocer de una protesta electoral mientras no se demuestre expresamente en una mocion de protesta los hechos especiales de que debe conocer. Lo hay presuncion alguna a favor de la jurisdiccion de un tribunal de competencia limitada o especial. Es un principio perfectamente sentado el de que debe constar afirmativamente en los autos de un tribunal de jurisdiccion especial que el juzgado tiene competencia. Cuando a un tribunal le confiere la ley jurisdiccion especial, en actuaciones diferentes de los procedimientos ordinarios, deben hacerse constar los hechos especiales por los que se confiere la jurisdiccion. Estos hechos especiales deben constar en autos, tanto en lo que respecta a la jurisdiccion sobre la materia objeto del asunto como en lo que respecta a la jurisdiccion sobre las partes. (Kempe's Lessee vs. Kennedy, 5 Cranch (U. S.), 173; Kayhew vs. Davis, 16 Fed. Cases No. 937; Furgeson vs. Jones, 17 Oregon, 20; Grignon vs. Astor, 2 Howard, 319; Walker vs. Turner, 9 Wheaton, 541; Glos vs. Godard, 202 111, 30; King vs. Lates, 80 Mich., 367; Lark vs. Norton, 6 Minn., 277; Hatter of Laker, 173 K. Y., 29; Martin vs. Martin, 173 Alabama, 106)."

Y en Viola contra Juzgado de la Instancia de Camarines Sur, supra, dijo:

"Sostienese tambien por los recurridos que no es absolutamente necesario el que los hechos en que se funda la competencia de un tribunal consten en el escrito de protesta, sino que es bastante que consten en el record o en autos. Esta cuestion ya ha sido tambien resuelta por esta Corte en los asuntos ya citados arriba y en otros posteriores, y para reforzar las decisiones dictadas en ellos so1o hemos de afiadir que "cuando la competencia depende de ciertos liechos el Tribunal no puede seguir adelante en virtud de una deraanda en la que no se expongan substancialmente tales hechos x x x." (City of Charleston vs. Littlepage, 51 L.R.A. (U.S.) 353) Y no puede ser de otro modo, puesto que si la existencia de la jurisdiccion no se presume cuando un juzgado de jurisdiccion general ejerce una facultad legal especial y de una manera tambien legal especial, y si bajo estas circunstancias dichos juzgados, con respecto a la facultad ejercida, se encuentran bajo un mismo pie de igualdad que los juzgados de jurisdiccion inferior y limitada (15 C.J., 831) precisa el que en el escrito de protesta se aleguen substancialmente los hechos de cuya existencia depende el ejercicio de la competencia de los juzgados de primera instancia en protestas electorales, de otro modo no poden estos determinar si han adquirido o no jurisdiccion para ver y fallar el asunto."

Creemos que el Juzgado recurrido no adquirio jurisdiccion sobre las dos protestas y debemos conceder las

solicitudes de avocacion pedidas por los recurrentes.

Bengzon, J., I concur in this dissent.

Padilla, M., concurro.

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.