

# ISIDORO FOJAS, ELVIRA MONTENEGRO, MARCIANO SANTOS, RUPERTO CRISTOBAL, BUENAVENTURA EVANGELISTA, DIONISIO BANTIN, JR., AMADO V. DE LA MERCED, AND ERIBERTO REMIGIO, PROTESTANTS. I...

*G. R. No. L-4790. April 29, 1953*

Ponente: PARAS, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/8a9bd9d81cf3/>

## PARAS, C.J.:

An election protest was filed in the Court of First Instance of Manila by the herein protestant-appellant, Isidoro Fojas, and nine others against the herein protestee-appellee, Gregorio N. Garcia, and nine others, the protestants being the candidates of the Nacionalista Party and the protestees the official candidates of the Liberal Party for the positions of councilor of Manila in the 1947 general elections. In the course of the proceedings, when only a few more precincts were to be examined by the court and at the instance of the protestants, the case was continued only against Isauro Santiago and Gregorio N. Garcia, the other protestees being dropped from the case. The court rendered a decision in favor of Isauro Santiago and Gregorio N. Garcia and against all the protestants. Upon appeal to the Court of Appeals, the decision of the trial court was modified, and the appellant, Isidoro Fojas, was declared elected in lieu of the appellee, Gregorio N. Garcia. The Court of Appeals assessed the "costs against the appellee."

In due time, the appellant filed in the Court of First Instance of Manila a bill of costs against the appellee, for the following items:

1. For the complaint.....

P8.00

2. For appearance in the Court of First Instance of Manila.....

10.00

3. For appearance in the Court of Appeals.....

20.00

4. Fees paid to the revisors at eight pesos (P8.00) per revisor, two revisors for each precinct, at a total of TWO THOUSAND AND NINETY TWO precincts..

4,672.00

5. For Clerk of Court who acted as chairman for sometime.....

200.00

6. For transportation, handling and custody of ballot  
boxes.....

200.00

---

TOTAL .....

P5,110.00

In its order of January 17, 1951, the Court of First Instance of Manila granted items 1, 2 and 3, but disallowed items 4, 5 and 6. The court held that "if the party who wins in the protest or appeal is the protestant or appellant as in the instant case, he is only entitled to the ordinary costs of the suit as provided in Sections 10 and 11, Rule 131, of the Rules of Court, but not to the expenses and costs mentioned in Section 180 of the Revised Election Code, which are recoverable only by the contestee or appellee in case he wins." From this order, the protestant, Isidoro Fojas, has appealed.

Section 180 of the Revised Election Code provides as follows:

"Before the courts shall take cognizance of a protest or a counter-protest or admit an appeal, the party who has filed the pleading or interposed the appeal shall file a bond with two sureties satisfactory to the court and for such amount as it may fix, to answer for the payment of all expenses and costs incidental to said motion or appeal, or shall deposit with the court cash in lieu of the bond or both as the court may order. The court in which contest is pending shall for good reason order from time to time that the amount of the bond or cash deposit as the course of the contest may require. In case the party who has paid the expenses and costs wins, the court shall assess, levy and collect the same as costs from the losing party."

That the herein appellant is entitled to collect his expenses from the losing party, the herein appellee, Gregorio N. Garcia, is obvious from the provision that "In case the party who has paid the expenses and costs wins, the court shall assess, levy and collect the same as costs from the losing party." The trial court erred in holding that it is only the protestee or appellee who may collect his election expenses from the protestant or appellant who loses, because the law mentions "the party" who wins, and not the protestee or appellee. The appellee stresses the fact that the intention of the law is as construed by the trial court, since the protestant or appellant is required to file a bond answerable for all expenses and costs. This is erroneous, because the bond requirement has been made evidently to show the good faith of the protestant or appellant and to secure the payment to the protestee or appellee of any expenses the latter may incur in connection with a proceeding not of his own choice or initiative. Although the protestee or appellee is not called upon to put up any bond, and the protestant or appellant is thereby left without any security for the collection of his expenses, section 180 of the Revised Election Code does not relieve the former from the obligation of paying costs and expenses to the protestant or appellant who wins.

It is contended for the appellee that the decision of the Court of Appeals awarded in favor of the appellant only "costs", without mentioning "expenses." This is untenable, because Section 180 of the Revised Election Code provides that the "expenses and costs" shall be assessed by the court as "costs" against the losing party, with the result that the decision of the Court of Appeals awarding costs, must be deemed to include also expenses.

Inasmuch, however, as the election protest herein was filed by ten protestants against ten protestees, and the proceedings continued with reference to all said parties up to the point when a few precincts remained to be

examined by the trial court, we are inclined to hold the appellee liable for only one-tenth of the expenses itemized in the bill of costs filed by the appellant. It is clearly unfair to assess all the expenses against the appellee, who was merely one of the ten protestees.

As the appellee did not appeal from the order of the trial court allowing items 1, 2 and 3 of the bill of costs, the same must stand.

Wherefore, the appealed order is affirmed as regards items 1, 2 and 3, but reversed as regards items 4, 5 and 6, and the protestee-appellee, Gregorio N. Garcia, is hereby ordered to pay one-tenth of the expenses specified under the latter items. So ordered.

Feria, Pablo, Bengzon, Reyes, Tuason, Montemayor, Jugo, Bautista Angelo and Labrador, 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.