

CONSTANCIO JAUGAN, PETITIONER, VS. HON. VICENTE P. BULLECER, JUDGE OF THE COURT OF FIRST INSTANCE OF MATI, DAVAO ORIENTAL AND ERLINDA VIZCONDE IRIGO, RESPONDENTS.

G.R. No. L-35148. November 28, 1980

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Appeal by certiorari from the decision dated May 24, 1972 of the Court of First Instance of Davao Oriental of Mati which, among others, declared private respondent Erlinda Irigo as the duly elected No. 8 Municipal Councilor of Mati, Davao Oriental.

In the 1971 local elections, petitioner Constancio Jaugan was proclaimed No. 8 municipal councilor of Mati, Davao Oriental by the municipal board of canvassers, having obtained 3,688 votes as against 3,651 votes of private respondent Erlinda Vizconde Irigo, also a candidate for the office of municipal councilor. An election protest was filed by private respondent before the respondent court, praying for the re-examination of the ballot boxes, registry lists, election statements and other documents used in Precinct Nos. 20, 20-A, 21, 26, 26-A, 28, 29, 34, 36, 36-A, 36-B and 42-A of said municipality on grounds of terrorism, coercion, vote-buying, incorrect reporting of votes and that some persons other than the registered voters illegally voted.

Before hearing on the merits, respondent court, as prayed for in the petition, ordered the production of the ballots of the aforecited twelve (12) protested precincts. Thereafter, the court appointed a committee on the revision of ballots consisting of representatives of the court, as chairman, and one commissioner each for petitioner and private respondent, respectively, as members. In the presence of the parties, the said duly constituted ballot revision committee, opened the twelve (12) ballot boxes and examined the contents thereof. After the committee submitted its findings, petitioner filed a motion to dismiss dated March 13, 1972. An opposition dated March 21, 1972 was filed by private respondent and on even date the motion to dismiss was denied. Thereafter, trial was held and on May 24, 1972 the case was decided in favor of private respondent.

In the present petition for review, petitioner alleges that respondent court erred in denying the motion to dismiss and in the appreciation of the disputed ballots. He also claims that the court failed to observe judicial decorum in the preparation of the decision which is virtually a verbatim copy of private respondent's memorandum.

In the latest case of *Abirin vs. COMELEC*,^[1] We reiterated Our pronouncement in *Kotico vs. COMELEC*,^[2] where We held that an election case involving the local elections of 1971 has no longer any legal standing after the new election for municipal officials took place on January 30, 1980 as the term of those proclaimed elected in 1971 already expired. Such being the case, there is no need to make any pronouncement on the matter as We have ruled in the case of *Bitangcol vs. Court of Appeals*.^[3]

WHEREFORE, the petition is dismissed for being moot and academic.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Fernandez, Guerrero, and Melencio-Herrera, JJ., concur.

[1] G.R. No. L-36157, promulgated August 29, 1980.

[2] 73 SCRA 126.

[3] 76 SCRA 95.

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