

ALEJANDRO REYES, PETITIONER, VS. ANATALIO REYES, AND COMMISSION ON ELECTIONS, RESPONDENTS.

G.R. No. L-28476. January 31, 1968

Ponente: FERNANDO, J.

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FERNANDO, J.:

In this petition for certiorari with a plea for preliminary injunction, petitioner, the official candidate of the Nacionalista Party for mayor of Magallanes, Cavite, in the election held on November 14, 1967, seeks to nullify the resolution of respondent Commission on Elections of December 29, 1967,[1] granting a motion for the reconsideration of its previous resolution of December 6, 1967, to annul the proclamation of the other respondent, Anatalio Reyes, the candidate of the Liberal Party for the mayoralty of said municipality.

The background facts, as set forth in the aforesaid resolution of respondent Commission on Elections of December 29, 1967, follow: "Upon petition of mayoralty candidate Alejandro Reyes in the November 14, 1967 election in Magallanes, Cavite, filed on December 2, 1967, wherein it was alleged that a proclamation for the office of mayor in Magallanes, Cavite, was made on December 2, 1967, declaring Anatalio Reyes as the mayor elect based on a canvass which was incomplete because of the pending questions as to the correctness of the canvass of the returns in Precincts Nos. 7 and 12, the Commission declared said canvass and proclamation null and void." Then came this portion of the resolution: "Thereafter, this motion for reconsideration of said resolution of the Commission of December 6, 1967, was filed on the ground that the proclamation was legal, being made by a duly constituted board of canvassers and based upon complete and unfalsified election returns. And furthermore, it is alleged that there is now pending in the Court of First Instance of Cavite an election protest filed by Alejandro Reyes involving the same election."

It was then noted by respondent Commission in the aforesaid resolution "that the petition filed by Alejandro Reyes with the Commission for the annulment of the proclamation of Anatalio Reyes as elected mayor was on December 2, 1967, and that on December 4, 1967, an election protest was filed by Alejandro Reyes with the Court of First Instance of Cavite. And it appears in the copy of the petition of election protest attached to the records of this case, that petitioner Alejandro Reyes did not mention in his said petition of election protest anything about the pending case with the Commission; and at the same time said petitioner Alejandro did not also inform the Commission about the election protest he filed with the Court of First Instance involving the same case. So that the Commission annulled the proclamation of Anatalio Reyes on December 6, 1967, two days after the election protest was filed with the Court of First Instance, without any knowledge or information of said election protest."

After which, the law governing the matter in accordance with the view of respondent Commission was set forth in this wise: "In view of the aforesaid circumstances that there is now pending an election protest with the Court of First Instance involving the same election as in the case with the Commission, we are constrained to reconsider the Commission's resolution of December 6, 1967, annulling the proclamation of Anatalio Reyes as mayor-elect of Magallanes, Cavite, and leave the disposition of all questions involved in said election with the Court of First

Instance in the election protest now pending with said court, in line with the doctrine laid down by the Supreme Court in the case of *Vicente Acain v. Board of Canvassers of Carmen, Agusan, et al.*, G. R. No. L-16445, May 23, 1960, * * *."

The dispositive portion of the Resolution of December 29, 1967, sought to be annulled, reads as follows: "WHEREFORE, the Commission resolves to grant, as it hereby grants, the motion for the reconsideration of the resolution of the Commission of December 6, 1967, annulling the proclamation of Anatalio Reyes as mayor-elect of Magallanes, Cavite, so that said proclamation is hereby reinstated as in full force and effect."

In the petition itself, there was the averment that the Municipal Board of Canvassers of Magallanes, Cavite, "surreptitiously proceeded with the canvassing on November 21, 1967, and thereafter, proclaimed the alleged winners * * * [among them, respondent] Anatalio Reyes, * * *." [2] Then came the allegation that petitioner, realizing that his action for judicial recount previously filed with the Court of First Instance would be unavailing, filed with respondent Commission on Elections a petition for the annulment of the above canvassing and proclamation, which as noted was granted on December 6, 1967. [3] After which came the admission that prior to such action being taken by respondent Commission on Elections and the period for the filing of the protest continuing to run in the meanwhile, petitioner "filed by registered mail an election protest, * * *." [4] The election protest, which was dated December 4, 1967, after stating that petitioner was a candidate voted in the Office of the Municipal Mayor in the election held in November 14, 1967, mentioned that protestee, respondent Anatalio Reyes, "was proclaimed as municipal mayor of the Municipality of Magallanes on November 21, 1967, * * *." [5] There can be no denying the truth of the finding of respondent Commission on Elections then that when it annulled the proclamation of respondent Anatalio Reyes on December 6, 1967, an election protest had been previously filed with the Court of First Instance by petitioner, without such knowledge or information on its part that such was the case.

Thus the reliance on *Acain v. Board of Canvassers*, [6] by respondent Commission in the challenged resolution cannot be legally impugned. The facts of *Acain v. Board of Canvassers* speak for themselves: "On January 4, 1960, Malimit and Acain instituted the present action of prohibition, mandamus and certiorari, with preliminary injunction, to prevent the enforcement of said proclamation and the assumption of office by Degamo and Palarca, and, after due hearing, to set aside said proclamation, upon the ground that the same is null and void, because the substitute members of the board of canvassers that made said proclamation were not electors of Carmen belonging to the party of the suspended and substituted members of said board, and because petitioners had requested a suspension of the recanvass in order to secure from the proper court a recounting of the votes in precincts Nos. 4, 5 and 6, but the request was denied, thereby depriving them of a reasonable opportunity to have the aforementioned recount. Upon the filing of the requisite indemnity bond, this Court issued on January 7, 1960, the writ of preliminary injunction prayed for. It appears, however, that at the time of the filing of the petition, Degamo and Palarca were not merely 'threatening to assume the office of mayor and vice-mayor respectively,' as alleged in the petition, but had already assumed said offices, which they held since January 1, 1960, the date fixed by law therefor. What is more, petitioner Malimit had filed with the Court of First Instance of Agusan a petition for a writ of quo warranto and an election protest against Degamo on December 17 and 28, 1959, respectively. So, on March 11, 1960, Degamo and Palarca moved for the immediate dissolution of laid writ of preliminary injunction, alleging that, prior to the issuance thereof, or on January 1, 1960, said respondent had already assumed their offices as mayor and vice-mayor, respectively, of Carmen, Agusan."

On the above facts, it was the holding of this Court, through the then Justice, now Chief Justice, Concepcion, that petitioners were not entitled to the relief prayed for, for the reason among others:

"5. Upon the filing of the aforementioned petition for a writ of quo warranto and election protest on December

17 and 28, 1959, respectively, the Court of First Instance of Agusan acquired exclusive authority to inquire into and pass upon the title of Degamo and the validity of the proclamation made by the municipal board of canvassers on December 7, 1959. We cannot, upon the authority of the petition, herein, filed on January 4, 1960, determine said questions without encroaching upon the jurisdiction of said court of first instance, which it is the duty of this body, as the highest Court of the land, not only to respect, but, also, to uphold."

The above decision speaks with undiminished authority. There can be no more appropriate disposition of a dispute of this character than a recognition of the prior competence of a court of justice whenever an election protest has been filed to determine who of the parties is entitled to the position in controversy. It would be conducive to confusion and conflict in authority if under the circumstances, as above disclosed, the Commission on Elections would still be considered as having the residual power to interfere with a pending election protest. Such an undesirable result should be avoided, and the Acaín holding if deferred to, as respondent Commission on Elections did, would serve such purpose.

What was done by respondent Commission on Elections in its resolution of December 29, 1967, reconsidering its previous resolution of December 6, 1967, far from amounting then to a grave abuse of discretion, was precisely in accordance with the applicable and controlling legal principle. This petition is therefore bereft of any support in law.

WHEREFORE, petition is dismissed. With costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Castro, and Angeles, JJ., concur.

[1] Annex J, Petition.

[2] Paragraph 9, Petition.

[3] Paragraphs 10 and 13, Id.

[4] Paragraph 12, Id.

[5] Paragraphs 2 and 3, Petition for Protest, Annex G, Petition.

[6] L-16445, May 23, 1960.

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