

**CLARO IBASCO, PETITIONER VS. HON. MELQUIADES G. ILAO, ET AL.,
RESPONDENTS.***G.R. No. L-17512. December 29, 1960*

Ponente: BAUTISTA ANGELO, J.

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On December 2, 1959, Jose Pascual filed with the Court of First Instance of Camarines Norte a protest contesting the election of Claro Ibasco as Mayor of Mercedes, Camarines Norte. When summons was served upon Ibasco, instead of filing an answer, he filed a motion for bill of particulars which was granted on January 5, 1960, the court ordering Pascual "to amend his motion of protest by naming the precincts where the alleged minors voted, the date and the precincts where they were registered, the persons who voted twice and the precincts where they voted, and the precincts where the inspectors allegedly committed irregularities", within five days from receipt of the order.

As protestant failed to file an amended protest, protestee filed a motion to dismiss on January 19, 1960, which was denied by the court. In the meantime, protestee failed to file his answer as required by law; he was not however declared in default, but was deemed to have entered a general denial as provided for in Section 176 (e) of the Revised Election Code.

During the hearing, protestee questioned the validity of the ballots cast in favor of protestant which had been marked by protestee as exhibits during the revision of the ballots before the Committee on Revision in precincts covered by the protest, but the trial court ruled that protestee cannot impugn said ballots because he failed to file an answer with affirmative defenses. Protestee filed a motion for reconsideration contending that, as he has not been declared in default, he has a right to contest the votes cast in favor of protestant provided that they are covered by the protest, but the motion was denied.

Hence, protestee came to this Court by way of certiorari praying that respondent court be ordered to allow him to present such evidence as may be necessary to nullify the questioned ballots cast in favor of protestant in those precincts involved in the protest. Upon his petition, this Court issued a writ of preliminary injunction.

The issue before us revolves around the interpretation to be placed on the terms "general denial" used in Section 176 (e) of the Revised Election Code. This portion of the law provides:

"(e) If no answer shall be filed to the protests or to the counter-protest within the time limits respectively fixed, a general denial shall be deemed to have been entered."

The incident that gave rise to this proceeding arose when protestee questioned the validity of the ballots cast in favor of protestant in some of the precincts involved in the protest introducing as evidence the ballots which were marked by him as exhibits before the Committee on Revision, but the trial court did not allow him to do so on the ground that, having failed to file an answer, he is deemed to have entered merely a general denial. The trial court acted upon the theory that as the Rules of Court are suppletory in election contests resort must be had to the

meaning of the terms "general denial" within the purview of said rules which in essence implies an admission of the material allegations of the complaint. In synthesis, it is the theory, of the trial court that the failure of protestee to file an answer is tantamount to an admission on his part of the material allegations of the protest and, therefore, he is no longer in a position to dispute them.

There seems to be a misapprehension in the application of Rule 132[1] which provides for the extension of the Rules of Court to election cases on matters not specifically covered by the Election Law. While said rule provides that our rules shall apply to election cases "by analogy or in a suppletory character", the application is qualified. It says that the gap shall be filled "whenever practicable and convenient." This phrase connotes a meaning which prevents an unbridled application of the Rules of Court, as well as of all matters incident thereto, for there is still need to show and analyze if the extension would help attain the objective of the law or would tend to defeat it.[2] Apparently, this rationale has been overlooked by the trial court when in one brush it adopted the meaning of the term "general denial" as understood in the realm of our procedural law. We believe such to be an error.

It is meet to recall here what we once said of general denial. This is what we said: "No rule is better settled in pleading and practice than that neither party can prove facts which he has not alleged, if objection is properly made. Under a general denial the defendant is permitted to present any evidence which disproves, or tends to disprove, any of the allegations in the complaint. The reason why 'prescription' cannot be interposed under a demurrer or a general denial is the fact that the defendant thereby admits the allegations in the complaint, but seeks to avoid their effect by other proof. Evidence which amounts to a confession or an avoidance is not generally admissible under a general denial." (Karagdag vs. Barado, 33 Phil., 529, 532-533; *Italics supplied*) In other words, a general denial puts in issue the material allegations of the complaint, and, consequently, under such denial the protestee may present evidence which may disprove said allegations. But he cannot present evidence to prove any affirmative defense (Francisco, *How to Try Election Cases*, p. 136). It is in this sense that the terms "general denial" should be understood in election cases, for to give it a different meaning would render the provisions of Section 176 (e) nugatory and meaningless; that phrase would be purposeless if we were to hold that by "general denial" protestee would be deemed to have admitted all the material allegations of the protest.

There are weighty reasons that support the application of such theory in election cases. One is the cardinal principle that an election case involves public interest and, hence, it imposes upon the court the imperative duty to ascertain by all means within its command who is the real candidate elected by the electorate. That is why the law gives to the court the power, in the interest of justice, to order *motu proprio* that the ballot boxes and other election documents be produced before it so that they may be examined and recounted regardless of whether the party raises any issue in its pleading concerning the validity of the ballots (Section 175, Revised Election Code). On the other hand, it has been postulated as a fundamental principle underlying the trial of election cases that technicalities or procedural barriers should not be allowed to stand if the same would tend to defeat rather than promote the interest of justice. Rather, it is enjoined that the Election Law should be liberally construed to the end that the will of the people may not be defeated.

"As may be seen, the Revised Election Code does not provide for any particular procedure for the disposition of an election case once the issues are joined. On the other hand, Rule 132, of our Rules of Court, provides that the rules of court shall not apply to election cases 'except by analogy or in a suppletory character and whenever practicable and convenient.' It would therefore appear that by legislative fiat the trial of an election case shall be conducted in a summary manner without the cumbersome procedure prescribed for ordinary litigations in order that its result may be determined in the shortest time possible. The reason is obvious; an election case, unlike an ordinary action, involves public interests, time element being of the essence in its disposition so that the uncertainty as to who is the real choice of the people may at once be dispelled. Moreover, it is neither fair nor just that we keep in office for an uncertain period one whose right to it is under suspicion. It is imperative

that his claim be immediately cleared not only for the benefit of the winner but for the sake of public interest, which can only be achieved by brushing aside technicalities of procedure which protract and delay the trial of an ordinary action. As this Court has aptly said: "The purpose of the legislature in declaring that contest should not be conducted upon pleadings or by action was to free the courts as far as possible from the technicalities incident to ordinary proceeding by action and to enable the courts to administer justice speedily and without complications" (Lucero vs. De Guzman, 45 Phil., 852)." (Rofoma vs. De Luna, 104 Phil., 378.)

"It has been frequently decided, and it may be stated as a general rule recognized by all the courts, that statutes providing for election contest 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. (Heyfron vs. Mahoney, 18 Am. St. Rep., 757, 763; McCrary on Elections, 3d ed., sec. 396.)" (Galang vs. Miranda and De Leon, 35 Phil., 269; 271-272; See also Jalandoni vs. Sarcon, 94 Phil., 266; 50 Off. Gaz., 587.)

In the light of the foregoing, it would appear that the trial court erred in blocking the attempt of protestee to impugn the validity of the ballots questioned by him that were cast in favor of protestant it appearing that they were all involved in the precincts covered by the protest. Such an attempt merely tends to disprove the claim of protestant that irregularities were committed in the precincts involved, which is within the realm of "general denial" as we have already pointed out.

We are, therefore, persuaded to conclude that the trial court committed an abuse of discretion in issuing the orders subject of the present petition for certiorari.

Wherefore, petition is granted. The orders of the trial court herein involved are set aside. No costs.

Paras, C.J., Bengzon, Padilla, Concepcion, Reyes, J.B.L., Barrera, Gutierrez David, Paredes, and Dizon, JJ., concur.

Labrador, J., concurs in the result.

Petition granted.

[1] "These rules shall not apply to land registration, cadastral and election cases, naturalization and insolvency proceedings, and other cases not herein provided for, except by analogy or in a suppletory character and whenever practicable and convenient."

[2] Morente vs. Filamor and Arce Ignacio, 52 Phil., 289.

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