

PANTALEON NAVAL, PROTESTANT AND APPELLANT, VS. GENEROSO SANA, PROTESTEE AND APPELLEE.*G. R. No. L-5899. February 28, 1953*

Ponente: REYES, J.

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In the election of November 13, 1951, for the office of mayor of Mayantoc, Province of Tarlac, candidate Generoso Sana was proclaimed winner by the municipal board of canvassers with a majority of 18 votes over his opponent Pantaleon Naval. In due time the latter filed his motion of protest in the Court of First Instance of Tarlac, and upon receiving an adverse verdict, elevated the case here on a question of law.

The question is whether the trial court erred in ruling out evidence to prove the contestant's allegation that no less than 100 minors were registered in the voters' list and that those minors actually voted in the election, the trial court being of the opinion that the qualifications of electors registered in the voters' list, having been already finally determined either by the board of election inspectors or by the corresponding circuit judges during the period for the inclusion and exclusion of voters, could no longer be inquired into.

The question is not a new one. As early as 1929 this court, in the case of Icaay vs. Diapo, G. R. No. 30671, ruled that it was no error for the trial court not to admit evidence to show that certain electors who were registered in the voters' list and voted in the election were not qualified. The rule was reiterated in 1932 in the case of Fernandez vs. Mendoza, 57 Phil., 687, where it was declared that where voters were not challenged during the legal period "any evidence tending to show that these voters were registered and that they voted although not possessing the necessary qualifications is immaterial." And this is the ruling followed by the court when it dismissed, for lack of merit, appellant's earlier petition in the present case for a writ of mandamus to compel the trial court to admit the very evidence whose exclusion is the subject of the present appeal.

In line with the same view, the Electoral Tribunal of the House, in the case of Fernandez vs. Baes, Electoral Case No. 23 (1951), held that the registration list of voters as finally corrected by the board of inspectors is conclusive on the question as to who have the right to vote in an election and that a minor who has succeeded in registering as a voter and actually voted should be counted in the election protest.

The ruling established in the cases above cited is but an implementation of the mandate contained in section 176 (f) of the Revised Election Code, which says that "In election contest proceedings, the registry list, as finally corrected by the board of inspectors, shall be conclusive in regard to the question as to who had the right to vote in said election."

In the United States the rule is practically the same as may be judged from the following quotations from *Corpus Juris Secundum*:

"Under some provisions, the final registration list is conclusive evidence of those entitled to vote, until reversed or set aside in the prescribed manner, and it cannot be collaterally attacked." (29 C. J. S., 49.)

"In the absence of challenges or other proceedings prior to the election to have the names of voters who are legally registered erased from the registration rolls, such rolls are binding on the court. *Marrero vs. Middleton*, 59 So. 863, 131 La., 432." (Ibid.)

It is of course against the policy of the law to allow minors to vote in the election of public officials. But the law itself has prescribed a remedy for that contingency through exclusion of unqualified persons from the list of voters, the procedure for which is laid down in the Revised Election Code. Not having availed of that remedy at the proper time, appellant has only himself to blame.

There being no substantial error in the decision appealed from, the same is hereby affirmed, with costs against the appellant.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Jugo, Bautista Angelo and Labrador, JJ., concur.

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