

**SALVADOR LACSON, JR., COMPLAINANT, VS. RAMON POSADAS,
MUNICIPAL JUDGE OF TALISAY, NEGROS OCCIDENTAL,
RESPONDENT.**

A.M. No. 74-MJ. July 30, 1976

Ponente: ANTONIO, J.

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ANTONIO, J.:

Respondent Municipal Judge Ramon Posadas, of Talisay, Negros Occidental, is charged in a verified complaint by Salvador Lacson, Jr. with (a) ignorance of the law, (b) partiality, and (c) violation of the Election Code of 1971.

The Executive Judge, to whom this case was referred for investigation, report and recommendation, found the charges of ignorance of the law and partiality to be without factual basis. He, however, found that respondent Judge has failed to comply with the requirements of Section 136 of the Election Code of 1971, which provides:

"Any person who has been refused registration or whose name has been stricken out from the permanent list of voters may at any time except sixty (60) days before a regular election or twenty-five (25) days before a special election, apply to the proper court for an order directing the election registration board or the board of inspectors as the case may be, to include or reinstate his name in the permanent list of voters, attaching to his application for inclusion the certification of the Election registration board or the board of inspectors regarding his case and proof of service of a copy of his application and of the notice of hearing thereof upon a member of the said board." (*Italics supplied.*)

In his report of July 17, 1972, the Investigating Judge stated:

"Respondent disregarded this requirement and none of the petitions for inclusion based on lack of forms contains the attached certificate of the Chairman or any member of the Board of Inspectors of the precinct concerned to the effect that petitioner or petitioners applied for registration on October 9, 1971 but were refused registration for lack of registration forms. While it may be true that the various petitions for inclusion contained the sworn statement of Eduardo Belbes that a copy of the petition had been served on the members of the Board of Inspectors of the corresponding precinct, yet this notice applied to the original dates of hearing stated in the petition and it is reasonable to assume that on the dates at which the petitions were ordered reset for hearing by respondent Judge, to wit: On October 18 for the petitions filed on October 14; and on October 20 for the the petitions filed on October 19, the Boards of Inspectors were not notified. This is impliedly admitted by respondent when he expressed the belief that notice to the Election Registration Board alone was sufficient, and that the certificate of the Board of Inspectors to the effect that the petitioners applied for registration in the corresponding precinct on October 9, 1971, but were refused registration for lack of forms was not necessary inasmuch as he relied on the testimonies of the petitioners themselves on that point. Also, even if respondent was motivated by a desire to adhere strictly to the requirement of Comelec Resolution No. RR-938 that inclusion cases be decided within two (2) days from the filing of the petition, it would seem that respondent acted rather hastily in resetting the inclusion cases filed in the afternoon of October 19, 1971 for hearing immediately the following morning or on October 20, 1971. This is especially true of Election

Cases Nos. 93 to 172, except Cases Nos. 162 to 172 (Exhs. '8-A' to '8-K'), inasmuch as Mrs. Efren admittedly informed respondent of the filing of the cases right the same morning of October 20. Hence, it is not likely that the various members of the Board of Inspectors could have been notified to appear and testify that petitioners in fact appeared before their respective precincts and were denied re-registration for lack of forms. Ordinary caution dictated that this requirement or this procedure be followed as this was one sure way of identifying the petitioners and ascertaining whether in fact they applied for and were refused registration for lack of forms. True, inclusion and exclusion cases are summary in nature but the procedure adopted by respondent Judge provided no safeguard whatsoever against indiscriminate inclusion. For he admitted that as long as the petitioners were present when he called the inclusion cases for hearing and the respondent Election Registration Board or the members of the Board of Inspectors of the precincts concerned were not present he considered the latter in default and summarily granted the petition. This could be the only reason why practically all the inclusion cases resulted in the issuance of orders directing the inclusion of the petitioners now marked as Exhs. 'B', 'B-1' to 'B-54' and, as it turned out, on appeal most of the petitions were dismissed either for failure of the petitioners to appear or, as in Cases Nos. 136-153, because the Court found on the basis of the testimony of the Chairman of Precinct No. 41 of Talisay that he even had a surplus of seventeen (17) application forms."^[1]

In extenuation, the Investigating Judge found also that respondent, in his aforesaid actuations, did so without improper motive but in good faith.

In our republican system of government, the exercise by the people of their right of suffrage is the expression of their sovereign will. It is, therefore, absolutely essential that the free and voluntary use of this right be effectively protected by the law and by governmental authority. As stated in an earlier case:^[2]

"*** The people in clothing a citizen with the elective franchise for the purpose of securing a consistent and perpetual administration of the government they ordain, charge him with the performance of a duty in the nature of a public trust, and in that respect constitute him a representative of the whole people. This duty requires that the privilege thus bestowed should be exercised, not exclusively for the benefit of the citizen or class of citizens professing it, but in good faith and with an intelligent zeal for the general benefit and welfare of the state. (U.S. vs. Cruikshank, 92 U.S. 588.) In the last analysis therefore, the inclusion in or exclusion from the permanent electoral list of any voter concerns not only the latter in his individual capacity but the public in general."

In the light of the statutory purpose, the seriousness of respondent's failure to comply with the requirements of Section 136 of the electoral law becomes evident. His good faith or lack of malice is of no avail, considering that in crimes which are mala prohibita the act alone irrespective of its motives; constitutes the offense. It appears, however, that on April 8, 1974, the President of the Philippines promulgated Presidential Decree No. 433, which grants general amnesty under certain conditions to public school teachers, other government officials and employees, members of the armed forces of the Philippines and other persons for violation of election laws and other related statutes in connection with the elections of 1965, 1967, 1969, 1971, and the election of delegates to the Constitutional Convention.

There is no question that as a consequence of the general amnesty all persons who violated the election law on the dates and occasions therein mentioned are relieved of their criminal liability.^[3] In the case at bar, respondent is relieved of any criminal liability for his aforesaid infraction; however, in the public interest he should be admonished.

WHEREFORE, respondent is hereby admonished that he should exercise greater care in the observance of the provisions of existing laws in the discharge of his judicial duty, and warned that any subsequent misconduct shall be dealt with more severely.

Fernando, (Chairman), Barredo, Aquino, and Martin, JJ., concur.

Concepcion, Jr., J., is on leave.

Martin, J., was designated to sit in the Second Division.

[1] Report and Recommendation of Executive Judge Oscar R. dated July 17, 1972, pp. 28-30.

[2] *Abañil v. Justice of the Peace*, 70 Phil. 28, 31.

[3] *Barrioquinto, et al. v. Fernandez, et al.*, 82 Phil. 647.

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