

REINERIO TICA0, ARTURO DICEN, ROMEO MABAQUIAO, CECILIO HECHANOVA, ANTONIO JAVIER, MIGUEL LEDESMA, FRANCISCO GARCANERA, HECTOR TREÑAS, SULPICIO PALMA, DOMINADOR SUSTENTO AND SEVE...*G.R. No. L-17890. August 30, 1962*

Ponente: DIZON, J.

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In the election held on November 10, 1959, petitioner Reinerio Ticao was a candidate for the position of Vice-Mayor of the City of Iloilo, while his co-petitioners were candidates for the office of councilor of the same city. On the other hand, respondent Nacianceno Rico was also a candidate for the position of Vice-Mayor of, the same city, while his co-respondents—except the respondent judge—were candidates for the office of councilor.

On December 12, 1959, the city board of canvassers proclaimed Ticao as Vice-Mayor elect, and his co-petitioners as councilors elect.

On the 24th of the same month and year, respondents, except the respondent judge—filed an election protest against petitioners. As grounds of protest, they alleged, inter alia, the following:

"5. The City of Iloilo is composed of 265 election, precincts, in which according: to the Iloilo City Board of Canvassers, the parties-litigants received the votes reflected in the list appended hereto as Annex 'A' and made part hereof by reference;

6. The protestants impugn the elections in all the aforesaid 265 precincts as not free, orderly, nor honest but were characterized by gross and rampant frauds, terrorism, coercion, corrupt practices, and other election irregularities as herein below specified, so that it was a farcical election, the electors having been prevented from expressing their free choice;

* * * * *

9. On election day, to assure a Board of Election Inspectors sympathetic to, if not cooperative with the protestees in Precinct. Nos. 1-A, 2, 2-A, 3, 4, 6, 6-A, 7, 8, 10, 10-A, 11, 15, 15-A, 16, 17, 19, 19-A, 22, 22-A, 23, 23-A, 24, 25, 26, 29, 30-A, 30-C, 31-A, 32, 32-A, 33, 33-A, 34, 34-A, 37, 38, 38-A, 38-B, 40, 41, 42, 42-A, 42-B, 67, 67-A, 68, 68-A, 69, 69-A, 72, 72-A, 73, 73-A, 74, 74-A, 75, 76, 77, 78, 78-A, 79, 79-A, 80, 81, 82, 84, 84-B, 84-C, 84-D, 85, 86, 86-A, 88, 89, 89-A, 90, 90-A, 92, 93, 93-A, 93-B, 95, 96, 96-A, 97, 102, 102-A, 105-A, 106, 106-A, 107, 107-A, 110, 110-B, 110-C, 111, 111-A, 112, 114, 114-A, 114-B, 114-C, 115, 116, 117, 118-A, 120-A, 125-A, 127-A, 129, 129-A, 131, 131-A, 132, 132-A, 135, 136, 136-A, 137, and 137-A, the regular Liberal Party Inspectors were anomalously and illegally changed with followers and supporters, of the protestees, thru dubious and questionable manipulations of the protestees and/or their leaders;" (p. 3 of the Protest, Annex "B" of the Petition; italics supplied)

Answering the Protest, petitioners in turn, made, among others, the following averments.

"3. * * that the election of 10 November 1959 in the entire City of Iloilo was held and conducted in the cleanest most peaceful and honest manner, in pursuance and in full implementation of all democratic processes, and that the results thereof were indicative of the truest expression of popular will in the City of Iloilo which gave an unprecedented plurality of votes to all the protestees herein;" (Par. 3, p. 2 of Annex "A" of the Petition)

"2. * * that the elections held in the City of Iloilo on November 10, 1959, was conducted in the most peaceful and orderly manner, and its results reflected the true and clear will of the electorate of the City of Iloilo; *" (Par. 2, p. 1, of Annex "A-1" of the Petition)

"2. * * that the elections held in the City of Iloilo on November 10, 1959, was conducted in the most peaceful and orderly manner, and its results reflected the true and clear will of the electorate of the City of Iloilo; * *" (Par. 2, p. 1 of Annex "A-2" of the Petition)

"II.

"* * that the elections held last November 10, 1959 were free, orderly and honest, protestee herein, together with his co-protestees having endeavored that the questioned election be without any taint of fraud, terrorism, coercion, and/or corrupt practices, having fully and heartily agreed and supported the petition of Mayor Rodolfo Ganzon that Iloilo City be placed under the control of the Commission on Elections to insure the city electorate a free and untrammelled expression of their right to vote;" (Par. II, p. 1 of Annex "A-3" of the Petition)

"* * that the election in all of the 265 precincts of the City of Iloilo, was free, orderly, honest, regular and depicted the true will of the electorate, and that, there never was any threat or terrorism employed allegedly by the Protestee or any of his group under the Ganzon-Ticao line-up, as so emphatically alleged by the Protestants;" (Par. 2, p. 2 of Annex "A-4" of the Petition; Italics supplied.)

"* * that the election held in all the 265 precincts of the City of Iloilo, was not a farcical election, but was the free and untrammeled expression of the people's choice, devoid of frauds, threats, terrorisms, coercions and other illegal and corrupt election practices and irregularities which the protestants would have this Honorable Court to believe that the protestee or his co-protestees, has or have committed and employed; * * " (Par. 2, p. 1 of Annex "A-5" of the Petition; Italics supplied)

"* * that the last elections in Iloilo City has been the most orderly, peaceful, clean, and honest, depicting the true will of the city electorates;" (Par. 4, p. 2 of Annex "A-6" of the Petition)

"* * that if ever there were such frauds, terrorism, coercion, corrupt practices, and other election irregularities committed during the last elections, the protestants and their leaders and supporters were the ones who tried, attempted, and/or perpetrated the same, but they were not able to frustrate the electors of the City of Iloilo from expressing their choice for protestees;" (Par. 3, p. 1 of Annex "A-7" of the Petition)

"* * that protestants indiscriminately protested against each and all the duly elected officials in the City of Iloilo, all of whom belonged to the same ticket, and indiscriminately in all the electoral precincts in the City of Iloilo." (Par. 9, p. 4 of Annex "A-7" of the Petition; Italics supplied)

"* * that the election in all the 265 precincts in the City of Iloilo was free orderly, honest and regular, and that there was no threat or terrorism employed by the protestee and his companions under the Ganzon-Ticao ticket as alleged by the Protestants, * *" (Par. 2, p. 2 of Annex "A-8" of the Petition; Italics supplied).

"* * that the elections held last November 10, 1959 which is the subject of the protest in the above-entitled case, was most orderly, peaceful, clean, honest, free and untrammelled, * *" (Par. 2, p. 1 of Annex "A-9" of the Petition)

"* * that the elections held in the City of Iloilo on November 10, 1959, concerning the herein protestee is honest, free and clean, truly and genuinely expressive of the true mandate and popular choice of the electors of

the City of Iloilo, Philippines, done in an orderly and peaceful manner;" (Par. 2, p. 1 of Annex "A-10" of the Petition). Italics supplied.

In the course of the hearing held on December 14, 1960, the protestants—referred to hereafter as respondents—tried to introduce evidence regarding the affiliation of the inspectors of several precincts not included among those specifically enumerated in paragraph 9 of the Protest reproduced above. The protestees (petitioners herein) objected, but upon verbal motion of respondents, the respondent judge allowed them to amend paragraph 9 of their Protest by adding fourteen other precincts to those enumerated therein. Petitioners' motion for the reconsideration of said order was denied by the respondent judge. Thereupon, they filed the present original petition for certiorari claiming that, in allowing the amendment already referred to, His Honor, acted without jurisdiction because at that time, the period for the filing of protest and the introduction of substantial amendments had already elapsed.

The issue in this case, therefore, is whether the amendment allowed by the respondent judge was substantial in character and constituted an additional ground of protest.

It is elementary in matters of election protests that the corresponding Protest should be filed within the period provided by law for that purpose which, as far as the present case is concerned, is two weeks after the date of proclamation. As a corollary, it has been consistently held that;substantial amendments to the Protest may be allowed only within the same period (*Valenzuela vs. Carlos et al.*, 42 Phil. 428; *Orencia vs. Araneta*, 47 Phil. 830). Stated otherwise, the rule in an election protest is that the protestant or counter protestant must stand or fall upon the issues he had raised in his original or amended pleading filed prior to the lapse of the statutory period for the filing of protest or counter protest.

In determining whether the amendment now complained of violates the foregoing rule, it is important to bear in mind that the Protest filed by respondents clearly impugned or assailed the election held in all the 265 precincts of the City of Iloilo, as not free, orderly, nor honest, and as characterized by gross and rampant frauds, terrorism, coercion, corrupt practices, and other election irregularities, this resulting in the electors having been prevented from expressing their free choice (paragraphs 5 and 6 of the Protest). Petitioners, for their part, as protestees, joined issue with the adverse party by alleging in their answer that the election held on November 10, 1959, in the entire city of Iloilo was held in the cleanest, most peaceful and honest manner, etc., its result reflecting the true and clear will of the electorate of said city; that the election in all of the 265 precincts of the city of Iloilo was free, orderly, etc., and was not a farcical election; that protestants indiscriminately protested the result "in all the electoral precincts in the city of Iloilo" in spite of the fact that the election in all the 265 precincts of said city was free, orderly, honest, etc.

The foregoing shows beyond question that the regularity of the election held in all the 265 precincts of the city of Iloilo was squarely in issue. Such being the case, it can not be correctly said that the mere addition of 14 other precincts to those enumerated in paragraph 9 of the original Protest—where respondents had alleged that "the regular Liberal Party Inspectors were anomalously and illegally changed with followers and supporters of the protestees, through dubious and questionable manipulations of the protestees and/or their leaders" constitutes a substantial amendment and changes the ground or grounds of protest alleged by respondents in their original pleading. The addition would seem to be merely in the nature of a bill of particulars in connection with the issue properly raised in the original Protest, namely, the regularity of the election held in all the 265 precincts of the city of Iloilo. In other words, as petitioners knew from the very beginning that the regularity of the election, in all the 265 precincts was in issue, the mere addition of 14 precincts to those originally enumerated in paragraph 9 of the Protest did not compel them to meet a new issue.

In *Gallares vs. Casenas*, 48 Phil. 362, we held that protestant in said case should have been allowed to clarify

certain allegations made in his original Protest. It seems clear, in accordance with this ruling, that where an issue had been actually pleaded in the previous pleading of a party, but its statement was not sufficiently clear, or lack of specifications made it indefinite or insufficient, an amendment may be allowed.

Again in *Cecilio vs. Tomacruz*, 62 Phil. 689, it appears that in the original counter protest, the protestee alleged that in certain specified precincts 20 were not counted in his favor. Later, and after the lapse of the statutory period for the filing of protest, said protestee sought to amend his pleading by stating that in the aforesaid precincts, not 20 but 36 votes were not counted in his favor. He was allowed to make the corresponding amendment.

From the facts and circumstances surrounding the cases above-cited, it is manifest that the amendments were allowed because, in point of fact, they did not change the grounds of protest alleged in previous pleadings timely filed, and the opposing parties were not thereby forced to face new issues.

In view of all the foregoing, we hold that the respondent judge had jurisdiction to allow the amendment complained of and, that, in allowing it, he did not commit any grave abuse of discretion.

Wherefore, the writ of certiorari sought in the petition under consideration is denied, and the writ of preliminary injunction heretofore issued is dissolved. With costs.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Regala, and Makalintal, JJ., concur.

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