

JUAN ALONZO, PETITIONER, VS. COURT OF FIRST INSTANCE OF CAGAYAN, BRANCH IV, AND BIENVENIDO QUIROLGICO, RESPONDENTS.

G.R. No. L-37949. September 30, 1974

Ponente: ANTONIO, J.

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ANTONIO, J.:

In this special civil action for certiorari and mandamus with preliminary mandatory injunction, petitioner Juan Alonzo seeks to nullify the order of respondent Judge in Election Case No. 336-S of the Court of First Instance of Cagayan, Sanchez Mira, Branch IV, dated October 20, 1973, dismissing his election protest mainly on the ground that section 9 of Article XVII of the new Constitution in relation to General Orders Nos. 1 and 3 of the President of the Philippines, had rendered the election protest moot. This ground is untenable. We have already ruled in previous cases that section 9, Article XVII of the Transitory Provisions of the new Constitution had not rendered moot election protests for provincial, city or municipal officials pending at the time of the effectivity of the new fundamental charter. The aforesaid constitutional provision refers only to those provincial, city and municipal officials who had been duly elected, and who could, therefore, continue in office until otherwise provided by law or decreed by the incumbent President.[1] The right of herein petitioner Juan Alonzo to challenge the right of private respondent Bienvenido Quirolgico to continue holding the office of Municipal Mayor of Ballesteros, Cagayan, is, therefore, maintained, because if private respondent was not duly elected as Municipal Mayor, he should not be allowed to enjoy the indefinite term of office accorded to him by section 9, Article XVII, of the Constitution. Private respondent, however claims that the order of dismissal was also justified by the previous failure of petitioner to appear at the scheduled hearings of the election protest. This was not, however, the reason of respondent Judge in his order of October 20, 1973. It is true that for the repeated failure of petitioner to appear at the hearings of the electoral protest, the case was dismissed on June 11, 1973, but the order of dismissal was reconsidered by said Judge on August 25, 1973 when he modified his order of June 11, 1973 by allowing petitioner a period of 30 days to file his memorandum. Considering that the revision of the ballots had been completed, and documentary and other evidence submitted by the parties, the least that the respondent Judge could have done, upon the failure of petitioner to appear on October 4, 1973, the date set for the hearing of petitioner's motion for leave to submit additional documentary evidence to support his counter-protest in Precinct No. 25-A was to deny the motion and decide the case on the basis of the evidence in the case. An election protest involves public interest, its purpose being to enable the court to ascertain the candidate lawfully elected into office. In the circumstances of the case it became the imperative duty of respondent Court to ascertain the lawful choice of the electorate.

We have deemed it proper to consider the case submitted for decision immediately after the hearing held in this Court on September 30, 1974, considering that an election contest should be concluded as speedily as possible to the end that any doubt as to the true expression of the will of the electorate may be dissipated without delay and that the faith, confidence and cooperation, so essential to the processes of government, may not be undermined.[2]

WHEREFORE, the petition is hereby granted and the questioned order of dismissal dated October 20, 1973 is declared null and void. Accordingly, the respondent Court of First Instance is ordered to continue the proceedings in its Electoral Case No. 336-S pursuant to this opinion and in accordance with law.

Fernando, (Actg. Chairman), Barredo, Fernandez, and Aquino, JJ., concur.

[1] Paredes vs. Abad, L-36027-28; Sunga vs. Mosqueda, L-32715; and Valdez vs. Caro, L-38331, April 15, 1974, 56 SCRA 522.

[2] Ortega vs. De Guzman, L-25758, February 18, 1967, 19 SCRA 391.

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