

**CAMILO P. CABILI AND THE HON. MANUEL ESTIPONA, AS JUDGE OF
THE COURT OF FIRST INSTANCE OF LANA DEL NORTE,
PETITIONERS, VS. MARIANO LL. BADELLES AND HON. COURT OF
APPEALS, RESPO...**

G.R. No. L-17786. September 29, 1962

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an appeal by certiorari from the decision of the Court of Appeals in CA-G. R. No. 27428-R, which ordered the Court of First Instance of Lanao del Norte to give due course to an appeal filed by Mariano Ll. Badelles, respondent herein, in Civil Case No. 288 of that court entitled "Badelles vs. Cabili."

In the elections of November 10, 1959, Mariano Ll. Badelles and Camilo P. Cabili were rival candidates for the office of city mayor of Iligan City. Cabili was proclaimed elected and thereafter assumed office, succeeding Badelles, then the incumbent. Badelles filed before the Court of First Instance of Lanao del Norte Election Case No. 288, for quo warranto, questioning Cabili's right to hold the office (of City Mayor of Iligan City) on the ground that he was not a resident of the city for at least one year prior to his election. The petition was filed by the law firm of San Juan, Africa and Benedicto, as counsel for Badelles. Badelles was also represented by several other lawyers but to the senior counsel was Attorney Jose L. Africa of the above-mentioned law office, who, in the initial hearing, explained that he is the one in charge of the case, and, therefore, requested that all pleadings, notices, orders and other papers be served at his office at 480 Padre Faura St., Manila. In order to avoid any confusion in the service of pleadings and orders, he made of record that only service at the given address will be considered as service on petitioner Badelles and counsel. The court took note of said request of Attorney Africa.

Trial having been held, the lower court on December 19, 1959, entered judgment dismissing the petition. Copy of the decision was sent by registered air mail on December 24, 1959 to the law firm of Atty. Africa and the same was received at their Manila office on January 4, 1960.

It appears however that, in the interim, i. e. on December 28, 1959, Badelles, who was then in Iligan City, requested the judge for a copy of the decision. Badelles was given a copy but refused to sign a receipt therefor. The judge ordered his court interpreter to record the fact of said delivery of a copy to Badelles. This order was complied with. The judge also telegraphed the law office of Atty. Africa in Manila on December 28, 1959 that a copy of the decision was sent to them on December 24, 1959 and that petitioner Badelles personally was furnished a copy also on that same day. The telegram was received by Atty. Africa on December 29, 1959.

Upon receipt of the decision on January 4, 1960, the Africa Law Office, counsel for Badelles, sent a notice of appeal by registered mail on the same date. On January 5, 1960, Badelles filed his own notice of appeal together with a corresponding cash appeal bond of sixty pesos.

Counsel for Cabili objected to the appeal on the ground that it was filed beyond the period therefor. On February

15 and 19, 1960, respectively, the court dismissed the appeals filed by Badelles and his counsel on the ground that the same were filed beyond the five-day statutory period for appeal, as provided in Section 178 of the Revised Election Code, and on the further ground that the sixty pesos appeal bond was insufficient. A motion for reconsideration filed by counsel for Badelles was denied for lack of merit, so Badelles filed the petition for certiorari and mandamus in the Court of Appeals, docketed as CA-G. R. No. 27428-R, to annul and set aside the two orders aforesaid and to give due course to the appeal. The petition was granted by the Court of Appeals on September 30, 1960.

The Court of Appeals held that the receipt by the petitioner of a copy of the decision which was given to the party himself, who in his curiosity desired to be informed in advance of the decision of his case, should not be considered as service under the rules. It also held that neither could the telegram received by the attorneys for Badelles be considered as a service of the decision because the contents of the latter were not contained in the telegram. The Court further held that the participation of petitioner in the course of the trial and in the proceedings was in his capacity as a party litigant and not as a lawyer. Accordingly, it held that the five-day period within which to appeal was to begin when copy of the decision was received by the attorneys for Badelles on January 4, 1960, and not from December 28, 1959.

A motion for reconsideration having been denied, the case was brought to this Court for a review of the decision of the Court of Appeals. In this Court it is contended that error was committed by the Court of Appeals for not considering the receipt by him (Badelles) of a copy of the decision as a receipt by the aggrieved party himself, who under Section 178 of the Revised Election Code, is authorized to appeal from a decision. It is argued on his behalf that as the aggrieved party is authorized to appeal under Section 178 of the Revised Election Code, he should also be considered as having the authority, in his capacity as the aggrieved party, to receive a copy of the decision.

It is to be noted that while the Rules of Court are not applicable in election cases, in general, they are of a suppletory character whenever practicable and convenient. As there is no provision in the Election Law about the manner in which the parties should be notified of the proceedings or pleadings or decisions in election cases, the Rules of Court should be followed in such matters. In accordance with the provisions of Rule 27, Section 2, service of decisions should be made to the lawyers on record and not to parties. In a long line of decisions We have held that when a party appears by an attorney who makes of record his appearance, service of pleadings is required to be made upon said attorney and not upon the party; that a notice given to the client and not to his attorney is not a notice in law; that service upon a party who has an attorney of record is not a compliance with Rule 27, Sec. 2, which makes service upon counsel mandatory; and that personal information by a party of the rendition of a decision does not satisfy the right of counsel to receive a copy of the decision rendered. (Notor vs. Daza, 76 Phil., 850; 43 Off. Gaz. 850; Perez vs. Isip, 81 Phil., 218; 46 Off. Gaz., Supp. 1, p. 1; Chainani vs. Tancinco, et al., 90 Phil., 862; Palad vs. Cui, 28 Phil., 44; Esquivias vs. Sison, 61 Phil., 211; Aero Taxicab vs. Melendres, (CA) 45 Off. Gaz. p. 3951; Bautista vs. Judge Gianzon, et al., CA-G. R. No. 8389-R, Sept. 21, 1951; Hernandez vs. Clapis, 87 Phil., 437; 48 Off. Gaz. Feb. 1952; p. 546.)

The decision of the Court of Appeals appealed from should be, as it is hereby, affirmed, with costs against the petitioner.

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

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