

HADJI AZIZ LUMNA TANGO, PETITIONER, VS. HON. CRISTOBAL ALEJANDRO, AS JUDGE OF THE COURT OF FIRST INSTANCE OF LANA DEL SUR, THE MUNICIPAL BOARD OF CANVASSERS OF SAGUIARAN, LANA...

G.R. No. L-22342. March 31, 1964

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

The petitioner in this case asks that the respondent judge be required to recount the votes cast in the last election in Precinct No. 5 of Saguwaran, Lanao del Sur.

It appears that whereas the official copy of the election return for said precinct in the possession of the Municipal Treasurer listed 171 votes for the candidate for mayor Hadji Aziz Lumma Tango, the official copy in the possession of the Nacionalista Party gave said candidate 131 votes only; that the difference was very material as it would affect the election for mayor; that, advised of the discrepancy, the election inspectors of the precinct formally asked the court of first instance for permission to correct the first-mentioned copy so that Tango shall get 131 votes only, this being the true number of votes he had obtained in said election, the number 171 being clerical error; that thereafter, candidate Tango asked that the ballot-box in said precinct be opened and the ballots recounted; that after hearing the parties and assessing the evidence, the Hon. Cristobal Alejandro, judge, authorized the board of election inspectors to make the correction, - (the error having been properly shown and all members of the board of inspectors and the poll clerk of said precinct having asked for the correction) so that candidate Tango shall be given 131 votes instead of 171 votes; that in view of such order and correction, the court declined to require the recounting of the ballots in said precinct No. 5.

For such refusal, this petition was promptly filed here.

This Court after considering the matter of the record before it, and after listening to petitioner in oral argument, reached the conclusion that in view of the circumstances, grave abuse of discretion may not be imputed to the respondent judge in his refusal to direct the re-opening of the ballot box in said precinct.

WHEREFORE, the petition is denied, and the preliminary injunction heretofore issued is dissolved, with costs against petitioner.

Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur. Concepcion, J., took no part.

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