

## **SIMEON MACOLOR, PROTESTANT AND APPELLEE, VS. CARLOS AMORES, PROTESTEE AND APPELLANT.**

*G.R. No. L-6806. November 05, 1953*

Ponente: BAUTISTA ANGELO, J.

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### **BAUTISTA ANGELO, J.:**

This is an action to contest the election of Carlos Amores to the office of Mayor of Coron, Palawan, filed in the Court of First Instance of Palawan.

It appears that in the elections of November 13, 1951, Simeon Macolor, protestant, and Carlos Amores, protestee were candidates for the office of Mayor of Coron, Palawan. After the election returns from all the precincts in said municipality had been received, and after making a canvass thereof as required by law, on November 26, 1951, the Municipal Board of Canvassers proclaimed the protestee as mayor-elect with a plurality of 212 votes.

In the island of Culion, there were three precincts known as precincts Nos. 16, 16-A and 16-B. In these precincts the protestant received 39 votes and the protestee 430 votes. In making the canvass, these votes were added to those cast in the other precincts of the municipality where the protestee received 444 votes and the protestant 623 votes. Holding the view that the votes in said three precincts are illegal because they were cast by persons residing in the island of Culion, which is a national reservation, protestant instituted the present election contest.

Issues having been joined, the lower court rendered decision upholding in substance the view entertained by protestant. As a result, the court declared illegal the votes cast in precincts Nos. 16, 16-A and 16-B and held the protestant as the mayor-elect of Coron with a plurality of 179 votes. From this decision protestee has appealed.

The only question to be determined refers to the legality of the votes cast in precincts Nos. 16, 16-A and 16-B which are situated within the Culion Leper Colony which comes under the jurisdiction of the Department of Health. These votes are decisive in this contest because if they are discarded the result would give the protestant a plurality of 179 votes, otherwise, the protestee would have a plurality of 212 votes. To determine this issue, there is need to make a brief history of the establishment of the Culion Lepers Colony and the machinery implanted for its internal administration.

On August 22, 1904, the then Civil Governor Luke E. Wright issued Executive Order No. 35 declaring all the public and within the island of Culion as a reservation for the purpose of establishing a leper colony. Said executive order reads in part as follows:

" \* \* \*, I hereby withdraw from settlement, entry, sale or other disposition under the public land laws, all the public land within the island of Culion, Province of Paragua, and reserve the same for the purpose of establishing a leper colony and a government stock-farm thereon."

Implementing said executive order, Sections 1066, 1067 and 1068 of the Revised Administrative Code were enacted. Said sections are hereunder copied for ready reference:

"SEC. 1066. Jurisdiction of Department Head over Culion Reservation.—The Department Head shall have

administrative control, to be exercised through the Director of Health, over the Culion reservation and he shall have authority to make, promulgate, and enforce in and for said reservation, and in or upon the waters thereof, such rules and regulations, consistent with law, as may be necessary for the efficient control, protection, and management of the Culion Leper Colony."

"SEC. 1067. Justice of the Peace and Notary Public for Culion Reservation.—The Chief of the Culion leper colony division of the Philippine Health Service shall be clothed with the powers of justice of the peace and ex-officio notary public for the Culion reservation."

"SEC. 1068. Control of Shipping and Travel in Culion Reservation.—It shall be unlawful for any owner, master, or other person in charge of any vessel, boat, or other water craft to land passengers, discharge cargo, or receive passengers or cargo, or permit the same to be done at any place in or within the jurisdiction of Culion reservation until a permit therefor in writing has been obtained from the chief of the Culion leper colony division of the Philippine Health Service; and it shall be unlawful for any person to land on or visit within said jurisdiction without permission from said chief."

A perusal of the provisions above quoted will readily reveal that the Culion Leper Colony has been established as a national reservation with an administrative organization distinct and separate from the municipal government of Coron as shown by the fact that it has been placed under the exclusive jurisdiction of the Department of Health. This was done not only to preserve the health of the people outside its area but to give to that department the necessary power and authority to effectively carry out the purpose, for which the reservation has been established. This power and authority must necessarily include the power to adopt such measures as may be necessary to maintain internal discipline and promote the health and welfare of the inmates within the reservation. This is to be inferred from the wording of the law. The Secretary of Health is given not only administrative control over the reservation but also the necessary authority to make, promulgate, and enforce such rules and regulations consistent with law as may be necessary for the efficient control, protection and management of the colony. This broad power and authority given to said official as regard the internal administration of the colony negatives and idea that the people within the colony may still come within the jurisdiction of the municipal government of Coron even if the colony comes within its territorial boundary. It may therefore be safely stated that the intention of the government in establishing the Culion Leper Colony is to create a reserved territory, with its own government machinery, separate and distinct from the municipal government of Coron, and this is so not only for purposes of government but for political purposes such as the exercise of the right of suffrage.

Having arrived at the above conclusion, the next question to be determined is whether the inmates of the colony can exercise the right of suffrage, and in the affirmative case, to what extent said right may be exercised.

In view of the repeal of Sections 14 and 15 of the Revised Election Code (Republic Act No. 180), by Republic Act No. 599, which contain express provisions relative to the procedure to be followed as to the exercise of the right of suffrage of patients confined in different leprosaria, doubt is entertained as to whether said repeal should be interpreted in the sense that the intention of the legislature is to deny them the right of suffrage. We do not believe that such interpretation is warranted. The repeal of said provisions can only mean that the intention is to return the lepers to the status they enjoyed prior to their enactment which must necessarily be traced to the legislation then governing the exercise of the right of suffrage as applied to the citizens as a whole. It should be noted that prior to the enactment of said Sections 14 and 15 the law was, as is now, completely silent as to the right of suffrage of those confined in the different leprosaria. This silence notwithstanding, it cannot be said that these lepers are bereft of such right for there is nothing in the law which disqualifies them from voting simply because of their ailment. The mere fact that they are segregated for precautionary reasons is not in itself a disqualification. The only thing to be considered is whether they have the requisite residence. This question has already been answered in the affirmative by this court in a case involving the right to vote of lepers of the same

colony in connection with the plebiscite held in 1935.

In the case above adverted to, petitioners, who were lepers residing at the Culion Leper Colony, demanded that they be granted the right to vote in the plebiscite to be held on May 14, 1935 but was refused by the Secretary of Interior on the ground that they were not qualified voters in that they could not be considered as having resided for six months next preceding the day of voting because "they have not acquired residence in Culion as they are confined therein as lepers against their will, and they have no intention to permanently reside there." In ruling out this objection, and in holding that these lepers were entitled to vote, this court said:

"There are a large number of people confined in the Culion Leper Colony. They are not permitted to return to their former homes to vote. They are not allowed to visit their former homes even though they have been separated from near and dear relatives who are not afflicted as they are. Why split hairs over the meaning of residence for voting purposes under such circumstances? Assuming that the petitioners intend to return to their former homes if at some future time they are cured, this intention does not necessarily defeat their residence before they actually do return if they have been residents of the Philippine Islands for one year and of the municipality in which they offer to vote for six months next preceding the day of voting.' Surely a mere intention to return to their former homes, a consummation every humane person desires for them, not realized and which may never be realized should not prevent them, under the circumstances, from acquiring a residence for voting purposes." (Alcantara vs. Secretary of the Interior, 61 Phil., 459.)

The ruling in the Alcantara case is decisive as to the right of the lepers to vote. It was there said that they can vote in the places where they are confined provided that they evince their desire to do so and had resided there for at least a period of six months. It is true that the ruling was given in connection with a plebiscite, but this matter is of no moment because the paramount issue therein involved has reference to their qualification from the point of view of residence.

The next question that crops up is: for what officials can they vote? Is this right limited, or it can apply to all elective officials?

Consistent with our opinion that the Culion Leper Colony is a national reservation with an administrative organization separate and distinct from the municipal government of Coron the only conclusion that can be drawn, in line with the principle underlying the right of suffrage, is that these lepers can only take part in elections involving national officials and not those referring to a municipal government. Inasmuch as they have no connection whatsoever with the municipal government of Coron, politically or otherwise, they should not be expected to intervene in the election of its officials upon the theory that they do not form part of the people to be governed by said officials. The right of suffrage is predicted upon the theory that the people who bear the burden of government should share in the privilege of choosing the officials of that government. That is the theory of a representative form of government. Thus, in a case which involves the right of the residents of Dumaguete City to vote for the officials of the province of Negros Oriental, and wherein said residents were declared without right to vote, this court said: "The purpose of an election is to enable the electorate to choose the men that would run their government, whether national, provincial, municipal, or city. If so, no useful end will be served by allowing—in the absence of express legislative preference—the voters of a city to participate in the election of the officials of the province which has ceased to have any governmental authority over said city." (Teves vs. Commission on Elections, 90 Phil., 370.) By analogy we can say that the residents of the leper colony of Culion cannot take part in the election of the officials of the municipality of Coron if they can exercise their right in so far as the election of national officials is concerned.

Wherefore, the decision appealed from is affirmed, without pronouncement as to costs.

Paras, C. J., Pablo, Bengzon, Montemayor, Reyes, Jugo and Labrador, JJ., concur.

Padilla, J., concurring: I concur in the result. The opinion invokes the case of Teves et al. vs. Commission on Elections,[\*] G. R. No. L-5150, 8 November 1951, to rule that the inmates of the Culion Leper Colony cannot vote for elective municipal officials of the municipality of Coron, the colony being an independent and separate administrative unit, and for practical, political and legal purposes detached from the municipality. To that I agree; but I reserve my vote on the question whether they are entitled to vote for elective provincial officials, the resolution of which is not required in the case. I make the reservation in view of my dissent in the aforesaid case.

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[\*]90 Phil., 370.

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