

BENEDICTO LAMBONAO, PETITIONER AND APPELLANT, VS. ALFREDO O. TEOO AND DANIEL B. VESTAL, RESPONDENTS AND APPELLEES.

G. R. Nos. L-23240, L-23241 & L-23242. December 31, 1965

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

These are appeals in three petitions for quo warranto jointly heard in the Court of First Instance of Southern Leyte. Said court, on respondents' motions, dismissed the petitions for lack of cause of action. A single decision is herein rendered, the cases having been likewise jointly argued before us.

The first petition, herein docketed on appeal as L-23240, was filed on November 25, 1963 by Benedicto Lambonao against Alfredo O. Tero and Daniel B. Vestal. It alleged that petitioner was a candidate for municipal councilor of Anahawan, Southern Leyte in the elections of November 12, 1963; that respondents were proclaimed elected to the office of municipal councilors by the municipal board of canvassers on November 21, 1963; that petitioner received the next largest number of voters; and that respondents are ineligible for said positions because their certificates of candidacy, filed on September 12, 1963, were not in fact signed nor ratified by them but by somebody else, who forged their signatures therein.

The second petition, appealed herein as L-23241, was filed on November 26, 1963 by Ariston Lua against Clodualdo Lagumbay. Petitioner herein stated that in the election of November 12, 1963 he was a candidate for municipal vice-mayor of Hinundayan, Southern Leyte; that respondent was proclaimed elected to said office, by the municipal board of canvassers, on November 19, 1963; that petitioner got the next highest number of votes; and that said respondent is not eligible for said position since his certificate of candidacy, filed on September 2, 1963, did not include the required information on income, taxes and waiver.

The third petition, L-23242 on appeal, was filed on November 26, 1963 by Leodegario Japson and Francisco Golpe against Teodoro J. Gazon and Librado Baclayon. It was asserted that petitioners were candidates for municipal councilors of Hinundayan, Southern Leyte, in the elections of November 12, 1963; that on November 19, 1963 the municipal board of canvassers proclaimed the respondents as elected municipal councilors; that the next largest number of votes went to petitioners; that respondents are ineligible for the office aforementioned because their certificates of candidacy, filed on August 30, 1963, did not state the required information on income, taxes and waiver.

With respect to the first petition, L-23240, the provision of law to consider is Section 31 of the Revised Election Code. It states:

"Certificate of candidacy for only one office. No person shall be eligible unless, within the time fixed by law, he files a duly signed and sworn certificate of candidacy, nor shall any person be eligible for more than one office to be filled in the same election, and, if he files certificates of candidacy for more than one office, he shall not be eligible for any of them." (Italics supplied)

As to the second and third petitions, L-23241 and L-23242, Section 32 of the Revised Election Code is pertinent:

"Contents of Certificate of Candidacy.—The person concerned shall state in his certificate that he announces his candidacy for the office mentioned therein and that he is eligible for the office; the name of the political party to which he belong, if he belongs to any; his civil status, and if married, the full name of his or her spouse; his age including the date of birth; and his post-office address for all election purposes.

"The certificate of candidacy shall likewise state his gross income, the expenses, deductions and exemptions and that he paid his income taxes as assessed, for the last two years immediately preceding the elections, including the receipt numbers and places of such payments, unless the candidate was exempt from paying income taxes or his tax obligations are pending final determination, in which cases he shall so state in his certificate of candidacy; and shall furthermore contain a waiver of the privilege from public disclosure of his income tax returns and tax census statements for the said two-year period, except financial statements attached thereto, said waiver to be effective only during the period of his candidacy. Failure to state the required information on income, taxes, and waiver shall invalidate the certificate of candidacy. (As amended by Rep. Act No. 0522, approved on June 20, 1963.)"

The above-quoted provisions are indeed mandatory in terms. As regards election laws, however, it is an established rule of interpretation that mandatory provisions requiring certain steps before elections, will be construed as directory, after the elections, to give effect to the will of the electorate. In *De Guzman vs. Board of Canvassers and Lucero*, 48 Phil. 211, 215-216, this Court said:

"And in *Lino Luna vs. Rodriguez* (39) Phil., 208), this Court laid down the following doctrine:

" 'It has been announced in many decisions that the rules and regulations, for the conduct of elections, are mandatory before the election, but when it is sought to enforce them after the election, they are held to be directory only, if that is possible, especially where, if they are held to be mandatory, innocent voters will be deprived of their votes without any fault no their part. The various and numerous provisions of Election Law were adopted to assist the voters in their participation in the affairs of the government and not to defeat that object. When the voters have honestly cast their ballots, the same should not be nullified simply because the officers appointed under the law to direct the election and guard the purity of the ballot have not done their duty. The law provides a remedy, by criminal action, against them. They should be prosecuted criminally, and the will of' the honest voter, as expressed through his ballot, should be protected and upheld.'

"We hold that the legal provision here in question is mandatory and non-compliance therewith before the election would have been fatal to the recognition of the status of Juan. T. Lucero as candidate. But after the people have expressed their will honestly, the result of the election cannot be defeated by the fact that the respondent who was certified by the provincial secretary to be a legal candidate for the office of provincial governor, has not sworn to his certificate of candidacy. The situation is somewhat like that of a voter placing his ballot in the box. There are certain requirements of the law, affecting the vote: which have been considered by this Court as of a mandatory character until the ballot is placed in the ballot box; but we have held that the validity of the count cannot be questioned, nor the vote stricken out after the ballots had been placed in the ballot boxes simply for non-compliance with such provisions. After the termination of the election, public interest must be made to prevail over that of the defeated candidate, and we cannot declare that the election of the respondent Juan T. Lucero was illegal, and that he should quit the office for which he was elected, simply by reason of a defect in his certificate of candidacy, which defect could have been corrected before the election but which cannot be cured after its termination, and after the result of the election was published by the provincial board of canvassers, respondent herein."

Accordingly, for the same reason, we find no error "in" the court a quo's dismissal of the petitions in question upon the reasoning that: "* * * the defects in the certificates of candidacy of respondent should have been

questioned by petitioners on or before the election and not after the will of the people has been expressed through the ballots."

Wherefore, the orders appealed from are affirmed, with costs against appellants. So ordered.

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

Orders affirmed.

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