

JESUS JIMENEZ, SR., PROTESTANT AND APPELLEE, VS. MARGARITO LOFRANCO, PROTESTEE AND APPELLANT. GREGORIO APARECE, ET AL., PROTESTANTS AND APPELLANTS, VS. MARINO PACALDO, ET AL., P...

G.R. No. L-21124. November 08, 1963

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

These are two election protests coming up from the Bohol court of first instance. The first (No. 1305) concerns the office of Mayor, Inabanga, Bohol, and the second (1315) relates to that of Vice-Mayor and councilors of the same town.

Said court declared protestant Jesus Jimenez the duly elected Mayor, and protestants Gregorio Aparece and Councilor Lofranco, Vice-Mayor and councilor respectively. According to the court, the first won by a plurality of 504 votes, the second by 295 votes and the third by 222 votes.

The three losers went to the Court of Appeals for revision ; but the latter forwarded the matter to this Tribunal. Two questions are involved. The first is whether the lower court committed error in rejecting as "marked" ballots containing the prefixes "Sr.", "Mr.", "Datu", "Don", "Ginoo", "Hon.", "Dra.", "Gob.", etc.

The trial judge, Hon. Hipolito Alo, rejected hundreds of ballots for protestees^[1] containing such prefixes for the following reasons:

"In sustaining the invalidity of the ballots, we took into account the following circumstances:

(a) In every ballot only one candidate is given a prefix, the rest none. And we believe that such procedure was followed in order to identify the elector who had prepared the ballot. Among the invalidated ballots we do not find a single ballot where two candidates bear prefixes.

(b) In several ballots the prefixes given to one and the same candidate are of different nature, thus facilitating the identity of the electors who had prepared them.

We are not oblivious of our duty to use extreme caution before invalidating a ballot, but from a cursory reading of the invalidated ballots, where different prefixes are used, an impartial mind will be fully convinced that such prefixes have no other purpose than to identify the electors who had prepared the ballots. It is for instance beyond human comprehension that while in the ballot a candidate for councilor is given the prefix Hon., no single candidate either for Senator or Governor is given tin same prefix in that ballot, neither is the rest of the candidates given any prefix.

* * * * *

Although Section 149, paragraph 5, of the Revised Election Code provides:

Ballots which contain prefixes such as "Sr.", "Mr.", "Datu", "Don", "Guinoo", "Hon.", "Dr", "Gob.", or suffixes like "hijo", "Jr.", "Segundo", are valid.'

this law only applies if the prefixes were not used as identification marks."

Upon a review of the ballots with prefixes—which are all mentioned in the decision—we cannot say that the trial judge committed legal error in rejecting the same and practically declaring that the protestees or their partisans, cleverly taking advantage of the provisions of section 149, paragraph 5, devised a pattern or system to mark and identify ballots and votes, and employed the same in the different precincts. Let us consider the ballots in one precinct—No. 1 for instance which the judge invalidated:

"In the space for Senators"

Exhibit B-35.—Mr. Almendras

Exhibit B-63.—Ginoo Almendras

Exhibit B-81.—Dr. Almendras

Exhibit B-83.—Aly Almendras

Exhibit B-94.—Datu Almendras

Exhibit B-103.—Hon. Almendras

Exhibit B-78.—Datu Borja

Exhibit B-97.—J. Borja Logio (The name of the candidate is Jacinto C. Borja).

Exhibit B-8.—Dato Cea (The name of the candidate is Edmundo Cea).

Exhibit B-19.—Ginoo Cea

Exhibit B-87.—Hon. Cea

Exhibit B-25.—Ginoo Dopes

Exhibit B-66.—Dr. Dopez

Exhibit B-68.—Hon. Dopez

Exhibit B-73.— Mr. Lopez

Exhibit B-86.—Don Lopez

Exhibit B-10.—Mr. Magsaysay

Exhibit B-12.—Dr. Magsayasay

Exhibit B-13.—Rep. Magsaysay

Exhibit B-16.—Sir Magsaysay

Exhibit B-45.—Ginoo Magsaysay

Exhibit B-52.—Daato Magsaysay

Exhibit B-4.—Mr. Pajo

Exhibit B-74.—Gino-o Pajo

Exhibit B-17.—Sir Quymson (The name of the candidate is Sofronio Quimson).

Exhibit B-59.—Hon. Quimson

Exhibit B-64.—Datu Quimson

Exhibit B-79.—Dr. Quimson

Exhibit B-90.—Guinoo Quimson

Exhibit B-18.—Mr. Rodrigues (The name of the candidate is Eulogio Rodrigues, Sr.)

Exhibit B-84.—Ginoo Rodriguez Exhibit B-9.—Gino-o Tañada (The name of the candidate is Lorenzo Tañada).

Exhibit B-15.—Hon. Tañada

Exhibit B-39.—Mr. Tañada

In the space for Vice-Governor

Exhibit B-43.—Timmy Datulid (The name of the candidate is Timoteo Butalid).

In the space for Board Members

Exhibit B-76.—Sir Araneta (The name of the candidate is Jose Ma. Araneta).
Exhibit B-3.—Gino Chatto (The name of the candidate is Lino Chatto).
Exhibit B-6.—Sir Chatto
Exhibit B-28.—Datu Chatto
Exhibit B-20.—Datu Enerio (The name of the candidate is Benedicto Enerio).
Exhibit B-82.—Gino-o Enero
Exhibit B-99.—Dr. Enerio
Exhibit B-11.—Gino-o Peñaflor (The name of the candidate is Crispina Peñaflor).
Exhibit B-53.—Doña Peñaflor
Exhibit B-58.—Datu Peñaflor
Exhibit B-61.—Don. Peñaflor
Exhibit B-67.—Dr. Peñaflor
Exhibit B-72.—Hon. Pingping Peñaflor
Exhibit B-80.—Sir Peñaflor

In the space for Mayor

Exhibit B-7.—M. M. Lofranco (The name of the candidate is Margarito J. Lofranco).
Exhibit B-21.—Mr. Lofranco
Exhibit B-32.—Gino M. Lofranco
Exhibit B-48.—Don M. Lofranco
Exhibit B-54.—Dr. M. Lofranco
Exhibit B-55.—Sir Tito Franco

In the space for Councilors

Exhibit B-57.—M. R. A. Añabesa (The name of the candidate is Alejandro Añabieza).
Exhibit B-62.—Dr. A. Añabieza
Exhibit B-69.—Gino A. Añabieza
Exhibit B-71.—Don. A. Añabieza
Exhibit B-98.—Hon. Añabieza
Exhibit B-14.—Sir F. Bautista (The name of the candidate is Fortunato Bautista).
Exhibit B-46.—Don F. Bautista
Exhibit B-50.—Datu F. Bautista
Exhibit B-77.—Hon. F. Bautista
Exhibit B-5.—Datu Jose Lofranco (The name of the candidate is Jose A. Lofranco).
Exhibit B-23.—Don. Jose Lofranco
Exhibit B-24.—Hon. Jose Lofranco
Exhibit B-60.—Dr. J. Lofranco
Exhibit B-40.—Hon. M. Melecio (The name of the candidate is Marcial Melecio).
Exhibit B-89.—Don M. Melecio
Exhibit B-95.—Dr. Melecio
Exhibit B-101.—Dato M. Melicio
Exhibit B-38.—Hon. A. Niñeza (The name of the candidate is Anastacio Neneza).
Exhibit B-42.—Sir A. Niñeza
Exhibit B-49.—Mr. A. Neñiza
Exhibit B-51.—Don A. Niñeza
Exhibit B-92.—Datu A. Niñiza
Exhibit B-29.—Don S. Petalcorin (The name of the candidate is Sotera E. Petalcorin).
Exhibit B-41.—Datu S. Petalcorin
Exhibit B-65.—Hon. S. Petalcorin

Exhibit B-96.—Mr. S. Petalcorin
Exhibit B-36.—Gino-o Petesio (The name of the candidate is Emeterio Petecio).
Exhibit B-44.—Dato E. Petecio
Exhibit B-47.—Dr. E. Petecio
Exhibit B-56.—Mr. E. Petecio
Exhibit B-26.—Sir. C. Torrefranca (The name of the candidate is Cresenciano Torrefranca).
Exhibit B-30.—Hon. C. Torrefranca
Exhibit B-93.—Sir C. Torrefranca
Exhibit B-05—Don C. Torrefranca.

It is noticeable—and significant—that the prefixes above given to the same candidate in one precinct are not repeated. In one precinct, the candidate Lofranco was given in the same precinct about 30 different prefixes, none of them repeated. See this list of Precinct No. 2.

"In the space for Mayor"

Exhibit B-110.— Tay M. Lofranco
Exhibit B-112.—Darling M. Lofranco
Exhibit B-123.—Talahuron Lofranco
Exhibit B-124.—Into M. Lofranco
Exhibit B-127.—Abe M. Lofranco
Exhibit B-129.—Brod M. Lofranco
Exhibit B-131.—Abay M. Lofranco
Exhibit B-132.—Kasama M. Lofranco
Exhibit B-136.—Doña M. Lofranco
Exhibit B-140.—Momoy M. Lofranco
Exhibit B-143.—Migs. M. Lofranco
Exhibit B-149.—Teacher M. Lofranco
Exhibit B-152.—Sr. Margarita Lofranco
Exhibit B-154.—Boutan M. Lofranco
Exhibit B-155.— Chico M. Lofranco
Exhibit B-160.—Binati M. Lofranco
Exhibit B-161.—Prin. Margarito Lofranco
Exhibit B-162.—Dadde M. Lofranco
Exhibit B-165.—Halangdon M. Lofranco
Exhibit B-166.—Igso M. Lofranco
Exhibit B-168.—Engco M. Lofranco
Exhibit B-169.—Kaibigan M. Lofranco
Exhibit B-172.—Tata M. Lofranco
Exhibit B-176.—Cherry M. Lofranco
Exhibit B-177.—Lyo M. Lofranco
Exhibit B-178.—For M. Lofranco
Exhibit B-184.—Oyong M. Lofranco
Exhibit B-186.—Yoyo M. Lofranco
Exhibit B-187.—Noy M. Lofranco
Exhibit B-189.—Comrad M. Lofranco
Exhibit B-190.—Titing M. Lofranco
Exhibit B-191.—Nong M. Lofranco
Exhibit B-193.—Director M. Lofranco
Exhibit B-195.—Dad M. Lofranco

And this system of marking was used more or less extensively in 38 other precincts, of the 43 election precincts in that town.

Protestees alleged that the prefixes were used merely as a sign of respect; and some witnesses were presented to that effect. Yet, it was not shown that these were the same voters who had cast the marked ballots. And it is incredible that one candidate from Pangasinan (Quimson) should get such appellations as "Dato", "Dr.", "Hon.", "Sir", "Ginoo", whereas none of Bohol received equally respectful appellations in the same ballots. (The province had such candidates for Senator as Borja and Pajo.)

Finally, although this is not necessarily conclusive, there is the telling circumstance that the protestees themselves regarded as marked—and so objected thereto—other ballots of protestants that bore the same or similar prefixes or suffixes. And the court, acting impartially, sustained the objections, and rejected many ballots for protestants too.

As already stated, the use of prefixes to identify, appears to have been used in forty out of the 43 election precincts of the municipality. It would not be far-fetched to hold that appellees cleverly, resorted to it, but the contest uncovered the deception, and the court quite correctly frustrated it.

The second and last question is appellants' contention that the trial judge should have invalidated the returns of the whole precinct No. 5, after finding several ballots (12) written by two hands (each ballots) and several ballots (5) written by one hand (all of them). We hold that this has no merit, these—alone—being insufficient to justify annulment of the balloting in the entire precinct. Anyway, the whole precinct had only 132 votes (p. 105, brief of appellants) and supposing they were all for protestants, the annulment thereof could not obviously overcome their plurality specified at the beginning of this decision (504, 295, 222 respectively).

Premises considered, the decision appealed from is affirmed. Costs against appellants.

Padilla, Bautista Angelo, Concepción, Reyes, J. B. L., Barrera, Dizon, Regala, and Makalintal, JJ., concur.

[1] Other similarly marked ballots for protestants were also rejected.

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