

MARIANO LL. BADELLES, PROTESTANT-APPELLANT, VS. CAMILO P. CABILI, PROTESTEE-APPELLEE.*G.R. No. L-29333. February 27, 1969*

Ponente: FERNANDO, J.

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Two election protests against the duly proclaimed Mayor and Councilors of Iligan City, after the Nov. 14, 1967 elections, based on the allegations of flagrant violations of certain mandatory provisions of the Election Code, to be more specifically set forth hereafter, were dismissed in a single order by the Court of First Instance of Lanao del Norte, the Honorable Teodulo C. Tandayag presiding. The cases are now before us on appeal.

In one of them,[1] the election of Honorable Camilo P. Cabili to the Office of City Mayor of Iligan City, was contested by protestant, now appellant, Mariano Badelles. In the other,[2] the protestants are the now appellants, Bonifacio P. Legaspi and Cecilia T. Barazon, who along with the five protestees[3] were among those who were registered candidates voted for in such election for councilors in the City of Iligan, with the protestees being credited with the five highest number of votes, with protestants Legaspi and Barazon obtaining sixth and seventh places respectively.

In such order of dismissal, it was admitted that while irregularities as well as misconduct on the part of election officers were alleged in the election protests filed, there was however an absence of an allegation that they would change the result of the election in favor of the protestants and against the protestees, that such irregularities would destroy the secrecy and integrity of the ballots cast, or that the protestees knew of or participated in the commission thereof. For the lower court then, the lack of a cause of action was rather evident.

Hence the order of dismissal of March 23, 1968, which was sought to be fortified by the invocation of the doctrines that voters should not be deprived of their right to vote occasioned by the failure of the election officials to comply with the formal prerequisites to the exercise of the right of suffrage and that the rules and regulations for the conduct of elections while mandatory before the voting should be considered directory there-after. The validity of such order of dismissal is now to be inquired into by us in this appeal.

In the petition of protestant Badelles, dated December 8, 1967, and marked as received the next day by the Clerk of Court of the Court of First Instance of Lanao del Norte, 15th Judicial District, it was stated that both he and protestee Camilo P. Cabili were the duly registered candidates for the Office of City Mayor of Iligan City, both having filed their respective certificates of candidacy in accordance with law and as such candidates voted for in the November 14, 1967 election. It was then alleged that the Board of Canvassers, on November 25, 1967, proclaimed as elected protestee for having obtained 11,310 votes while protestant was credited with 8,966 votes. Protestant would impugn the election of Cabili on the ground that there were "flagrant violations of mandatory provisions of law relating to or governing elections * * *" in that more than 200 voters were registered per precinct contrary to the provision limiting such number of 200 only and that no publication of the list of voters for each precinct was made up to the election day itself, enabling persons who under the law could not vote being

allowed to do so. As a result of such alleged "flagrant violations of the laws relation to or governing elections" around 8,300 individuals were allowed to vote illegally.

It was likewise asserted that not less than 8,000 qualified voters were unable to exercise their right of suffrage in view of their failure, without any fault on their part, to have the proper identification cards or the non-listing of their names in the list of voters. It was stated further that even in the case of those individuals provided with identification cards with their names included in the list of voters, they could not avail themselves of their right of suffrage as their applications for registration could not be found. Mention was also made of the fact that the final lists of voters and the applications for registration were delivered to their respective precincts late on election day itself thus preventing them from voting. Moreover, confusion, so it was alleged, was caused by the excessive number of voters being listed and many having been assigned to precincts other than the correct ones.

What was thus objected to is the fact that illegal votes were cast by those not qualified to do so, numbering 8,300 or more and that an approximately equal number, who were duly registered with the Commission on Elections, Iligan City, were unable to vote due to the above circumstances. The proclamation then could not have reflected the true will of the electorate as to who was the mayor elected, as the majority of protestee Cabili over the protestant consisted of only 2,344 votes.

The prayer was among others for the proclamation of protestee as well as other candidates for elective positions in the City of Iligan being set aside and declared null and void, protestant pleading further that he be granted other such relief as may be warranted in law and equity.

The protest of the candidates for councilor Legaspi and Barazon, in the other case against protestees[4] was in substance similarly worded. The prayer was for the setting aside and declaring null and void the proclamation of protestees, with protestants seeking such other, relief which should be theirs according to law and to equity.

In the first case, protestee Cabili moved to dismiss the petition on the following grounds: "1. That the protest was filed beyond the reglementary period allowed by the Revised Election Code; 2. That [the lower court] has no jurisdiction over the subject matter of the present case, the Commission on Elections being the proper body to hear the same; 3. That the complaint states no cause of action." [5] This very same grounds were relied upon in a motion to dismiss by protestees Actub and Cabigon, filed in the other suit.

As above noted, in a single order of March 23, 1968, the two above election protests were dismissed, the lower court being of the opinion that neither petition alleged a cause of action "to justify [it] to try the same." The first ground of the motion to dismiss to the effect that the protests in both cases were filed beyond the reglementary period was rejected. The claim as to lack of jurisdiction was likewise held to be without merit. The single order of dismissal in both cases as indicated was based on the lack of a cause of action.

The reasoning followed by the lower court in reaching the above conclusion that there was no cause of action proceeded along these lines: "Mere irregularities or misconduct on the part of election officers which do not tend to affect the result of the elections are not of themselves either ground for contest or for proper matters of inquiry. * * * There is no allegation in the protest that the alleged irregularities committed by the election officers would tend to change the result of the election in favor of the protestants and against the protestees. There is no allegation in the petition that the 8,000 voters who failed to vote were all voters of protestants and the 8,300 illegal voters who voted were for the protestees. There is, therefore, no legal and practical justification for the court to inquire into the irregularities committed by the election officials, as alleged in the petition, for it would not give any benefit in favor of the protestants to the end that they will be declared the duly elected mayor and councilors, respectively, of this City." [6]

It was further stated in such order of dismissal: "There is no allegation in the petition that the irregularities committed by the election officials have destroyed the secrecy and integrity of the ballots cast. There is no allegation in the petition that the non-compliance of the election officials of the provisions of the election laws regarding the registration of voters were intentional on their part for the purpose of committing frauds for the benefit of the protestees. There is no allegation in the petition that because of the alleged irregularities committed by the election officials in not following the provisions of the election laws regarding the registration of voters and the distribution of the precincts, that all the votes cast during said elections are illegal, nor is there an allegation in the protests that the irregularities committed by the election officials would affect the election in favor of the protestees." [7]

A greater regard for the cause of accuracy ought to have admonished the lower court from asserting in an uncompromising tone the absence of an allegation that the protestants in both cases failed to allege that if the facts pleaded by them were proved the result would not have been different. It is true the complaints could have been more explicitly worded, but as they stood, the absence of such a claim could not be so confidently asserted.

To repeat, both protests were dismissed. We do not discount a certain degree of plausibility attaching to the line of reasoning thus pursued by the lower court. We are not unaware of the undeniable fact that both petitions were not distinguished by skill in their drafting or precision in their terminology. Nonetheless the seriousness and gravity of the imputed failure to have the elections conducted freely and honestly, with such irregularities alleged, give rise to doubts, rational and honest, as to who were the duly elected officials. Such allegations, it is to be stressed, would have to be accepted at their face value for the purpose of determining whether there is a cause of action, a motion to dismiss amounting to a hypothetical admission of facts thus pleaded. We cannot in law and in conscience then sustain the order of dismissal.

Without the lower court having so intended, the dismissal would amount to judicial abnegation of a sworn duty to inquire into and pass upon in an appropriate proceeding allegations of misconduct and misdeeds of such character. Accordingly, we reverse.

Abes v. Commission on Elections [8] points the way, but the lower court was apparently impervious to its teaching. It may not be controlling, but it furnishes more than a hint. It would seem, though, that for the court below, its message did not ring out loud and clear.

The opinion in the *Abes* case, penned by Justice Sanchez, starts thus: "Petitioner's cry for relief, so their petition avers, is planted upon the constitutional mandate of free, orderly, and honest elections. Specifically, they list a number of repressible acts." Among those mentioned were that blank official registration forms were taken from the office of the Quezon City Comelec Register several weeks before election day, November 14, 1967; that active campaigning within the polling places by Nacionalista leaders or sympathizers of Nacionalista candidates were allowed; that voters were permitted to vote on mere mimeographed notices of certain Nacionalista candidates; that voters were compelled to fill their official ballots on open tables, desks and in many precincts outside the polling places; that thousands of voters sympathetic to the Nacionalista candidates were allowed to vote beyond the hours for voting allowed by law; that identification cards were delivered by partisan leaders of respondents Nacionalista candidates, and those who did not signify their preference for Nacionalista candidates were not given such cards; that the precinct books of voters were not sealed within the deadline fixed by law; and that the resulting effect of irregularities was to prevent fully fifty-one per cent of the registered voters from voting.

One of the issues raised on the above facts is whether or not the Commission on Elections could annul the aforesaid election in Quezon City on the above allegations of fraud, terrorism and other illegal practices committed before and during the election. The petition did not prosper; it was dismissed. The remedy, we held,

lay not with the Commission on Elections but with the courts of justice in an election protest.

In the language of Justice Sanchez: "The boundaries of the forbidden area into which Comelec may not tread are also marked by jurisprudence. That Comelec is not the proper forum to seek annulment of an election based on terrorism, frauds and other illegal practices, is a principle emphasized in decisions of this Court." For as announced in *Nacionalista Party v. Commission on Elections*,^[9] assuming that there be a failure to conduct an election in a free, orderly and honest manner, "the duty to cure or remedy the resulting evil" did not rest with the Commission on Elections but in "some other agencies of the Government." More specifically, with reference to provincial and municipal officials, election contests "are entrusted to the courts." Then came this express affirmation: "The power to decide election contests necessarily includes the power to determine the validity or nullity of the votes questioned by either of the contestants."

As so emphatically observed in the Abes opinion, "there has been neither deviation nor retreat from the foregoing pronouncement." After which came the following: "The ratiocination advanced that there was failure of election due to rampancy of terrorism, frauds, and other irregularities, before and during elections, such that allegedly about 51% of the registered voters were not able to vote, will not carry the day for petitioners. For, in the first place, this is grounded upon bare assertions. Respondents contest the correctness thereof. And in the answer of respondents Amoranto, Mathay and others, they aver that out of 162,457 registered voters in Quezon City, 100,382 voters actually cast their votes - about 62% of the registered voters. But above all, as pointed out in *City Board of Canvassers vs. Moscoso*, [the] nullity of an election for municipal officials should be determined in a petition contesting the election of municipal officers-elect to be filed before the Court of First Instance."

Why an election protest is more fitly and appropriately the procedure for determining whether irregularities or serious violations of the electoral law vitiated the conduct of elections was clearly and succinctly explained in the Moscoso decision above cited, the opinion coming from Justice Makalintal.^[10] Thus: "The question of whether or not there had been terrorism, vote-buying and other irregularities in the 1959 elections in Tacloban City should be ventilated in a regular election protest, pursuant to section 174 of the Election Code, and not in a petition to enjoin the city board of canvassers from canvassing the election returns and proclaiming the winning candidates for municipal offices."

It would follow then that if the grievance relied upon is the widespread irregularities and the flagrant violations of the election law, the proper remedy is the one availed of here, the protest.

That such should be the case should occasion no surprise. Time and time again,^[11] we have stressed the importance of preserving inviolate the right of suffrage. If that right be disregarded or frittered away, then popular sovereignty becomes a myth.

As Justice Laurel correctly pointed out: "As long as popular government is an end to be achieved and safeguarded, suffrage, whatever may be the modality and form devised, must continue to be the means by which the great reservoir of power must be emptied into the receptacular agencies wrought by the people through their Constitution in the interest of good government and the common weal. Republicanism, in so far as it implies the adoption of a representative type of government, necessarily points to the enfranchised citizen as a particle of popular sovereignty and as the ultimate source of the established authority."^[12]

A republic then to be true to its name requires that the government rests on the consent of the people, consent freely given, intelligently arrived at, honestly recorded, and thereafter counted. Only thus can they be really looked upon as the ultimate sources of established authority. It is their undeniable right to have officials of their unfettered choice. The election law has no justification except as a means for assuring a free, honest and orderly expression of their views. It is of the essence that corruption and irregularities should not be permitted to taint the

electoral process.

It may not always be thus unfortunately. That should be the ideal however. If there be a failure to observe the mandates of the Election Code, the aggrieved parties should not be left remediless. Under the law as it stands, it is precisely an election protest that fitly serves that purpose.

It was sought to be thus utilized in these two cases, perhaps in a rather awkward and far from entirely satisfactory manner. That in itself is no reason for the courts to slam the door against any opportunity for redress. Yet, that is what would happen if the order of dismissal complained of were not set aside.

Hence the inevitability of its reversal. The scope of our decision must not be misinterpreted however. All that it directs is that the protestees in both cases be required to answer. Thereafter, if, as is not unlikely, there be a denial of the serious imputations made as to the alleged irregularities, the lower court could properly inquire into what actually transpired. After the facts are thus ascertained in accordance with the accepted procedural rules, then the appropriate law could be applied.

It must be clearly emphasized that we do not at this stage intimate any view as to the merit, or lack of it, of either protest. That would be premature to say the least. All we do is to set aside the order of dismissal.

WHEREFORE, the order of dismissal of March 23, 1968, is reversed and the two cases remanded to the lower court for proceeding and trial in accordance with this opinion and the law. Without costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Capistrano, and Teehankee, JJ., concur.

Barredo, J., concurs in a separate opinion.

[1] G.R. No. L-29333.

[2] G.R. No. L-29334.

[3] Felix Z. Actub, Providencio P. Abragan, Manuel F. Celdran, Casimero P. Cabigon and Benito Ong.

[4] Felix Z. Actub, Providencio P. Abragan, Manuel F. Celdran, Casimero P. Cabigon, and Benito Ong.

[5] Motion to Dismiss of Protestee Cabili.

[6] Order of the lower court of March 23, 1968, pp. 6-7.

[7] Ibid, p. 8.

[8] G.R. No. L-28348, December 15, 1967.

[9] 85 Phil. 149 (1949).

[10] City Board of Canvassers v. Moscoso, G.R. No. L-16365, September 30, 1963.

[11] Cf. Gardiner v. Romulo, 26 Phil. 521 (1914); Garchitorena v. Crescini, 39 Phil. 258 (1918); Cailles v. Gomez, 42 Phil. 496 (1921); Mandac v. Samonte, 49 Phil. 284 (1926); De Leon v. Cruz, 92 Phil. 403 (1952); Ticao v. Nañawa, G.R. No. L-17890, August 30, 1962; and City Board of Canvassers v. Moscoso, G.R. No. L-16365, September 30, 1963.

[12] Moya v. Del Fierro, 69 Phil. 199, 204 (1939).

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CONCURRING OPINION

BARREDO, J.:

I concur whole-heartedly in everything contained in the ably written opinion of our distinguished colleague, Mr. Justice Fernando, including, of course, the disposition he makes therein of these cases before Us. It may not be amiss, nonetheless, to add a few words which I consider appropriate, in the light of my experience in handling some election cases before my appointment as Solicitor General.

The thing that has struck me most in these two cases, both denominated as election protests, is that the prayers of the two petitions therein are identical in that they do not ask for the seating of the petitioners, who call themselves protestants, in the places of the protestees - respondents. What they ask in the main is that "the proclamation of the protestees as duly elected (mayor and councilors) be set aside and declared null and void." This sole principal prayer was precisely what gave appellees in both cases cause to contend that (1) the Court of First Instance of Lanao del Sur had no jurisdiction over the subject matter, it being allegedly the Commission on Elections that has such jurisdiction, and (2) neither of the petitions state any cause of action. Of course, the trial court properly overruled the first ground. It is, however, best for all concerned that the observations and arguments adduced by the trial judge in disposing of the second ground are placed in proper light.

Ruling on the first ground above-stated, His Honor held thus:

"Mere irregularities or misconduct on the part of election officers which do not tend to affect the result of the elections are not of themselves either ground for contest or for proper matters of inquiry. x x x There is no allegation in the protest that the alleged irregularities committed by the election officers would tend to change the result of the election in favor of the protestants and against the protestees. There is no allegation in the petition that the 8,000 voters who failed to vote were all voters of protestants and the 8,300 illegal voters who voted were for the protestees. There is, therefore, no legal and practical justification for the court to inquire into the irregularities committed by the election officials, as alleged in the petition, for it would not give any benefit in favor of the protestants to the end that they will be declared the duly elected mayor and councilors, respectively, of this City."

"The failure of election of officers to obey the mandatory provisions of a statute relating to the conduct of the election and designed to secure the secrecy and integrity of the ballot may so taint the votes with irregularity as to cause the rejection of the entire votes of the district. It should be remembered, however, that all statutes tending to limit the citizen in the exercise of the right of suffrage are to be construed liberally in his favor, and that the courts are loath to disfranchise voters who are wholly innocent of wrongdoing. As a consequence, it is a firmly established general rule that voters will not be rejected, even though election officers fail to comply with the directory provisions of a statute, if there is no fraud or other irregularity and failure to comply is unintentional; nor is it material in this connection that the failure of the election officers to perform their duty subjects them to penalties. Likewise, the courts will not permit the will of the voters to be defeated by fraud on the part of election officers if it is possible to avoid such a result. In short, a fair election and an honest return should be considered as paramount in importance to minor requirements which prescribe the formal steps to reach that end, and the law should be so construed as to remedy the evils against which its provisions are directed and at the same time not to disfranchise voters further than is necessary to attain that object. In case of a violation of the law on the part

of an election officer, punishment may be provided therefor, and in this way the law can be rendered effectual may be provided therefor, and in this way the law can be rendered effectual without going to the extent of depriving a voter of his right to have his vote counted in consequence of such violation. It may, therefore, be stated as a general rule that if ballots are cast by voters who are, at the time, qualified to cast them and who have done all on their part that the law requires of voters to make their voting effective, an erroneous or even unlawful handling of the ballots by the election officers charged with such responsibility will not be held to disfranchise such voters by throwing out their votes on account of erroneous procedure had solely by the election officers, provided the votes are legal votes in their inception and are still capable of being given proper effect as such. Nor will an election be set aside because of irregularities on the part of the election officials unless it appears that such irregularities affect the results. (18 Am. Jur. Sec. 225, pp. 331-332, cited on pp. 621-622, Re-vised Election Code by Francisco).'

"There is no allegation in the petition that the irregularities committed by the election officials have destroyed the secrecy and integrity of the ballots cast. There is no allegation in the petition that the non-compliance of the election officials of the provisions of the election laws regarding the registration of voters were intentional on their part for the purpose of committing frauds for the benefit of the protestees. There is no allegation in the petition that because of the alleged irregularities committed by the election officials in not following the provisions of the election laws regarding the registration of voters and the distribution of the precincts, that all the votes cast during said elections are illegal, nor is there an allegation in the protests that the irregularities committed by the election officials would affect the election in favor of protestees."

'A misconduct or irregularity committed by an election official is not a sufficient ground to annul the votes cast in the precincts where the person elected neither knew of nor participated in the misconduct and it is not shown that any elector who voted for the persons elected either participated in such misconduct. (18 Am. Jur. Sec. 228, p. 333, cited on page 622, Revised Election Code by Francisco).'

While this ruling is, on the whole, correct, His Honor failed to emphasize that the cases before him were precisely ones for the annulment and setting aside of the election for Mayor and Councilors in the City of Iligan and that, therefore, the only question that should be resolved is whether or not the facts alleged in the petitions in question constitute sufficient grounds for such relief. Instead, the trial court made as may be seen above, a long discourse on the thesis that "the purpose of an election contest is to correct the canvass," and that "the general rule is that whatever may be the cause of an election contest, the true gravamen of the case is to determine who receives the highest number of votes, etc." (pp. 5-8, Order in question) and then held that there was no allegation in both petitions that "would give any benefit in favor of the protestants to the end that they will be declared the duly elected mayor and councilors, respectively, of this City," ergo, the said petitions do not state any cause of action. More specifically, the trial court looked in vain for allegations to the effect that "the alleged irregularities committed by the elections in favor of the protestants and against the protestees." (p. 7, id.) For example, His Honor reasoned out that "there is no allegation ... that the 8,000 voters who failed to vote were all voters of protestants and the 8,300 illegal voters who voted were for the protestees." (id.)

I am afraid that such discourse, if quite impressive as an exposition of considerable learning in election law matters, is rather irrelevant. I believe that what should be emphasized in these cases is that ruling in Our decision to the effect that in an election protest, (otherwise entitled at times, petition or complaint or motion of protest) it is not necessary to allege that the true results of the election in question would be in favor of protestant and against protestee on the basis of the legal votes, or that the proclaimed result would be changed if the facts alleged are proven, when the sole ground of protest and the only purpose of the protestant is to have the whole election in a precinct or municipality annulled and set aside. Indeed, as pointed out in the brief of appellants:

"In the case No. G. R. L. No. 29333, the prayer is for the annulment of the proclamation of protestee-appellee

Ca-milo P. Cabili and of the local elect-ions held in Iligan City on November 14, 1967, while in Case No. G. R. No. L-29334, the prayer is for the annul-ment of the proclamation of protestee--appellees Felix Z. Actub, et als, and of the local elections held in Iligan City on November 14, 1967.

"Section 177 of the Revised Elect-ion Code provides:

"Sec. 177 - Decision of the Contests - The court shall decide the protest x x x and shall declare who among the parties has been elected, or in the proper case, that none of them has been legally elected. x x x"

"Under the above-quoted provision of law, the courts are authorized to declare that none of the candidates has been le-gally elected, which in effect would mean that the elections are annulled.

"If it were not the intention of the lawmaker not to authorize the courts to annul an election, such authority would not have been provided in Section 177 of the Revised Election Code quoted above.

"Francisco, in his book How to Try Election Cases, 1952 Edition, p. 82, citing as authorities the decisions of this Honorable Court in Bustos vs. Moir and Fajardo, 35 Phil. 16; and Manalo vs. Sevilla, 24 Phil. 609, states:

'The court is authorized, in a proper case, not only to re-count the ballots and reject those which it considers illegal and accept those which it consi-ders valid but it is also autho-rized, in a proper case, to annul the election completely.' (Under-lining supplied)

"It is therefore clear that the trial court erred in holding that the purpose of the protestants in filing these protest is not in accord with the purpose of the Revised Election Code in allowing a defeated candidate to file an election protest."

In other words, I like to make it very clear that an election protest may be filed not only for the purpose of having the protestant declared elected, but even for the purpose alone of having the election annulled. Otherwise stated, protestants may come to court, not necessarily to win an election, but even if solely to have the court de-clare that no one has won because the election is void and that it is obvious and pure common sense that in the lat-ter case, the protestant does not have to allege the probability of his being the real victor, for in such a case, his prayer precisely is - that it be declared, using the language of the law, "that none of them has been legally elected." Surely, the following ruling of the trial court:

"An election contest is a summary proceeding the object of which is to expedite the settlement of the con-troversy between candidates as to who received the majority of the legal ballots (Gardiner vs. Romulo, 26 Phil. 522, 524). The purpose of an election contest is to correct the canvass of which the proclamation is a public manifestation and the power granted by law to the court must agree with and be adequate to such an object. Hence, the court can directly declare which candidate is to be elected leav-ing the canvass made by the Board null and void, and the candidate so declared elected may assume position of the of-fice (Aquino vs. Calabia & Sahagun, 55 Phil. 984). It being the policy of the law to give effect to elections, the general rule is that whatever may be the cause of an election contest, the true gravamen of the case is to determine who receives the highest number of votes (20 C. J. 217). In an elect-ion case, the court has an imperative duty to ascertain by all means within its command who is the real candidate elected by the electorate. (Ibasco vs. Ilao, G. R. No. L-17512, December 29, 1960). Hence, only candidates have the right to file an election protest. (Gil Hermanos vs. Hord, 10 Phil. 217).

"From the foregoing authorities, it could be concluded that the purpose of the election law to allow a candidate to file an election protest is for the court to determine whether the protest-ant or the protestee is the winner of the election under protest. In the present case, the object of the protestants in filing their protests based on the prayer of their petitions is not to declare them the duly elected mayor and councilors, respectively, of this City but merely to declare null and void the proclamation and election of the pro-testees as well as the elections held in Iligan City on November 14, 1967. The purpose, therefore, of the protestants in filing these protests is

not in accord with the purpose of the Revised Election Code in allowing a de-feated candidate to file an election protest."

must be emphatically denounced as a misreading by His Honor of the real import of the authorities cited by him. Such proposition represents the most narrow concept of the judicial remedies in matters of election. No single precedent in extant jurisprudence whether here or in any other country can be found to support it. I am equally confident that no thesis in any of the existing legal publications can be referred to as upholding such an illogical idea. To sanction such a ruling is to kill almost entirely all hopes for a clean, orderly and honest suffrage in this country, which the Commission on Elections alone may not be able to achieve in all possible cases. Indeed, as pointed out by appellants the trial court would have been right if it had only adhered to the decisions already rendered by this Court on the subject, cited by said appellants in their brief.

The real issue then in these cases is whether or not the facts alleged in the respective petitions of appellants constitute sufficient ground or grounds for annulment of the election of Mayor and Councilors in Iligan City, held in November, 1967. On this score, it has to be admitted that, indeed, the petitions of appellants which appear to have been prepared by a single counsel are not as accurately and precisely worded as to fit exactly into the pattern that may perhaps be most ideal in cases of this nature, but I cannot go along with His Honor's ruling that the allegations in said petitions are legally inadequate to serve as a basis for the relief of annulment of the election therein prayed for. His Honor seemed to be more concerned with what he considered the need for direct averments that the irregularities and violations of the election law alleged by appellants resulted in the destruction of the "secrecy and integrity of the ballot cast," that "all the votes cast in said elections are illegal" and that "the irregularities committed by the election officials would affect the election in favor of the protestees." (p. 8, id.) I feel that His Honor was asking too much and unnecessarily because, as they appear to me, these allegations as well as the others His Honor considered as indispensably required, are more in the nature of legal conclusions, not supposed to be averred in the pleadings, rather than statements of ultimate facts. The truth of the matter is that, viewed as a whole, the petitions in question sufficiently lead to the conclusion that what appellants are complaining about is that the elections held in Iligan City in November, 1967 were characterized by general and specific circumstances that leave rational doubt as to whether or not the true will of the people of said City could be reflected in the proclaimed results. In the more polished and inimitable language of Mr. Justice Fernando, "x x x the seriousness and gravity of the imputed failure to have the elections conducted freely and honestly, with such irregularities alleged, give rise to doubts, rational and honest, as to who were the duly elected officials."

It is my considered opinion that while it is truly desirable that election protests should be discouraged where they have hardly any basis in fact or in law, the earlier to free from doubt the title to their respective offices of those chosen to direct the affairs of our government, whether national or local, thereby giving them the peace of mind and freedom of action gravely needed in the formulation of policies and the implementation thereof, courts should also be careful in seeing to it that their doors are not untimely shut to complaints regarding the commission of electoral frauds, irregularities and illegalities, the most despicable banes of popular suffrage, which though unhappily worded are fairly indicative of a situation wherein the will of the electorate has not been freely and clearly expressed. To my mind, the rule followed in an unbroken line of decisions of this Court, to the effect that the commission of irregularities by election officials, no matter how serious, and the actual discovery of frauds and violations of law by either candidates or voters, are not in themselves sufficient to cause the annulment of an election unless so expressly provided by law, or that the frauds, illegalities and irregularities are so rampant and diffusive as to place the result of such election in grave doubt, is one that governs more the rendition of judgments in election cases and the evaluation of the circumstances surrounding the elections in question, as portrayed in the evidence already presented before the court, rather than as a strict criterion for determining whether a complaint or petition or motion of protest sufficiently states a cause of action for annulment. Respecting contrary opinion

others may entertain on the matter, I regard it as a sound rule that pleadings in election cases, at least, should not be subjected to such minute examination as should be done to facts duly established after proper hearing, if only because facts are unerring manifestations of the truth, while allegations in pleadings often suffer from the common flaws in the means of human expressions as well as from the usual imperfections of human language. If words are but children of thoughts, parents and off-springs do not always, as among men and animals, look exactly alike. Pleadings in such cases must, therefore, be read with more liberality so as to make it difficult, if not impossible for grievances against the suppression in one form or another of the expression of the popular will, well-grounded in fact, may not be thrown out merely because of lack of skill and precision in the formulation of the corresponding protests. More importance should be given to the substantial matters sufficiently appearing in such pleadings as intended to be brought to the court for a remedy, than to the form, at times, ambiguous and often ungrammatically phrased, in which they are expressed. In any event, in case of doubt as to which should be done, such doubt must be resolved in giving due course to the protest, unless it is manifestly evident that the same has been filed for other than legitimate purposes.

As already indicated, my vote is for the reversal of the appealed order sustaining the motion to dismiss filed by appellees in the court below, because I agree with the decision herein of Mr. Justice Fernando that there are enough indications, within the four corners of the questioned petitions, of irregularities and illegalities which, if proven, may result in the annulment of the elections prayed for by appellants.

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