

**RAMON C. ROSALES, ET AL., PROTESTANTS AND APPELLANTS, VS.
MATEO V. TUPAZ, ET AL., PROTESTEES AND APPELLEES.***G. R. No. 10654. September 23, 1958*

Ponente: PARAS, C.J.

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In the general elections held on November 8, 1955, Mateo V. Tupaz, Filemon Durano, Godiardo Guillen, Teofilo H. Sanchez and Gabriel R. Banaag were on November 25, 1955, proclaimed by the City Board of Canvassers elected councilors of the City of Butuan. On December 6, 1955, Ramon Rosales and others filed their election protest, and on December 10, 1955, the protestees moved for the dismissal of the protest on the ground of lack of cause of action. The protest having been dismissed, the protestants filed on April 24, 1956 a motion for reconsideration and on April 25, 1956, an amended election protest. As the motion for reconsideration was denied and the amended election protest was not admitted for having been filed out of time, the protestants have appealed.

The lower court dismissed the original protest on the ground that it states no allegation that the frauds, errors, irregularities and violation of election law mentioned therein would in any way alter the result of the election in favor of the protestees." This is erroneous, considering the allegations of sub-paragraph (i) of the protest, in relation to those contained in sub-paragraphs (a), (b), (c), (d), (e), (f), (g), and (h) of paragraph 4. As the last part of sub-paragraph (i) avers "which causes directly affected the election results in all precincts in the City of Butuan in favor of the protestees and against the protestants", a reasonable construction would be that the word "causes" refers to the irregularities, frauds, errors, and violations of the Election Law enumerated in the preceding sub-paragraphs (a), (b), (c), (d), (e), (f), (g), and (h) and in the first part of sub-paragraph (i). In other words, were it not for the existence of those "causes" the results of the election would have been different, and the protestants should have won and the protestees would have lost.

Accordingly, the amended protest filed by the appellants should not have been dismissed. No new grounds were inserted therein, the amendments consisting merely of clarifications of the allegations of the original protest. There was as yet no trial, and it was filed within a reasonable period.

Wherefore, the appealed order of dismissal is hereby set aside and the lower court is ordered to give due course to the protest. So ordered.

Bengzon, Reyes, A., Bautista Angelo, Labrador, Concepcion, and Endencia, JJ., concur.

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