

ESTRELLA O. ROCHA, PROTESTANT AND APPELLANT, VS. JUAN B. CORDIS, PROTESTEE AND APPELLEE.*G. R. No. 10783. April 16, 1958*

Ponente: BAUTISTA ANGELO, J.

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This is an appeal from a decision of the Court of First Instance of Camarines Sur dismissing the petition for quo warranto filed by petitioner against respondent disputing the election of the latter to the office of the mayor of Caramoan, Camarines Sur.

Estrella O. Rocha, petitioner, and Juan B. Cordis, respondent, together with one Timoteo Alarcon, were candidates for the office of mayor of Caramoan, Camarines Sur, in the elections held on November 8, 1955. When the canvass of the votes was made, it resulted that petitioner received 1,705 votes, respondent 2,042 votes, and Alarcon 356 votes. Respondent was therefore proclaimed as the duly elected candidate for said office. This notwithstanding, petitioner filed the present petition for quo warranto contesting the legality of respondent's election on the ground that he was ineligible to run for said office because he did not possess at the time of his election one of the qualifications required by law, which is that of being a qualified voter in the municipality where he is a candidate. Respondent, in answer to the petition, contended that to be qualified to run for the office of mayor of a municipality it is not necessary that he be a registered voter therein. This contention was sustained by the court a quo and so it dismissed the petition. Hence this appeal.

Article 2174 of the Revised Administrative Code, speaking of the qualifications of a municipal officer, provides as follows:

"Qualifications of elective municipal officer.—An elective municipal officer must, at the time of the election, be a qualified voter in his municipality and must have been resident therein for at least one year and must not be less than twenty-five years of age. He must also be able to read and write intelligently either English, Spanish, or the local dialect."

In an incident concerning the registration of voters in Precinct No. 9 of Caramoan, Camarines Sur, the right of respondent to vote in said precinct was contested by one Hermogenes P. Obias, and after proper hearing, the court ordered the board of inspectors to strike out the name of respondent from the list of qualified voters. Because of this adverse result, it is now contended that respondent is not a qualified voter within the purview of the law and, consequently, he is ineligible to the office for which he was elected and proclaimed.

There is no merit in this contention. In *Yra vs. Abaño*, 52 Phil., 380, the same legal provision was interpreted and applied and it was there held that in order to be qualified to run for an elective municipal office, or in order to be a qualified voter within the meaning of the law, the candidate need not be a registered voter in said municipality. In that case, one Abaño, who was elected to the office of mayor of Meycauayan, was not a registered voter in that municipality, and yet this Court declared him to be eligible therefor. In that case the Court cited with approval the case of *Meffert vs. Brown*, 1909, (132 Kentucky 201), wherein the following pronouncement was made: "That act

of registering is only one step towards voting, and it is not one of the elements that makes the citizen a qualified voter. * * * One may be a qualified voter without exercising the right to vote. Registering does not confer the right; it is but a condition precedent to the exercise of the right." (52 Phil., 384; *Italics supplied*).

After citing Section 2174 of the Administrative Code, which provides that an elective municipal official must, at the time of the election, be a qualified voter in his municipality, this Court made the following pronouncement:

"The question before us has arisen in a slightly different form in the other departments of the Government. In the early days of the Philippine Assembly, the election of Honorable Fernando Ma. Guerrero as a member of the Assembly from Manila was contested on the ground that he was not registered in his electoral district. The Committee of the Philippine Assembly reached the conclusion that the words 'qualified elector' meant a person who had all of the qualifications provided by law to be a voter and not a person registered in the electoral list (Taken from Villamor's *Tratado de Elecciones*, 2d ed., p. 156). So also the Executive Bureau has been of the opinion that the term 'qualified' when applied to a voter not necessarily mean that a person must be a registered voter (Executive Bureau Unnumbered Provincial Circulars, May 19, 1925, May 2, 1925, May 7, 1925, cited in Laurel's *The Law of Elections of the Philippine Islands*, 1st ed., pp. 32, 33).

"Senator Jose P. Laurel in his *Law of Elections of the Philippine Islands*, pages 32, 33, summarizes the law on the subject in the following language:

'One of the qualifications required by law of a person who announces his candidacy is that he must be duly qualified elector. The Executive Bureau has held that the term 'qualified' when applied to a voter does not necessarily mean that a person must be a registered voter. To become a qualified candidate a person does not need to register as an elector. It is sufficient that he possesses all the qualifications prescribed in section 341 and none of the disqualifications prescribed in section 432. The fact that a candidate failed to register as an elector in the municipality does not deprive him of the right to become a candidate and to be voted for,'

"It is not at all easy to disregard the forcible argument advanced by counsel for the appellant to the effect that when the law makes use of the phrases 'qualified elector' and 'qualified voter' the law means what it says. It is contended that it would be an absurdity to hold one a qualified elector who was not eligible to vote in his municipality. At the same time, the contemporaneous construction of the law by two departments of the Government—one the legislative branch responsible for its enactment, and the other the executive branch responsible for its enforcement—while not controlling on the Judiciary, is entitled to our respectful consideration. For the orderly and harmonious interpretation and advancement of the law, the courts should when possible, keep step with the other departments." (52 Phil., 383-884).

There can therefore be no question that respondent was a qualified voter within the meaning of the law in his municipality at the time of his election and as such he was eligible for the office for which he was proclaimed.

And it cannot be contended that the pronouncement made in said case is merely an obiter dictum for the reason that Abaño was then a registered voter in the City of Manila, for the point around which the issue revolved was that in spite of the fact that he was not a registered voter in his own municipality he was declared eligible for the office. It was there stressed that "Registration regulates the exercise of the right of suffrage. It is not a qualification for such right" (52 Phil., 385; *Italics supplied*). It should be stated that this pronouncement was reaffirmed by this Court in two subsequent decisions so that there can be no doubt as to its real import (See *Vivero vs. Murillo*, 52 Phil., 694, and *Larena vs. Teves*, 61 Phil., 36).

Wherefore, the decision appealed from is affirmed, with costs against appellant.

Paras, C. J., Bengzon, Montemayor, Reyes, A., Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, J.J., concur.

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