

PROTASIO SANTOS, PETITIONER, VS. VICENTE MIRANDA, JUDGE OF THE COURT OF FIRST INSTANCE OF THE PROVINCE OF TARLAC, AND GREGORIO CLEMENTS, RESPONDENTS.

G.R. No. 12235. December 08, 1916

Ponente: JOHNSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-12235/>

JOHNSON, J.:

This is an original petition presented in the Supreme Court for the writ of prohibition. Its purpose is to prohibit the respondent judge from proceeding with the hearing of a certain election contest, pending in the Court of First Instance of the Province of Tarlac, in which the petitioner herein is the protestee and the respondent herein, Gregorio Clemente, is the protestant.

The facts upon which the remedy prayed for is based may be stated as follows:

First. That on the 6th of June, 1916, an election was held in the municipality of Camiling, Province of Tarlac, for the purpose of electing a president and other municipal officers.

Second. That on the 10th of June, 1916, the municipal board of said municipality declared that Protasio Santos had been duly elected as president of said municipality; that Gregorio Clemente had secured 493 votes and that Protasio Santos had received 572 votes.

Third. That on the 20th of June, 1916, the said Gregorio Clemente presented a protest against the election of Protasio Santos, alleging that certain frauds had been committed during the election, which rendered the same null and void.

Fourth. That later (the exact date not given) notice of said protest was given to Protasio Santos, Francisco Santos, and Melquiades Pagarigan.

Fifth. That on the 23d of August, 1916, the protestant, Gregorio Clemente, presented an "amended protest", which, in addition to certain facts relating to the alleged frauds practiced during said election, alleged that the following persons had received votes at said election: Agaton Concepcion, Bernardo Perez, Cecilio Torres, Francisco Lanuza, Miguel Alvarez, Emesio Ebarra, Sofronio Serrano, Teofilo Aguilar, Timoteo Gulling, Valentin Gamalindo.

Sixth. That the additional persons named in the last preceding paragraph, while they had been voted for, were not, in fact, candidates for the office of president, and that they had been made parties to the amended protest simply to comply with the provisions of section 578 of the Administrative Code; that said amendment as to parties did not in any way change the original protest and was simply made for the purpose of including all the persons who had received votes for the office of president of said municipality at said election.

Seventh. That the said amended protest alleged that none of the persons named in the 5th paragraph above were candidates for president at the time of said election.

Eighth. That later (the exact date not given) the petitioner here (the protestee below) presented a motion to dismiss the protest for the reason that all of the "candidates voted for" had not been duly notified in accordance with the provisions of the law, and that, therefore, the court was without jurisdiction to hear the same.

Ninth. That the court denied said motion to dismiss and ordered the hearing on said protest to continue.

It was because of the refusal of the lower court to grant said motion to dismiss that the present petition was presented here.

Upon the presentation of the petition, the respondents were ordered to show cause why the writ of prohibition should not issue as prayed for. The respondents, in compliance with said order to show cause, presented a demurrer and an answer. The respondents having demurred and answered at the same time, the answer only can be considered. The fact that they answered waived the demurrer.

The answer alleged: (a) That the only candidates voted for for the office of president of said municipality were: Gregorio Clemente, Protasio Santos, Francisco Santos, and Melquiades Pagarigan; (b) That said candidates had been duly notified of said protest; (c) That the additional persona named in the "amended protest" were not "candidates voted for" at said election; and (d) That said amended protest had been admitted without objection on the part of the protestee (the petitioner herein).

The theory of the petitioner is, inasmuch as the additional persons named in the amended protest had received votes for the office of president, that they were, therefore, "candidates voted for" and must, under the law, be notified. That theory may or may not be correct, depending upon the facts presented in each particular case. Whether the particular person "voted for" was a candidate or not is a question of fact. Any citizen of a municipality eligible for election to any municipal office, may be elected thereto, even though he is not a candidate. Candidates for municipal offices are not required to make a pre announcement of their candidacy as provincial candidates are required to do, and for that reason it may be difficult at times to determine who are the real candidates at any municipal election for municipal officers. Whether the persons voted for were, in fact, "candidates voted for" is always subject to proof. In view of the fact that the municipal board of inspectors are required to make a certificate showing the names of "all the persons voted for," and proclaim the persons elected, we are of the opinion that in the first instance all the "persons who received votes" for a particular office and who were eligible for election to said office, and whose names appeared in said certificate, must be considered for the purpose of any protest as "candidates voted for," until the contrary is shown. That being true, they should, of course, be notified. If, however, the protestant should fail to notify any of said persons, for any excusable reason, or if the municipal board of inspectors should neglect to include in said certificate any of the persons voted for at the particular election, then, and in either of said cases, the court should hear proof upon the question whether said persons were or were not "candidates voted for," and decide whether or not in fact, such persons were candidates.

If upon said hearing the proof shows that the persons voted for, and not notified nor included in the certificate, were, in fact, not "candidates voted for," then the hearing upon the protest should continue without further delay. If, upon the other hand, the protestant has, in fact, failed to notify, without just cause, all of the "candidates voted for," and the court so finds upon the hearing, then the protest should be dismissed without delay. The court has no jurisdiction to hear the protest until "all of the candidates voted for" have been notified. There may be cases, however, where the protestant, for reasons beyond his control, or by reasonable diligence, was unable to ascertain at the time of the presentation of his protest, who were, in fact, "all of the persons voted for," and has failed, for that reason, to notify some of them. In such cases, in our opinion, justice and equity require that the protestant should be permitted to notify such additional candidates or persons voted for. The protestant, under such circumstances, should not be deprived of his day in court. The law does not require the "motion" or protest to

contain or mention the names of all the candidates. The law simply requires that all candidates voted for should be notified.

As was said above, it will be presumed that all of the persons voted for, as appears from the certificate of the municipal board of inspectors, were "candidates voted for" until the contrary is shown, and must be given notice of the protest. That presumption, however, is a rebuttable one. When the question is properly presented to the court whether or not such persons voted for were or were not, in fact, "candidates voted for," it is the duty of the court to hear proof upon that question. It might be that some of the persons voted for were not candidates and would not, under any condition, accept the particular office, even though elected. Therefore the court should give the parties a hearing upon the question who were, in fact, candidates voted for. In order that said notice must be given, two conditions are required by law; first, the particular person must have been a candidate; and, second, he must have been voted for or must have received some votes. If he has been voted for, the presumption is that he was a candidate and must be given notice of the protest. If the protestant, however, knows, as a matter of fact, that the particular person was not a candidate, there is no reason for going through the empty formula of giving him notice. The protestant, however, in such a case, assumes the responsibility of his failure to give the notice required by law and if, perchance, it should develop that the particular person was a candidate, then, of course, the protest must fail, for the reason that the court did not obtain jurisdiction to hear the protest, all of the candidates voted for not having been given notice.

The question, who are candidates, has been defined many times by the courts. Bouvier, in his valuable law dictionary, defines a candidate as "one who offers himself or is offered by others, for an office. One who seeks office is a candidate; it is not necessary that he should have been nominated for it." Webster defines a candidate as "one who offers himself or is put forward by others as a suitable person, or an aspirant, or a contestant for an office, privilege, or honor." Escriche defines a candidate as *El que pretende alguna dignidad o empleo honorifico* (one who runs for a certain office or honorary position). The term "candidate" is used to designate the person voted for at an election. (*State vs. Hirsch*, 125 Ind., 207; 9 L. R. A., 107.)

The protestant must give notice to all of the persons voted for whose names appear in the certificate of the municipal board of inspectors or be prepared to show that those who were not notified were not candidates, and this at his peril, because if it turns out that some of them were candidates and were not notified, without just reason, the protestant must fail for the reason that the court would not have jurisdiction.

In the present case the additional persons named in the amended protest were given simply as a precaution, the protestant alleging at the same time that none of them were candidates. The court, having found that none of them were candidates, did not exceed his jurisdiction in allowing said amendment. The notification to the parties who were not candidates can not prejudice the right of the protestant. It is the failure to notify those who were candidates which prejudices the right of the protestant. The error, if any, in the present case, did not prejudice the rights of any of the parties. The lower court must have found that the additional persons named in the amended protest were not candidates and that the persons named in the original protest, who had been notified, were the only candidates voted for. That being true, the lower court had jurisdiction to hear and determine the questions presented by the protest.

Therefore, the petition for the writ of prohibition herein prayed for is hereby denied, and without any finding as to costs, it is so ordered.

Torres, Carson, Trent, and Araullo, JJ., concur.

Moreland, J., see dissenting opinion.

DISSENTING OPINION

MORELAND, J.:

The purpose of this action is to prevent the Court of First Instance of the Province of Tarlac from going ahead and trying an election contest instituted for the purpose of obtaining a declaration of that court as to who was elected president of the village of Camiling at the June elections.

The basis of the action is the alleged failure of the contestant to make parties to the contest and duly notify all of the persons receiving votes for that office at said election; and that it being the unquestioned law that, if the contestant failed to make all the persons receiving votes for the office contested parties to the contest and duly notify them, the court before which the contest is brought is not authorized to proceed to the trial and determination of the case but must dismiss the contest, it was the duty of the court to dismiss the proceedings and that it had no authority or power to go on with the hearing.

I do not agree with the court that an answer has been filed in this case. It is true that a writing called an answer was filed by a lawyer, Conrado R. Gwekoh, who signs himself attorney for Gregorio Clemente, the contestant and one of the defendants in this action. The attorney who appeared in the court below as attorney for the contestant Gregorio Clemente was Tirso de Iureta Goyena who had initiated the contest and who filed the amended pleading and acted as attorney for the contestant in that court. In this court he has filed a demurrer to the complaint as attorney for Gregorio Clemente. He is the only attorney of record for Gregorio Clemente either in the court below, or in this court and is the only attorney authorized, so far as our records show, to appear for Gregorio Clemente. The answer, therefore, filed by Gwekoh as attorney for Gregorio Clemente is without authority and should be disregarded. It would be at least an anomaly in a court of record, after the attorney of record has filed a pleading, to permit a total stranger to the proceeding to come in and file another pleading as attorney for the same party which completely destroys the effect of the pleading already filed by the attorney of record. So far as the records of the court below and this court go Conrado R. Gwekoh is not the attorney for Gregorio Clemente and was not authorized to file pleading in his behalf in this court. (U. S. vs. Borromeo, 20 Phil. Rep., 189.)

I, therefore, think this court is in error in holding that answer has been filed particularly in view of the fact that the case was argued in this court orally by Tirso de Iureta Goyena, as attorney for Gregorio Clemente, and his argument was based exclusively on the demurrer which he had filed. Gwekoh did not appear on the argument and, so far as we know, has nothing to do with the case.

The demurrer is based upon the ground that the facts set out in the complaint are not sufficient to state a cause of action and that the complaint is vague, ambiguous, and unintelligible.

The Supreme Court, deciding the case on the merits, dismissed the complaint. The facts on which the complaint was dismissed, which, although it was held that an answer had been filed, are nevertheless in the main undisputed, were that it appeared according to the proclamation of the municipal board of canvassers that a considerable number of persons had received votes for the office contested who were not made parties to the contest or notified until the latter part of the month of August when the contestant incorporated them as parties in an amended protest. Although such persons were included in the amended protest as parties, nevertheless the contestant refused to notify them as required by law, alleging in his amended protest that such persons were not "candidates" and, therefore, did not fall within the provision of the Election Law requiring "all candidates voted for" to be made parties to the contest and to be notified. On filing the amended contest one of the respondents made a motion to dismiss the proceeding on the ground that the failure of the contestant to make the persons named parties to the proceedings and to notify them according to law resulted in a failure of the Court of First Instance to

acquire jurisdiction over the subject-matter of the proceeding and deprived it of power or authority to proceed to the hearing of the contest. This motion was denied on the ground that the persons named were not "candidates voted for" within the meaning of the law and that they were, therefore, not necessary parties and were not the persons contemplated by the statute as such. The motion having been denied and the Court of First Instance having announced its purpose to proceed with the trial, this action of prohibition was brought to prevent the court from proceeding on the ground that it lacked authority and jurisdiction to do so.

The evidence upon which the Court of First Instance found that the persons who received votes but were not made parties were not candidates was the proclamation of the municipal board of canvassers and statements in the amended protest accepted as true by the court. From these sources it appeared to the satisfaction of the court that some of the persons who received votes were, in the election referred to, elected to or received votes for other municipal offices, some were candidates for provincial offices, one was an inspector of election, and some withdrew their candidacy. Upon these facts the court denied the motion to dismiss the proceedings above referred to.

The position of the Supreme Court in dismissing the complaint is substantially that taken by the trial court in denying the motion to dismiss. It is contended and held by the Supreme Court that, unless a person is a candidate within the meaning of section 578 of the Administrative Code, he is not a necessary party to the contest and need not be notified. In spite of this, however, it holds that all persons who are shown by the proclamation of the municipal board of canvassers to have received votes for the office contested are prima facie necessary parties to the contest and should, therefore, be made parties and notified as required by the section referred to. The court further holds that, while they are necessary parties, they are only prima facie, that is, presumptively, necessary parties; and that whether or not they are ultimately necessary parties is a subject for investigation and resolution by the Court of First Instance upon evidence presented; and, if it appears to the satisfaction of the Court of First Instance, upon the evidence offered, that they are not necessary parties, then the proceedings may go forward without them and it is unnecessary to make them parties or to notify them. The Supreme Court maintains that, under the facts of this case, the persons referred to were not candidates for the office contested, notwithstanding the fact that they received votes, and, therefore, were not necessary parties to the contest, and that, accordingly, no contest need be filed as to them and it was unnecessary to make them parties or give them notice. This contention and holding is based on the provisions of section 578 of the Administrative Code [1916] which provides in part:

"Proceedings for the judicial contest of an election shall be upon motion with notice of not to exceed twenty days to all candidates voted for * * *."

I desire to call special attention to the fact that the Supreme Court holds that the primary evidence as to who is a candidate is the proclamation of the municipal board of canvassers; and that it establishes who are the "candidates voted for" mentioned in the statute. The court also holds, as a necessary result, that, "in view of the fact that the municipal board of inspectors are required to make a certificate showing the names of 'all candidates voted for,' and proclaim the persons elected, we are of the opinion that in the first instance all the persons who received votes for a particular office * * * whose names appear in said certificate (proclamation) must be considered for the purpose of any contest as 'candidates voted for, until the contrary is shown;' and the court adds: "That being true, they should, of course, be notified." And further on in the opinion we find: "As we said above, it will be presumed that all of the persons voted for, as appears from the certificate of the municipal board of inspectors, were 'candidates voted for' until the contrary is shown, and must be given notice of the protest."

To begin with, then, we have, according to the Supreme Court, a definite number of persons, clearly known, who are, at the beginning at least, the "candidates voted for" mentioned in the statute. They are the persons proclaimed by the municipal board of canvassers as being those who received votes for the office contested. It necessarily

follows that we also have, according to the same authority, the persons who, at the beginning at least, must be made parties to the contest, the persons who are shown to have received votes being, according to the holding of the Supreme Court, identical with the "candidates voted for," as it necessarily follows that, if they must be notified they must be parties. (Manalo vs. Sevilla, 24 Phil. Rep., 609.) They are necessary parties too; for, if they are omitted, the omission results in a failure of the Court of First Instance to acquire jurisdiction and the proceeding falls. (Hontiveros vs. Altavas, 24 Phil. Rep., 632.) That proposition is stated in the opinion of the court in this very case. It says: "If, upon the other hand, the protestant has, in fact, failed to notify * * * all of the 'candidates voted for,' and the court so finds upon the hearing, then the protest should be dismissed without delay. The court has no jurisdiction to hear the protest until 'all of the candidates voted for' have been notified."

As a necessary result of all this, we have all of the persons who are necessary parties to an election contest, those who the proclamation of the municipal board of canvassers shows received votes for the office contested. The rest should be perfectly plain. But it is far from being so if we accept what the court subsequently says; and this is what, in my judgment, throws everything into confusion. Speaking of the proposition that the persons who, according to the proclamation of the municipal board of canvassers, received votes for the office contested are "candidates voted for" within the meaning of the law, the court says: "Whether the particular person 'voted for' was a candidate or not is a question of fact. * * * Candidates for municipal offices are not required to make a preannouncement of their candidacy as provincial candidates are required to do, and for that reason it may be difficult at times to determine who are the real candidates at any municipal election for municipal officers. Whether the persons voted for were, in fact, 'candidates voted for' is always subject to proof. * * * Therefore the court should give the parties a hearing upon the question who were, in fact, candidates voted for."

There is nothing in the opinion of the court which discloses when the hearing as to who are candidates shall take place, who shall be notified thereof and given an opportunity to be heard thereon, or who shall be the persons to raise the question. The court does not tell us who is meant when it says that "the court should give the parties a hearing upon the question who were, in fact, candidates." In the present case the question as to who were candidates was raised upon a motion to dismiss the proceedings for lack of jurisdiction based on the fact that not all of the persons receiving votes had been made parties and notified as required by law. That motion was made by that one of the respondents who had been declared elected by the proclamation of the municipal board of canvassers. No notice of that motion was given to the persons whose rights as persons who received votes were to be disposed of in the motion; and not one of them ever had an opportunity to be heard on the question whether he was a candidate or a necessary party, or to protect his interests in any way. In spite of that, however, the Court of First Instance held that they were not candidates, were not parties, were not parties to the contest, and were, therefore, not entitled to be notified. That ruling has been upheld by the Supreme Court in its decision in this case and I assume, therefore, that it has confirmed and ratified that kind of proceeding.

I believe that the decision in this case is erroneous. The demurrer should have been overruled; for if there was ever a case where the contestant failed to comply with the Election Law it is this.

In the first place, I am struck with the statement of the court that the persons who, according to the proclamation of the municipal board of canvassers received votes for the office contested, are *prima facie*, that is, "in the first instance," "candidates voted for" within the meaning of the law. As I have before stated, if they are candidates voted for, then they must be necessary parties to the contest because the law expressly requires that they be notified on pain of loss of jurisdiction and authority of the court. It is clear, of course, that, if a person must be notified, that is, served with process, in an action or proceeding, he must be a party. Not only that, he must be a necessary party; for it would be an absurdity to require notice to a person who is not a necessary party to the action or proceeding. If he is not necessary to a final disposition of the case, why should the statute require him to

be notified, that is, served with process in the cause? Such being the case, I am struck with the phrase of the court that the persons who, according to the proclamation of the municipal board of canvassers, received votes for the office contested are prima facie necessary parties, for that is what the court necessarily means when it says that they are prima facie candidates voted for. It seems to me to be meaningless. If a person is a necessary party that is all there is to it. To assert that he is a prima facie necessary party is to speak in contradictions. Of this I will speak more fully later. I am concerned now only with the result of the court's holding that, while a person is prima facie a necessary party, it can be demonstrated later that he is not a necessary party, and this without his ever in fact having been made a party. In the very case before us the court holds that, prima facie, the persons who received votes for the office contested were necessary parties; but, notwithstanding this, it permits, in direct contradiction thereof it seems to me, evidence to be introduced to determine whether they are necessary parties before the presumption which the court indulges has been allowed to produce effect. In other words, the court declares that those persons were presumptively necessary parties but, before that presumption was allowed to have its effects, the court determined that they were not necessary parties. It seems that if the court had been logical it would have allowed the presumption to produce its effects by making them parties to the contest in pursuance of the presumption. Instead of that, however, the court presumes that they were necessary parties and then instantly holds that they are not necessary parties. This means nothing, as I view it. To give an individual the enjoyment of a presumption in his favor and then overthrow the presumption before it operates, and before he gets the benefits of it, is to give him nothing. To hold that certain persons are, by presumption, necessary parties to a contest and then, before they are made parties in pursuance of that presumption, that is, before the presumption operates or produces its effects, declare that they are not necessary parties, is a holding that, in my judgment, plays with words and means nothing.

In the second place the court has failed to appreciate that the same general principles of procedure which govern every action and proceeding in courts of justice apply to election contests. While the procedure in the latter cases is summary, the law, nevertheless, requires the observance of the underlying and guiding principles of procedure. Where a statute expressly makes certain designated persons necessary parties to a given action or proceeding they must be made parties, and there is no possible way of avoiding it, as a judgment would be worthless without them. No court would permit even a discussion as to whether they should be made parties or not. What the statute requires the courts must enforce. Can it be imagined that a court would even listen to a discussion initiated by the plaintiff in an action to foreclose a mortgage as to whether the mortgagor was a necessary party to the action? Of course not. The theory on which such a discussion would proceed would necessarily be so untenable that no court would waste its time in such an idle discussion. What would a judgment in such an action be worth if the mortgagor was not a party?

Let us apply these remarks to an election contest. It goes without saying that every person whom the election law expressly requires to be served with notice of the contest is a party to the contest. Otherwise, of course, notice to him would not have been required. But if notice to him is absolutely required by the statute, as it is in express terms (sec. 578), he is a necessary party. If he is a necessary party it is the simplest deduction to conclude that he has a right to be heard on the merits. Not only this, it is an inevitable consequence that a judgment without him would be a nullity as to him. As has been seen from the cases already cited, this court has so held in numerous cases in which it has said that, if all necessary parties are not made such and given the notice required by law the court lacks authority to proceed and must dismiss the contest. This doctrine laid alongside of another doctrine of this court permits us to take another step in the discussion. The other doctrine is, that every person who appears from the proclamation of the municipal board of canvassers to have received votes for the office contested is prima facie a candidate and, therefore, a necessary party to the contest.

The very case before us holds this; and it has been held again and again as I have already shown. (*Mayo vs. Court*

of First Instance of Tayabas, and Magbiray, ante, p. 630. In the late case of Tamondong vs. Llorente and Palisoc, ante, p. 635, the court said: "Upon the question as to who are candidates voted for at a municipal election, we are of the opinion: (1) That all persons who are voted for should in the first instance be considered candidates voted for." The purpose of the discussion in the case cited, of which the quotation 'is a part, was to determine who are necessary parties in an election contest by first determining who are "candidates voted for," the persons expressly named in the statute as those who must be notified, that is, made parties to the contest; and the court holds in that case, as in many others, that presumptively every person who is shown by the proclamation of the municipal board of canvassers to have received a vote or votes for the office contested is a "candidate voted for" and, therefore, a necessary party to the contest. While the court holds that this presumption may be rebutted, that does not modify the general proposition stated. How and when and where the rebuttal is possible are questions which I shall discuss in another place. It is sufficient for present purposes that, at the beginning of the contest, every person shown to have received votes by the proclamation of the municipal board of canvassers is a necessary party and must be notified—that is, every such person is a statutory party, one expressly required by statute to be made a party and given notice. But the beginning of the contest is the beginning of the proceeding; and to begin a proceeding legally the person initiating it must make parties to it all persons named by law as necessary parties. So that, with the very first act in the contest, every person receiving votes becomes a party. It would be absurd to argue that a contest can be begun with no one a party but the contestant himself. It would be equally absurd to argue that such a proceeding may be begun with no other parties than the contestant and the person declared elected. The statute, in speaking of the necessity of notice to all candidates voted for, makes no distinction between the person declared elected and the other persons who received votes. It simply says that the proceeding shall be upon motion "with notice to all candidates voted for." The person declared elected, and who is erroneously called the contestee, enjoys no special mention, no special distinction. He is placed by the statute in the common herd of "all candidates voted for" and is made a party in precisely the same manner as the others, and is treated by the statute in every respect as are the others. This being so, there can be no possible question that, at the very beginning of the contest, all persons whom the statute names as necessary parties must appear as parties in the paper, document or pleading which initiates the proceeding, which the statute calls the "contest," and which must be filed within two weeks after the election. It must not be forgotten that, while the person declared elected is a necessary party, the statute makes him no more a necessary party than all others who received votes. Indeed the statute describes him only as it describes all other necessary parties, simply as a "candidate voted for;" and he receives the same kind of notice and is treated precisely the same as all others.

It having been established that every person who, according to the proclamation of the municipal board of canvassers, received votes for the office contested is a necessary party, a statutory party, ought the court to permit even a discussion as to whether he should or should not be made a party by the contestant when he files his contest? Or whether he should be notified? When the statute declares that a given person is a necessary party to a proceeding there is absolutely no room for discussion as to whether he should be made a party or not. And it makes no difference whether, as the court holds, he is presumptively or prima facie a necessary party, or whether he is conclusively, without the prima facie attachment, a necessary party. The declaration of the Election Law that "all candidates voted for" must be given notice, that is,, made parties to the proceeding, "all candidates voted for" being construed by this court in the cases cited to mean "all persons who are voted for" as disclosed by the proclamation of the municipal board of canvassers, is equivalent to a declaration, indeed is a declaration, that all persons receiving votes for the office contested are necessary parties; and there should be no hesitation whatever in concluding that no contest complies with the law which does not name as parties defendant or respondent all persons who, according to the declaration of the municipal board of canvassers, received votes for the office contested.

Let us examine more in detail the statement of the court that all such persons are prima facie candidates voted for and, therefore, prima facie or presumptively necessary parties. I do not recall that I have ever before heard of a prima facie or presumptively necessary party, or prima facie a candidate voted for, for that matter. One is either a necessary party or he is not. He cannot be a necessary party one moment and not the next. If there is a statute on the subject that, of course, will not only govern but will be conclusive. There being a statute fully covering the case before us it is unnecessary to go further. As I read it there is nothing said about prima facie parties, or prima facie necessary parties, or prima facie candidate voted for. The statute simply provides that all candidates voted for are necessary parties, all candidates voted for being, as we have seen by the holding of this court, all persons voted for as shown by the declaration of the municipal board of canvassers. Where, then, does the court get the prima facie idea? Now, if such persons are necessary parties under the statute, in other words, if they are what might be termed statutory parties, they are necessary or statutory parties always. It cannot either legally or logically be claimed that they are necessary parties for a few minutes or for a few days and not thereafter. If they are necessary parties at all they continue to be such throughout the proceeding, unless either the statute or their interest changes. Now, the words prima facie apply to a situation which may be changed. They indicate a statute which may be altered by something subsequent occurring. But it must not be forgotten that they also mean that until the facts to which they apply are disproved by evidence, a certain legal conclusion is in force and effect. In other words, a presumption operates from the moment of its existence; and if the presumption is that a given person is a party, he is a party, and is such from the instant the presumption is born. This being so it is clear that the words prima facie cannot be used in connection with the parties to an action or proceeding. The parties are such by law and are such from the beginning. Their status never changes, unless they subsequently and by their own acts change it. If one is a necessary party to a foreclosure action he remains so to the end; and if one is a necessary party to an election contest at the beginning of the contest he remains so to its termination. No evidence, no proof, no proceeding can change his status. Election contests are much more severe in this regard than ordinary actions. A necessary party to an action of partition may dispose of his interest in the lands in suit during the pendency of the action and cease to be, in one sense, a necessary party. But one who is a necessary party to an election contest cannot thus escape the legal necessity of continuing to be a necessary party to the end. He has no interest of which he can dispose. He has no means by which he can change the necessity created by the statute. His interest, however small or remote, is also the public interest, which demands that, in all proceedings which affect public office, every person receiving votes for that office shall be necessary for the protection and conservation of the public welfare. He may know some fact known to no other person which will save the public from the results of fraud or corruption.

For this reason alone I should be obliged to conclude that the court has mistakenly used the words prima facie or presumptively or in "the first instance" in applying them to the parties to an election contest, and that everything based on that conception is necessarily without support and must accordingly fall.

In the third place, the question as to whether the persons referred to were in fact and in law candidates was decided by the Court of First Instance in a motion to dismiss the proceeding for failure to make parties and notify all the persons receiving votes according to the proclamation of the municipal board of canvassers. More than this: it was decided behind the backs of the very persons whose rights were being disposed of. It would seem to me that, if the question whether a given person is a candidate or not is of sufficient importance to confer or withhold the jurisdiction of a court and to cause the dismissal or continuance of an election contest, the person himself should have an opportunity to be heard on that question. According to the decision of the Supreme Court, he not only is not given such an opportunity but he never can be given it; for the very question to be determined on the motion not only precludes his being heard but also prevents his ever being heard in the contest. The question to be determined is whether he is entitled to become a party to the contest; and that question is decided

against him without his having an opportunity to be heard.

It is true that this may occur in a way in ordinary actions. Courts frequently hold that certain persons not before the court and who have no opportunity to be heard are not necessary parties to the action. But there is this distinction to be observed. In such cases the interests of the persons so held to be an unnecessary party, whatever they may be, are not affected by any judgment or decision rendered in the action; whereas in election contests the rights of the persons excluded from the contest on the motion are effectually cut off and forever foreclosed. What those rights are may be the subject of controversy. But it is certain that, if a person has received votes, he has such a right to be a party that, if he is not made a party, the Court of First Instance acquires no jurisdiction of the contest and the whole proceeding falls. That being the case, and that that is the case is undisputed, indeed, is expressly admitted, his rights must have been very important indeed in the judgment of the legislature. Are they not sufficiently important, then, to prevent their being taken from him behind his back?

From these observations it is clear that there is something wrong with the decision of this court. According to it the dozen men who were proclaimed by the municipal board of canvassers as having received votes for the office contested are forever barred from an opportunity to show that they were in fact candidates for that office or that they had an interest in the controversy. Other persons, strangers to them, have, in a starchamber proceeding, quietly determined that question for them. While such a proceeding may have saved them considerable trouble and some expense, they may be somewhat shocked to know that, in a country of law and order, where due process of law is guaranteed, certain rights which, according to the uniform holding of this court, the Legislature expressly granted to them and declared of the utmost importance not only to them but to the public interest, may be taken from them behind bolted doors.

Fourthly. Nor do I see how the court is going to ascertain who is a candidate with respect to municipal offices. Where is the standard by which a candidate is to be measured? What is the definition by which his qualities are to be determined? The statute gives none with respect to municipal offices. With regard to provincial offices the question is simple. There the statute provides that every person who desires to be a candidate for a provincial office must file a certificate to that effect a certain time prior to the date of the election. With respect to municipal offices there are no such provisions. Any person can be elected to any office without any preliminary act of his own or without any desire or effort on his part. All that is required is that he receive a plurality of the votes cast for that office. He may receive votes for half a dozen offices; but if he receives a plurality of the votes for any given office he is entitled to occupy it. Whether he is a candidate or not, therefore, cannot be determined from the number of offices for which he receives votes nor by the one to which he may have been elected. Nor can it be determined from his own desires or his own acts. His single desire and his single effort may be to secure election to a given office; and yet he may not receive a single vote for that office. Would he, nevertheless, be considered a candidate for that office? He certainly would not be a necessary party to a contest instituted with regard to that office, for, in order to be a necessary party under the statute he must have received a vote or votes. On the other hand, he may have been an active candidate (in a general sense) for one office and be elected to another. Would that prevent him from being a candidate for the office to which he was elected? Or would it obviate the necessity of his being made a party to a contest with respect to the office to which he was elected? Is not the highest and most perfect test of candidacy the election to office? The perfect end of candidacy is office; and, while the person elected may not have desired the office and may refuse to accept it after he is elected, he is nevertheless a necessary party to a contest. Nor is it possible that whether a person is a candidate for a given office can be determined by the number of votes which he receives. Is a person who receives 200 votes any more of a candidate than one who receives 50? And is one who receives 50 any more of a candidate than one who receives 10, or 5 or 1?

From the words of the statute it is impossible to define a candidate or determine what he is; and if we are unable to define what a candidate is we have no possible means by which we can determine whether a person is a candidate or not. The statute provides simply that those persons can be parties to a contest who were "candidates voted for." Other portions of the Election Law provide that any person can be elected to any municipal office, with certain limitations as to residence, etc., the only requirement being that he shall receive a plurality of the votes cast for that office. Taken altogether, the Election Law provides no definition for a candidate for a municipal office. Any person under any circumstances may be elected to office. That being so it is impossible for a court, or any one else for that matter, to determine who is a candidate for a municipal office. As a necessary consequence, the phrase "candidates voted for" should read precisely as the Supreme Court holds it, presumptively, does read, namely, "persons voted for;" and "persons voted for" means those persons who, according to the proclamation of the municipal board of canvassers, received votes for the office contested. The word "candidate" as used in the Election Law with reference to municipal offices is so general in its scope that it has no definition; it is as broad as "person" or "individual" or "man."

The declaration of the court, therefore, that who is a candidate is a question of fact to be determined by the Court of First Instance on the evidence presented is, in my judgment, without support in the Election Law. The court has no standard, no definition by which it can determine who is a candidate for a municipal office, no matter how much evidence it receives. The argument that a person cannot be a candidate for two offices at the same time or that he cannot be a candidate for a municipal and a provincial office at the same time is without point. He is quite at liberty, so far as the statute is concerned, to run for as many municipal offices as he pleases; and he may even include a provincial office in his list of ambitions. Notwithstanding this, if he is actually elected to any one of the offices there is no law which prevents his occupation of the office. If there is no law to prevent his occupying under such circumstances the office to which he was elected the word candidate has no meaning as such. There is nothing in the Election Law to prevent a person from being an active candidate for every office in the municipality at the same time; and there is nothing to prevent him from occupying any one of the offices to which he aspires if he is elected thereto. There is no law which prevents him from being in a sense a candidate for any municipal office and for some provincial office at the same time; and if he is elected either to the municipal office or to the provincial office there is no law which prevents him from occupying the office to which he is elected. It is a necessary consequence that there is no definition of a candidate for a municipal office in the Election Law and there is, therefore, no possibility of determining whether a man is a candidate for a municipal office or not.

As a matter of fact the Election Law, in dealing with contests, does not define a candidate, it defines a party to the contest. It states who shall be parties, not who are candidates. Why should the word candidate be used or defined in that part of the statute which refers exclusively to the procedure in election contests? Candidates are dealt with in an earlier chapter. Procedure has to do with parties, not candidates, and comes only after the candidate stage has been past, when the election is terminated, and all election machinery, including candidates, has ceased to operate or to be. Procedure comes when the courts have stepped in, when legal and not election machinery operates, when parties and not candidates are important, when notice to those who are interested will be most likely to protect the public interest and not [when] notice to candidate is the important thing.

The ballot required by the Election Law for municipal elections shows of itself that it is not a ballot which can be voted for a candidate but for a person. The voter, under the Election Law and with the ballot which it provides, can make a person a "candidate" as perfectly as the person himself can. If a majority of the electors vote for a particular person for a particular office, have they not made him a "candidate," if that word has any significance whatever? And if a majority can do that, cannot less than a majority do it?

The word "candidate" having no special significance when applied to municipal elections, it is idle to attempt to

determine who is or is not a "candidate." The only thing to do in election contests is to make parties all persons who, according to the proclamation of the municipal board of canvassers, received votes for the office contested and notify them in accordance with law. If that is not done the proceeding should be dismissed.

The demurrer should be overruled and the defendant held to answer.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.