

JUAN JAVIER, PETITIONER, VS. RICARDO NADRES ET AL., RESPONDENTS.

G.R. No. 12341. February 07, 1917

Ponente: TRENT, J.

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TRENT, J.:

This is a petition for a writ of certiorari to be directed to the Court of First Instance of the Province of Tayabas, requiring it to forward to this court the proceedings had in a certain election contest between the petitioner, Juan Javier, and the respondent, Ricardo Nadres, to the end that the judgment of the court in such proceedings may be annulled on the ground of lack of jurisdiction.

The petitioner alleges that at the general election held on June 6, 1916, Juan Javier, Ricardo Nadres, Nicolas Zamora, Dionisio Pumaan, Segundo Samonte, and Juan Emon were candidates for the office of president for the municipality of Candelaria, Province of Tayabas, and that each of these candidates received votes at the election. Juan Javier was proclaimed elected by the municipal board of canvassers. Ricardo Nadres filed in the Court of First Instance on June 19, 1916, a motion contesting the election. Juan Javier was the only candidate notified of this motion. During the proceedings Juan Javier presented a motion on August 10, 1916, praying the court to dismiss the case on the ground that it had not acquired jurisdiction because of the failure to notify all the candidates voted for. This motion was denied. Upon the termination of the hearing the court declared that no one was legally elected municipal president and so certified to the Executive Secretary and the provincial board. It is further alleged that the court failed to make a finding of facts with reference to whether or not the irregularities which occurred during the election were due to fraud or bad faith on the part of the election officers.

The respondents in their answer admitted all of the essential allegations in the petition except that relating to the notice to all candidates voted for, and as a special defense alleged that at the commencement of the trial of the contest it was agreed in open court that the only candidates at the election for the office of municipal president were Juan Javier and Ricardo Nadres.

The decision of the trial court was made a part of the petition and the first paragraph of this decision reads in part as follows: "The petitioner (Ricardo Nadres) and the respondent (Juan Javier) were the only candidates during the last election for the office of municipal president held in Candelaria of this Province of Tayabas." This finding of fact was based upon the agreement of the parties to that effect.

It is now urged that the parties to an action cannot confer jurisdiction upon the court by agreement. This is true, but the agreement under consideration did not have that effect. It was simply an agreement entered into by the parties to avoid the calling of witnesses to prove that Nadres and Javier were the only candidates for the office of municipal president. It therefore follows that the contention of counsel upon this branch of the case is entirely without foundation.

The mere fact that the court did not expressly find that the irregularities, which invalidated the election, were the result of fraud or bad faith on the part of the election officers, did not affect the result nor deprive the court of

jurisdiction. The filing of the motion of contest, wherein all the jurisdictional facts were alleged, and the notice thereof to the only other candidate, gave the court jurisdiction of the subject-matter and the persons of the necessary parties. It then had the power to determine from the evidence presented whether or not anyone was legally elected president, the parties having been given ample opportunity to present their evidence, both documentary and oral.

For the foregoing reasons judgment will be entered in favor of the respondents dismissing the petition, with costs against the petitioner, Juan Javier. So ordered.

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

MORELAND, J., dissenting:

This case serves to show how far the court is led as a result of its decision in the cases¹ of Santos vs. Miranda and Clemente (35 Phil. Rep., 643) and Tamondong vs. Llorente and Palisoc (35 Phil. Rep., 635), in which I dissented. The doctrine there enunciated is that, although all persons who, according to the proclamation of the municipal board of canvassers, received a vote or votes for the office contested, are candidates, that is, necessary parties to the contest, and a failure to make all of them parties deprives the court of all power to proceed, nevertheless, any two of such persons, in a contest in which they alone are actually parties, may, without notice to the other persons and without their knowledge, determine whether such other persons are, in fact, candidates and therefore necessary parties and that such determination will be absolutely conclusive on such other persons, and that they will, accordingly, be deprived of all opportunity to be effectively heard on that question.

The present case carries such a theory to its logical conclusion—a conclusion which is, as I view it, somewhat remarkable. In this case the court holds that two persons may step into a quiet corner and, all by themselves, "agree" or "stipulate" another person out of his rights. Ricardo Nadres and Juan Javier got together and "agreed" or "stipulated" that they were the only necessary parties to this proceeding, and that the other persons who, according to the proclamation of the municipal board of canvassers, received votes for the office contested, need not be considered and that the rights which this court has frequently held such fact gives them (see cases cited above) should be disregarded. This court confirms that "agreement" or "stipulation" and holds that they had the right to make it, and that it is binding on every other person who received votes for the office contested.

Such a doctrine as this, of course, has its advantages. It permits one to rid himself of a troublesome antagonist in the easiest possible manner. It permits a plaintiff to avoid a controversy by agreeing with a complacent defendant, whose interests are very small, that many other persons not defendants are not necessary parties, and have no interest in the result of the action. It allows him to select his antagonist; to pick out one whom he can "agree with" easily; and one who will have no hesitation in "agreeing" a third person out of all his rights without his knowledge. This saves trouble, delay and expense; and it relieves the courts of work also. From this point of view the decision is defensible.

The court says in its opinion:

"The decision of the trial court was made a part of the petition and the first paragraph of this decision reads in part as follows: 'The petitioner (Ricardo Nadres) and the respondent (Juan Javier) were the only candidates during the last election for the office of municipal president held in Candelaria of this Province of Tayabas.' This finding of fact was based upon the agreement of the parties to that effect."

The court then discusses what it evidently considers the only point involved, as it discusses no other, as follows:

"It is now urged that the parties to an action cannot confer jurisdiction upon the court by agreement. This is true, but the agreement under consideration did not have that effect. It was simply an agreement entered into by the parties to avoid the calling of witnesses to prove that Nadres and Javier were the only candidates for the office of municipal president. It therefore follows that the contention of counsel upon this branch of the case is entirely without foundation."

It should be noted, in the first place, that the facts stipulated by the parties as to who were candidates, that is, who were necessary parties, are in direct conflict with the facts of record. The proclamation of the municipal board of canvassers, in evidence in this case, shows that the following persons received votes for the office contested: Ricardo Nadres, Juan Javier, Nicolas Zamora, Dionisio Pumaan, Segundo Samonte, and Juan Emon. The proclamation of the municipal board of canvassers is a public record and this court has held (see cases already cited) that the persons named therein are presumptively candidates and necessary parties to a contest. But, in the face of this public record and the decisions of this Court touching its effects, Javier and Nadres calmly agree that they are the only candidates and the only necessary parties to the contest, and proceed to shut themselves in from everybody else and litigate alone.

It must be borne in mind that this court has held many times that all candidates for the office contested must be made parties to an election contest; and that, if all of them are not made parties, if one of them is omitted and is not notified, the court fails of all authority to go forward and must dismiss the proceeding for lack of jurisdiction. It must also be remembered that the court has held many times that, to determine who are candidates, that is, necessary parties, we must look to the proclamation of the municipal board of canvassers; and that every person who, according to that proclamation, received a vote or votes for the office contested is presumptively a candidate and a necessary party. Whether these holdings are good law or not is not now open to question. It is enough to know that the court has so held. This being so how can it now be held that any two of the persons named in the proclamation can validly and effectively agree that they are the only candidates and the only necessary parties? And how can they bind all the others by such agreement? (See my dissenting opinion in the two cases cited).

In the second place, while the court says that this "agreement does not have the effect to confer jurisdiction upon the court," it, nevertheless, has the effect of stipulating facts which, this court holds, permit the court to proceed where otherwise it would have no power or jurisdiction to do so. And the strange part of it is that the facts stipulated do not refer in the remotest way to the jurisdiction of the court over the parties stipulating, or to their own rights or interests. They stipulate solely as to the rights and interests of other persons. Is it not very unusual to call such an agreement a stipulation? Parties can legally stipulate only as to those facts which affect their own rights and interests. They can not legally or effectively stipulate as to the rights and interests of others.

It being admitted that not all the persons who, according to the proclamation of the municipal board of canvassers, received votes for the office contested, were made parties to this proceeding, the motion to dismiss on that ground should have been granted in accordance with the settled doctrine of this court. (Navarro vs. Jimenez, 23 Phil. Rep., 557; Navarro vs. Veloso, 23 Phil. Rep., 625; Topacio vs. Paredes, 23 Phil. Rep., 238.) The court refusing to dismiss certiorari lies (Government of the Philippine Islands vs. Judge of First Instance of Iloilo and Bantillo, 34 Phil. Rep., 157; In re Prautch, 1 Phil. Rep., 132; Springer vs. Odlin, 3 Phil. Rep., 344; Arzadon vs. Chanco, 14 Phil. Rep., 710; Napa vs. Weissenhagen, 29 Phil. Rep., 180; De Fiesta vs. Llorente, 25 Phil. Rep., 554; Herrera vs. Barretto and Joaquin, 25 Phil. Rep., 245; Gala vs. Cui, 25 Phil. Rep., 522; Province of Tarlac vs. Gale, 26 Phil. Rep., 338) to review the void proceedings.

Apropos of the principles enunciated in the Santos and Tamondong cases above, that the question whether or not a given person is a candidate for the office contested and a necessary party to an election contest can be finally and conclusively determined behind the back of that person and wholly without his knowledge, I desire to add one

more suggestion to those found in my dissenting opinion in the Santos and Tamondong cases, which is applicable to the present case also.

It is asserted by the court that the question whether a given person is a candidate and necessary party can be determined in a proceeding in which he is not an actual party and of which he has no notice, in a motion made to the judge hearing the contest to dismiss the same on the ground that not all candidates for that office have been made parties (in fact the question has always been so raised); and that the parties, without notice to him or opportunity to be heard, may go into every fact showing that he is not a candidate or necessary party to the extent of demonstrating his ineligibility for the office, such as non- residence, foreign citizenship, not an elector, lack of age, and all other grounds for ineligibility. (See the Santos and Tamondong cases.) The present case holds, in effect, the same thing. Now, apart from the remarkable nature of the proposition that the eligibility of a person for a particular office can be determined without his knowing it and that he may be finally and conclusively declared to be ineligible for that office without notice or opportunity to be heard, I recall that the court has directly held that the special tribunals created by section 27 (now section 578 Administrative Code) for the hearing of election contests have no jurisdiction over the eligibility of a candidate to hold office. (Topacio vs. Paredes, 23 Phil. Rep., 238.) In the case cited the court, Judge Trent writing the decision, dedicates pages to demonstrating that a Court of First Instance sitting in a contested election proceeding has no power whatever to determine the eligibility of a candidate; and terminates its exposition with these words: (p. 255) "Applying the familiar principle of ejusdem generis, we hold that jurisdiction under this section is limited to those matters which may be decided by an inspection of the registry list and of the ballots and their res gestae. (Sutherland, Sta. Const., par. 268 et seq; Sedgwick, id., 360; 36 Cyc, 1119.)" But this holding is diametrically opposed to that of the Santos and Tamondong cases and also to the principle of the present case to the effect that the Court of First Instance has power in an election contest, without notice to the person affected, to determine whether a given person is in law a candidate. These cases go upon the theory, which is logical if one concedes the other doctrine set down therein to be correct, that, if a person is ineligible for a given office he cannot legally be a candidate for that office; that all votes cast for him would be void, thrown away; that under no circumstances can he possibly be less a candidate than when he is ineligible; that he is no more a candidate for a municipal office than a person who is a registered candidate for a provincial office but receives votes for the municipal office; or than one who receives only one vote for the municipal office; that no one can possibly be less a candidate than one who could not occupy the office even if he were elected to it; that if a person who has received one hundred votes may be deprived of all rights as a party without his knowledge and without opportunity to be heard, why should a court hesitate to deprive another person of those rights who is ineligible and who could not hold the office even if the result of the contest showed that he received a plurality of the votes cast?

Grotesque as it may seem, there is no question of the fact that the Tamondong case, supra, lays down the proposition that the eligibility of a candidate for municipal office may be determined behind his back on a motion to dismiss an election contest to which he is not a party on the ground of failure or lack of jurisdiction of the court resulting from the fact that not all persons who were candidates or necessary parties were duly made parties and notified as required by law. Elaborating its argument to the effect that such a question should be determined at that time and in that manner the court said in that case:

"It frequently happens, as has been seen from the many election contests which have been presented to the courts, that some persons have been voted for who were not residents of the municipality; that they were not eligible to the office for which they had been voted for; that they were fictitious persons or were, in fact, dead. An interpretation of the law that would require the contestant to show that he had notified all such persons before he could have a day in court, when he stands ready to prove that such persons, even though voted for, were not, in fact, candidates, is an interpretation which is repugnant to all sense of justice and fairness."

This quotation shows clearly that it was squarely held by the court that eligibility to municipal office could be tried out in a motion to dismiss the contest for failure to notify a candidate and thereby make him a necessary party to the proceeding—something which the court in the Topacio case said could not be done as the Court of First Instance in an election contest had no jurisdiction of the question of eligibility but was confined strictly to "an inspection of the registry list and of the ballots."

The statement of the court in that case that the requirement that the candidate or person whose eligibility is to be determined must have notice and opportunity to be heard before he can be declared ineligible "is repugnant to all sense of justice and fairness," is a statement the equal of which it would, in my judgment, be hard to find.

Of course, in the United States, it is necessary, as a rule, to make party to the contest only the person elected. Generally there are only two parties—the contestant and the respondent. But in the Philippine Islands, the law requires all persons who, according to the proclamation of the municipal board of canvassers, received a vote or votes for the office contested to be made parties; and, interpreting that law, this court has repeatedly held that that provision is mandatory and that if those persons, and each and every one of them, are not made parties and duly notified the court has no power to do more than dismiss the proceeding. The failure to make parties and duly notify all such persons results in depriving the court of all jurisdiction over the proceeding. The court, in so construing the statute, must have believed that the legislature regarded it of the very highest importance that every one of those persons be made a party; for the failure to do so is visited by this court with the highest penalty known to the law—that of depriving the contestant of all remedy by depriving the court of jurisdiction to act.

Now, if it is so tremendously important that every person receiving votes be a party to the contest, why does this court permit the question of whether he is a necessary party or not to be determined without notice to him, or to anyone for him, and without an opportunity to be heard? Why does it commit the absurdity of permitting two complacent parties, as in the case before us, to "stipulate" or "agree" behind his back in a proceeding in which he is not a party that he is not a candidate or a necessary party and hold that such "agreement" or "stipulation" binds him forever? And why does the court hold that to require them to notify him of their purpose to exclude him from all participation in the case would outrage "all sense of justice and fairness?"

I can agree to no such reasoning as this case contains and I dissent.

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