

RUPERTO VENTURANZA, PETITIONER, VS. THE COURT OF FIRST INSTANCE OF BATANGAS AND RAMON CABRERA, RESPONDENTS.

G.R. No. 12706. March 26, 1917

Ponente: MORELAND, J.

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MORELAND, J.:

This is a petition to obtain a writ of certiorari directed to the Court of First Instance of Batangas to review certain proceedings had in that court in a contested election case involving a municipal office.

It appears from the record that the applicant Venturanza was elected president of the municipality of Lemery, Batangas, at the elections held in June 1916. Thereafter the respondent Ramon Cabrera instituted a protest against the election of Venturanza which resulted in the defeat of the latter and the seating of the former as municipal president. During the course of the contest the respondent filed a counter-protest, as he calls it, alleging certain irregularities and frauds in other districts than those mentioned in the contest. The court, on the objection of the contestant, struck out the counter-protest of the respondent. The contest then went to trial; evidence was presented by both parties; but the respondent offered no evidence relative to the allegations which he had made in his counter-protest.

The case was submitted and the decision rendered in favor of the contestant.

The proceeding in this court for certiorari is based exclusively on the act of the court in striking out or refusing to receive the counter-protest of the respondent in the contested election proceeding.

The case has been submitted to us upon a complaint and answer, the latter being of such character as to admit all of the facts necessary to decide the case.

We are of the opinion that the applicant is not entitled to the remedy prayed for. As we have held in so many cases (In re Prautch, 1 Phil. Rep., 132; Springer vs. Odlin, 3 Phil. Rep., 344; Arzadon vs. Chanco and Baldueza, 14 Phil. Rep., 710; Herrera vs. Barretto and Joaquin, 25 Phil. Rep., 245; Gala vs. Cui and Rodriguez, 25 Phil. Rep., 522; De Fiesta vs. Llorente and Manila Railroad Co., 25 Phil. Rep., 554; Province of Tarlac vs. Gale, 26 Phil. Rep., 338; Napa vs. Weissenhagen, 29 Phil. Rep., 180; Government of the P. I. vs. Judge of First Instance of Iloilo and Bantillo, 34 Phil. Rep., 157) a writ of certiorari will not issue to an inferior court unless that court acted without or in excess of its jurisdiction in performing the acts complained of. The court had jurisdiction of the subject-matter and the parties. It was not outside of its jurisdiction when it struck out the counter-protest. Its act may have been erroneous. As to that we do not decide; but it certainly was not an act outside or in excess of the jurisdiction of the court.

The proceeding is dismissed, with costs. So ordered.

Arellano, C. J., Torres, and Araullo, JJ., concur.

CARSON, J., concurring:

On the ground that the application comes too late I concur in the result.

TRENT, J., concurring:

Understanding as I do that this is a petition for a writ of certiorari and not mandamus, I agree with the result.

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