

ROMAN GUERRERO, PETITIONER, VS. C. M. VILLAREAL, AS JUDGE OF THE COURT OF FIRST INSTANCE OF ILOCOS SUR, AND MARTIN GUERRERO, RESPONDENTS.

G. R. No. 16592. August 26, 1920

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

The allegations of the petitioner material to the writ of certiorari originally presented by him in this court are found in paragraphs 3 and 5 of the petition, and are as follows:

"3. That referees having been appointed by the court to review and recount the ballots contained in the ballot boxes they presented their report and the court, without previous trial, admitted it, and, in rendering its decision took it into consideration as evidence in order to establish the existence of the registration list of illiterate and disqualified voters and their illiteracy and disqualification," and

"5. That during the trial of the protest the respondent Martin Guerrero offered as evidence Exhibit 3 consisting of an alleged registration list of illiterate electors who voted, which list was not signed by the election inspectors and was found, according to the report of the referees, in the ballot boxes. The petitioner objected to the admission of said exhibit as evidence and the court said that it admitted said exhibit solely as a part of the declaration of a witness of the respondent Martin Guerrero, but in its decision the court considered it as documentary evidence, original and independent of the testimony of the witness, that is to say, as the registration list itself of the oaths in question."

The respondent Martin Guerrero in his answer alleges:

"1. That the facts alleged in the petition do not constitute a cause of action."

"2. That the decision rendered on the election contest by the Court of First Instance of Ilocos Sur, to which the petition refers, was rendered by the respondent judge in the exercise of the powers conferred upon him by law."

To put it in a more concise form, the court, according to the petitioner exceeded its jurisdiction: First, in having admitted the report of the referees without previous trial, and secondly, in having admitted as evidence for the respondent the registration list of the illiterate voters found in the ballot box. The mere statement of these propositions constitutes the best proof that the writ of certiorari prayed for should not be issued.

It appears that the registration list of illiterate voters was found, according to the report of the referees, in the ballot box, and during the hearing of the contest was presented by the respondent as evidence, to the admission of which the petitioner objected. And as there is no allegation to the contrary it is to be presumed that the referees complied with their duties of examining the contents of the ballot boxes in the presence of the parties and submitting its report to the court for the final decision of the case. This report may be delivered to the clerk in order to be attached to the records in the same manner as any other written report which the parties may want to submit, and it is not necessary for the court, in order that it may be received, to hold a public session in which the

interested parties should be present. The petitioner was not ignorant of the presentation of the report of the referees. So true is this that in objecting to the admission of the registration list of Illiterate voters presented by the respondent during the hearing of the contest, he alleged that said list was found according to the report of the referees in the ballot boxes.

Sections 479 and 481 of Act No. 2711 confer upon the Court of First Instance of the judicial district in which an election may have been held jurisdiction to take cognizance of election contest, grant it the power to appoint referees who should examine the ballots used in the election, and lastly, authorize him to decide the contest in accordance with the proofs adduced by the parties. According to said articles of Act No. 2711, the court has jurisdiction to admit the report of the referees, to admit or reject evidence and to weigh them according to legal criterion. But supposing that the court erred in performing such acts, it is not, however, proper to issue the writ of certiorari to correct such error in the proceedings or the erroneous conclusion of law or of facts. If the court has jurisdiction over the subject-matter of the controversy and the persons of the parties, its decision over the questions material to the case are decisions rendered within its jurisdiction, and no matter how irregular or erroneous they may be they can not be corrected by means of certiorari. (Topacio vs. Paredes, 23 Phil., 238.) Therefore, as no excess of jurisdiction exists in the present case there is no reasonable ground for issuing the writ of certiorari because this writ may properly be issued only and exclusively for the purpose of correcting the excesses which may be committed in the exercise of jurisdiction. (Bañes vs. Cordero, 13 Phil., 466.)

It results that the petition of Roman Guerrero should be, and it is hereby, denied, with costs against him. So ordered.

Johnson, Carson, Araullo, Malcolm, Avancena and Moir, JJ., concur.

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