

RAMON R. PAPA, PRESIDENT OF THE PROVINCIAL COMMITTEE OF THE “PARTIDO NACIONALISTA CONSOLIDADO” OF THE CITY OF MANILA, PETITIONER AND APPELLEE, VS. THE MUNICIPAL BOARD OF THE CIT...*G.R. No. 23892. March 23, 1925*

Ponente: MALCOLM, J.

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The well worn issue in this case, as well as in a series of cases, which election years may be expected to produce, relates to the representation of political parties on election boards. The Municipal Board of the City of Manila named two election inspectors and two substitutes therefor for the Partido Democrata and one inspector and his substitute for the Partido Liberal, for each of the municipal election precincts. A Judge of First Instance of the City of Manila, on mandamus proceedings being instituted and heard, rendered judgment ordering the Municipal Board of the City of Manila within two days to meet in a special session and proceed to name for each of the election precincts of the city, two election inspectors and a secretary and their respective substitutes, from names proposed by the Partido Nacionalista Consolidado, and one inspector with his corresponding substitute from names proposed by the Partido Democrata, with costs against the members of the Municipal Board. From this judgment, the respondent Municipal Board of the City of Manila appealed. In this instance, the Partido Liberal has been permitted to intervene in the proceedings.

The hearings before the Municipal Board of the City of Manila and before the courts, and the deliberations of these bodies, have disclosed a truly remarkable divergence of views, absolutely hopeless of reconciliation. The trial judge, counsel for the appellee, and one member of this court, who will likely state his individual opinion, unite in holding that the votes cast at the special election in 1923 should be made the criterion in determining which political party polled the largest number of votes, and that the Partido Nacionalista Consolidado is entitled to majority representation on the board of inspectors in the coming general elections, and the Partido Democrata to minority representation on these election boards. At the other extreme, stand the Municipal Board of the City of Manila, counsel for the appellant, and possibly one member of this court, who reach the conclusion that the Partido Democrata should be given the control of the election boards and that the Partido Nacionalista Consolidado should be shut off from all participation on these boards. Two other members of the court incline to the view that because of the hopeless confusion resulting from any attempt to analyze the vote at the special election, the court is forced to consider the vote at the last general election and thus to grant two inspectors on each election board to the Partido Democrata and one inspector to the Partido Nacionalista Consolidado. Out of this state of affairs, must come some sort of a decision which the writer will endeavor to have present the situation fairly and to reflect the opinion of the majority.

The facts are mostly stipulated. They are: The last general elections were held in 1922. In the City of Manila, the Partido Democrata ran first, the Partido Nacionalista Colectivista second, and the Partido Nacionalista third. The Partido Liberal also polled some votes. A special election to fill a vacancy in the office of Senator of the Fourth

District including the City of Manila, was held on October 2, 1923. At this special election, two persons, Juan Sumulong and Ramon J. Fernandez, filed their certificates of candidacy. In the City of Manila, Juan Sumulong received 16,022 votes and Ramon J. Fernandez, 19,380 votes. When the time came for the Municipal Board of the City of Manila to name election inspectors and poll clerks for the general election of 1925, it refused all participation on election boards to the Partido Nacionalista Consolidado, the political legatee of the Partido Nacionalista Colectivista and the Partido Nacionalista. Instead, it provided for election boards, as above indicated, by giving majority representation to the Partido Democrata and minority representation to the Partido Liberal.

Leaving further statement of the facts for later discussion, we should now make connection between the facts and the law. The portion of the revised Election Law, principally to be taken under consideration, is section 417 of the Administrative Code, as amended by Acts Nos. 2711, 3030, and 3210. As this section stood in Act No. 3030, before its last amendment, and as it was enforced during the general elections of 1922 and the special election of 1923, it reads in part:

"It shall be the duty of the municipal council in each municipality wherein a general election is to be held to appoint, ninety days immediately prior to the date of such general election, three inspectors of election and one poll clerk, with their respective substitutes, for each election precinct therein, who shall hold office for three years or until their successors shall have taken charge of the same. The date of the meeting of the municipal council for the appointment of inspectors shall be published at least fifteen days in advance of such meeting, by the town crier and other means of publication. Should there be in such municipality one or more political parties or branches or fractions thereof, or political groups, then two of said inspectors and two substitutes for the same shall belong to the party which polled the largest number of votes in said municipality at such preceding election and the other inspector and his substitute shall belong to the party, branch or fraction thereof, or political group which polled the next largest number of votes at said election."

Pursuant to the terminology of the law above quoted, election inspectors were chosen on the basis of the results of the general elections. The phrase "at such preceding election" referred back to the phrase "general election." If these provisions had remained unchanged, there could exist no doubt that election inspectors for the general election in 1925 would be chosen on the basis of the general election in 1922, which would mean two election inspectors for each precinct of the City of Manila for the Partido Democrata and one election inspector for each precinct for the Partido Nacionalista Consolidado.

At the last session of the Philippine Legislature, however, it again amended section 417 by the enactment of Act No. 3210 by changing the phrase "at such preceding election" to the phrase "at the next preceding election." Possibly the law is still susceptible to the interpretation that "the next preceding election" has relation with the "general election" mentioned in the beginning of the section. But obviously, the law was amended for some purpose. As the law now exists, a special election is as much a "preceding election" as a general election. This may be unfortunate, for a special election is an election not regularly held to supply a vacancy in a particular office before the expiration of the full term for which the incumbent was elected, and thus does not as well echo the political sentiment of the electorate as does a general election. Without, however, entering into this phase of the question and without attempting to substitute our opinion of what is best for the opinion of the Legislature, we must give literal application to the phrase "next preceding election" and permit it to cover a preceding election, whether general or special.

Conceding, therefore, that under the law as last amended, the next preceding election to the approaching election of 1925 is the special election of 1923, then the question becomes one of determining which political party polled the largest number of votes in the City of Manila at the special election and which political party polled the next largest number of votes at said election. This brings us again to look at certain combined phases of law and fact.

To begin with, section 404 of the Administrative Code, as amended by Act No. 3030, provides that "no person shall be eligible for the office of senator * * * unless, within the time fixed by law, he shall file a duly verified certificate of candidacy." In said certificate, the candidate must state, among other things, "the name of the political party to which the candidate belongs, or that he belongs to none, if such be the case."

In the certificate of candidacy of Juan Sumulong, he declared that "Yo, Juan Sumulong, anuncio y permito que se anuncie mi candidatura para el cargo de Senador por el 4.º Distrito Senatorial * * *. Que pertenezco y soy el candidato oficial del Partido Democrata, para el referido cargo de Senador de dicho Distrito Senatorial." (I, Juan Sumulong, announce and permit the announcement of my candidacy for the office of Senator for the 4th Senatorial District * * *. That I pertain to, and am the official candidate of the Partido Democrata for the office of Senator of said Senatorial District.) In the certificate of candidacy of Ramon J. Fernandez, he stated that "Yo, Ramon Fernandez, declaro que permito que se anuncie mi candidatura para el cargo de Senador del Cuarto Distrito; * * * que soy elegible para el mencionado cargo de Senador y no pertenezco por ahora a ningun partido politico." (I, Ramon Fernandez, declare that I permit my candidacy to be announced for the office of Senator for the Fourth District; * * * that I am eligible for the above mentioned office of Senator, and do not belong at present to any political party." Senator Fernandez was not called as a witness during the trial of this case, but on the witness stand, Senator Vicente de Vera, general secretary of the Partido Colectivista during the campaign of the special election and now the secretary-treasurer of the executive committee of the Partido Nacionalista Consolidado in response to the question "Y, segun su conocimiento personal, ¿no ha pertenecido nunca a ningun partido politico o grupo politico en Manila?" (And according to your personal knowledge, he has never belonged to any political party or political group in Manila?), referring to Senator Fernandez, answered "No." On the contrary, it appears that Senator Fernandez was hailed as the candidate of "Juan de la Cruz" and the candidate of the "People." He was, however, the choice of the coalition formed by the Partido Colectivista and the Partido Nacionalista and received the backing of the leaders of these parties throughout the campaign. According to the testimony of Senator De Vera, the triumph of Senator Fernandez in Manila was brought about by the favor accorded him by the voters pertaining to the Partido Colectivista, the Partido Nacionalista, the Partido Liberal, and the Partido Democrata, and other independent electors.

With this the situation, it is questionable if the Partido Nacionalista Consolidado can now claim a monopoly of the benefits arising from an election when the successful candidate ran as an independent. The certificate of candidacy of Ramon J. Fernandez permitted the placing of his name before the electorate. It was in the nature of a formal manifestation to the whole world of his political creed or lack of political creed. It constituted an authorized badge which the voter could scrutinize before casting his ballot. The electors voted for Ramon J. Fernandez, Independent. They did not vote for Ramon J. Fernandez, Colectivista, Nacionalista, Liberal, or Democrata. It would be hard to say whether of the 19,380 votes received by Senator Fernandez, 16,023 thereof, or one more than was received by his opponent, came to him on account of the backing of the Partido Colectivista and the Partido Nacionalista, or whether such support only accounted for 16,021 votes, or one less than was received by his opponent.

It has been the practice of this court to hold that a person who does not belong to any political party, but is only an independent candidate, has no right to recommend persons as election inspectors. The statute, providing that election inspectors shall be selected from the leading political parties, discloses a legislative intent to preserve and protect party organization. (Lucero vs. Municipal Council of Lupao, No. 15438; Lucero vs. Municipal Council of Quezon, No. 15439; Lucero vs. Municipal Council of Talavera, No. 15440; Lucero vs. Municipal Council of Rizal, No. 15442; Lucero vs. Municipal Council of Muñoz, No. 15444; Lucero vs. Municipal Council of Santo Domingo, No. 15445;[*] and Villamor, Tratado de Elecciones, p. 203.) This court has likewise held in at least two decisions and the same has been the judgment of a member of this court, Justice Villamor, in his well-known

work on Elections, that "for the proper and correct weighing of the evidence that determines which of the political parties was victorious in the last election, and the classification of the voters who cast the votes, the political filiation and color of the candidate nominated and voted for must be taken into account. Only the votes cast in favor of the official candidates of a party, being homogeneous, can be computed in the name and in favor of the party to which said candidates voted for belonged * * *. The political filiation and color of the candidate voted for, which determine those of his voters, must be judged and considered as of the date of the election and not afterwards * * *." (Bustos vs. Municipal Council of Masantol, No. 15310; Galian and Montenegro vs. Municipal Board of Manila, No. 15324;[*] Villamor, Tratado de Elecciones, third edition, pp. 206, 207.) We would not be warranted in departing from the doctrines previously announced in our decisions.

It results, therefore, that while the 16,022 votes given to Juan Sumulong in the City of Manila as the official candidate of the Partido Democrata for the position of Senator can be counted in favor of the Partido Democrata, not all at least of the 19,380 votes received by Ramon J. Fernandez as a candidate who did "not belong at present to any political party" can be counted in favor of the Partido Nacionalista Consolidado, the successor of the Partido Nacionalista Colectivista and the Partido Nacionalista. On the basis of the results in the special election of 1923, in relation with the general election of 1922, the Partido Democrata must still be considered the majority party in the City of Manila and the Partido Nacionalista Consolidado, the minority party. As for the Partido Liberal, no serious consideration can be given to its claims, since its failure to present a complete ticket in 1922, and since its expression of sympathy and adhesion to the cause of the resigning members of the Council of State, and the Mayor of the City of Manila, and its felicitations of Ramon J. Fernandez on his acceptance of candidacy for the position of Senator, hardly disclose a showing worthy of comparison with its competitors in the political field.

The trial judge gave the poll clerk in each election precinct to the party having the largest number of votes. By implication, although not expressly, he suggested that the poll clerk should necessarily belong to the majority party. His Honor may have been induced to take this position by some loose language appearing in our decisions. It will be noted, however, that while the law is specific in providing that election inspectors shall belong to the two leading parties, it is silent as to the political filiation of poll clerks. It must, therefore, be assumed that the appointment of poll clerks rests entirely within the discretion of the municipal council or the Municipal Board. Poll clerks may belong to any political party or to no party at all. (See Laurel, The Election Law, Annotated, p. 50.)

The whole purpose of the much amended Election Law is to provide for clean elections. The courts will assist in accomplishing this purpose just in so far as they make themselves the instruments of the public welfare. As a practical observation, it is of record and is moreover contemporaneous history that the two leading parties in the Philippines are the Partido Nacionalista Consolidado and the Partido Democrata. It is also a safe deduction that in the City of Manila, the Partido Democrata has for some years and up to the present "been the dominant political party, and the Partido Nacionalista Consolidado, under other forms, the party or parties of the opposition. By giving to each of these political parties representation on election boards, honesty in the conduct of the election will be better assured. To the courts will go the satisfaction of having aided in this much desired result.

A majority of the court, for varying reasons, concur in this—that the judgment appealed from must be reversed, and upon the petitioner-appellee amending his complaint to make it accord with our findings, judgment shall issue directing the Municipal Board of the City of Manila immediately after receipt of notice to convene and to name one election inspector and one substitute for each election precinct in the City of Manila from the names submitted by the legitimate representative or representatives of the Partido Nacionalista Consolidado, the appointments heretofore made by the Municipal Board of the City of Manila of election inspectors for the Partido

Democrata, and of poll clerks, to remain undisturbed. No costs shall be allowed in either instance. Without awaiting the expiration of the customary fifteen-day period, the record will be remanded at once to the court below. It is so ordered.

Johnson, Ostrand, and Johns, JJ., concur.

[*] Not reported.

CONCURRING AND DISSENTING

VILLAMOR, J.:

I believe it important, for the due consideration of this case, to state at the outset the facts, such as were proven in the court below.

On the day of the hearing the attorneys for both parties submitted to the court the following stipulation of facts:

"1. That at the general elections of 1922, the 'Democrata' Party obtained the majority of the votes cast in the City of Manila, the 'Nacionalista Colectivista' Party, the next highest number of votes and the 'Nacionalista' Party, the lowest.

"2. That the election that followed said general elections in the City of Manila was a special election for the office of Senator for the Fourth District, and which election was held on October 2, 1923, and that since then no other election was held in the City of Manila; and that the next elections, which will be general elections, will be held on June 2, 1925.

"3. That in said special election for Senator for the Fourth Senatorial District only two candidates presented themselves, Juan Sumulong, as the official candidate of the 'Democrata' Party, who filed his certificate of candidacy prescribed by the law, Exhibit 1 of the answer; and the other candidate, who presented himself in said election, was Ramon J. Fernandez, who also filed his certificate of candidacy and declaration as required by the law, Exhibit 2 of the answer.

"4. That the number of votes obtained by Mr. Juan Sumulong in said special election for Senator in the City of Manila was 16,022 and the number of votes obtained by Mr. Ramon J. Fernandez in said election in Manila was 19,380, according to Exhibit 3.

"5. That on March 4, 1925, the respondent Municipal Board of Manila met for the purpose of appointing the election inspectors and substitutes and secretaries of election for the 141 precincts of the City of Manila, who will act in the next general elections, and in said session there was submitted to said Municipal Board by the 'Partido Nacionalista Consolidado' a list of the names of persons pertaining to said party, whom said party recommended for their appointment as inspectors, substitute inspectors and secretaries in representation of said party, according to Exhibit 4, without prejudice to the correctness of this Exhibit 4 being verified by the respondent.

"6. That the 'Democrata' Party and the 'Liberal' Party have presented their respective lists of inspectors with their respective substitutes and secretaries of election to said Municipal Board in the aforesaid meeting held March 4, 1925, which proposals will be marked Exhibits 5 and 6 as soon as the same are brought in by the Secretary of the Municipal Board.

"7. That the respondent Municipal Board at the meeting held March 4, 1925, has appointed two inspectors with

their two substitutes, pertaining to the 'Democrata' Party for each of the electoral precincts of Manila, and one inspector with his substitute pertaining to the 'Liberal' Party for each of the electoral precincts of Manila.

"8. It is likewise stipulated as a fact that none of those proposed by the 'Nacionalista Consolidado' Party was appointed up to the present time by the Municipal Board for the offices of inspectors and substitutes in any of the precincts of the City of Manila.

"9. It is also stipulated as a fact that the 'Liberal' Party fought in the elections held in the City of Manila on June 6, 1922, with Mr. Prudencio Remigio as candidate for representative and the proper number of city councilors in his ticket, the 'Nacionalista-Colectivista' and 'Nacionalista' parties as well as the 'Democrata', having also fought in said general elections."

Other facts upon which the contending attorneys could not come to an agreement, and evidence was introduced, are as follows:

"First. That in the special elections of October 2, 1923, the 'Nacionalista' Party known also as 'Unipersonalista' and the 'Colectivista' Party, two fractions of the 'Gran Partido Nacionalista,' coalesced and fought as Coalition Party in those elections and filed an application for a mandamus against the Municipal Board of the City of Manila for the purpose of compelling said Board to appoint the substitute inspectors that were lacking, from the list of names presented to said Municipal Board for the purpose; and that in their appearance and answer the attorneys for the respondent Board stated as one of their special defenses the following: '7. That in the special elections to be held in the 4th Senatorial District on October 2, 1923, no more than two candidates are now running for election: Juan Sumulong, candidate nominated by the "Democrata" Party and formally affiliated to said party, and Ramon J. Fernandez nominated by a few politicians, now the leaders of the "Coalicion Nacionalista-Colectivista," who at present does not belong to any political party, according to his certificate of candidacy, a copy of which is attached hereto as Exhibit 3;' that after a hearing upon said application, a decision was rendered, ordering the issuance of the mandamus prayed for, compelling the members of the respondent Board to fill the vacancies in the offices of election inspectors in such a manner that in those electoral precincts wherein there are vacancies the three parties, 'Nacionalista,' 'Colectivista' and 'Democrata' shall have their corresponding inspectors; which decision was later taken on appeal to the Supreme Court of these Islands and affirmed by said court. (See case No. 24893 of this court marked Exhibit A.)

"Second. That in the Cabinet crisis that took place on account of the Conley case and in which the City Mayor, Mr. Ramon J. Fernandez, also presented his resignation, the leaders of the 'Unipersonalista' and 'Colectivista' parties agreed to coalesce and fight together in those special elections, adopting the Conley case as a national issue, and fought against the 'Democrata Party' which, in the opinion of those leaders of the two fractions of the 'Gran Partido Nacionalista,' defended the acts of the Governor-General; that considering that the protest of the Filipino people against the acts of the Governor-General, which they considered injurious to their rights and legitimate aspirations, was represented in the ex-Mayor, Mr. Ramon J. Fernandez, the aforesaid leaders proclaimed him to be identified with the people, that is, Juan de la Cruz, and for this reason he was proclaimed candidate of Juan de la Cruz, that is to say, that he represented in his person the rights and aspirations of the Filipino people which they considered to have been trampled upon.

"Third. That upon these considerations those two fractions of the 'Gran Partido Nacionalista' coalesced, as above stated, and nominated as their official candidate, Mr. Ramon J. Fernandez, who, although he did not belong to any political party, as he frankly stated in his certificate of candidacy Exhibit 2, was, nevertheless, the one best representing the grievances which it was believed were inflicted upon the Filipino people, that is to say, Juan de la Cruz, which have given rise to that crisis in which all the Secretaries of Departments and the Mayor of the City of Manila presented their resignation to the Honorable Governor-General.

"Fourth. That once Mr. Ramon J. Fernandez was nominated by the so-called Coalition Party for the vacant office of Senator for the Fourth District, a commission composed of various members of said party, among

whom were Messrs. Quezon, Osmeña, and Vicente de Vera, repaired to the house of Mr. Fernandez to notify him of his nomination and request him to accept it, Mr. Quezon having then delivered a speech which was answered by Mr. Ramon J. Fernandez, accepting the nomination made in his favor, thus agreeing, therefore, to be the official candidate of the coalesced 'Nacionalista' ('Unipersonalista') and 'Colectivista' parties. (See speeches published in newspapers, Exhibit 6.)

"Fifth. That, as above stated, there were in those elections no more than two candidates, Messrs. Fernandez and Sumulong, and in the meetings and articles published in the papers on those days it can be verified that the members of the so-called Coalition Party, who supported Ramon J. Fernandez, attacked the 'Democrata' Party, and those of the latter attacked, in turn, the Coalition Party; and the same thing happened not only in the City of Manila, but also in the provinces and towns included in the Fourth Senatorial District; and when Mr. Ramon J. Fernandez came out victorious over Mr. Juan Sumulong, the Coalition Party made a big parade celebrating that victory with great rejoice." (See articles published in newspapers regarding these facts.)

The Honorable Vicente Nepomuceno, judge, who tried this case in the first instance, in drawing his conclusions from the evidence presented by the parties, says:

"From the evidence above set forth it follows that although he did not belong to any political party, yet Mr. Ramon J. Fernandez accepted the nomination made in his favor by the so-called Coalition Party, and consequently there, is no doubt that in fact and before the public, Mr. Ramon J. Fernandez was the candidate of the 'Nacionalista' ('Unipersonalista') and 'Colectivista' parties coalesced; and this fact was known by the members of the 'Democrata' Party, and for the very reason that they knew it, they always attacked the 'Gran Partido Nacionalista' and the two fractions into which it was divided and the so-called Coalition Party, as may be verified from the articles published in the local newspapers.

"It having been proved that Don Ramon J. Fernandez, the coalition candidate, won the election over his adversary, Don Juan Sumulong, the victory of Mr. Fernandez in the final analysis is the victory of the political party that had supported him; because if Mr. Fernandez won the election, his victory is not due to his being independent or unaffiliated to any political party, but to the large number of votes that he obtained over his opponent, thanks to the efficient and undismayed support that he received from the coalition party, that is, from the two fractions of the Gran Partido Nacionalista, which then united to oppose the Partido Democrata which was considered their common enemy.

"The evidence has shown that the two factions known as 'Nacionalista (Unipersonalista)' and 'Colectivista' which then united under the name of 'Partido de Coalicion' have come to be reunited under the name of 'Partido Nacionalista Consolidado,' as witnessed from the testimony of Mr. Vicente de Vera and the platform Exhibit B of the said Partido Consolidado.

"If the parties thus coalited polled the largest number of votes for Don Ramon J. Fernandez and if the coalited parties are the same that have now united under the name of Partido Nacionalista Consolidado, it is evident that the latter consolidated party has subrogated itself to the rights of the coalition party composed of the 'Nacionalista' and 'Colectivista' parties."

Applying the provisions of section 5 of Act No. 3210 to the facts of the instant case, the trial court held that the mandamus sued out by the chairman of the Partido Nacionalista Consolidado should issue, and indeed ordered the Municipal Board of the City of Manila and each and every one of its members to meet within two days after notice of the said judgment, and proceed to appoint for each and every election precinct of the City of Manila two election inspectors and a secretary and their substitutes belonging to the Partido Nacionalista Consolidado, and one inspector with the necessary substitute of the Partido Democrata, the names of whom should be taken from the list submitted to the board by the representatives of the said political parties, and should they have been already appointed not in accordance with that decision, that they proceed immediately to reverse the same and to make new appointments in accordance therewith, and lastly, costs should be taxed against the members of the

Municipal Board who were present at the session of March 4, 1925, and who took part in and approved the resolution that gave rise to the writ of mandamus herein.

From this judgment, the Municipal Board of Manila appealed. Counsel for appellant, after assigning six errors in his brief, summarizes the different arguments set forth by him in the following propositions:

- That the votes cast in favor of the "independent" candidate Don Ramon J. Fernandez cannot be credited to any political party.
- That the Partido Democrata is the only political party that obtained a majority of votes in Manila in the last general election held June 6, 1922, and was the only political party that had any candidate in the last special election held October 2, 1923.
- That the Partido Nacionalista Consolidado is a new party organized and founded many months after the last general and special elections held in the City of Manila.

The dispositive part of the majority opinion is as follows:

"A majority of the court, for varying reasons, concur in this—that the judgment appealed from must be reversed, and upon the petitioner-appellee amending his complaint to make it accord with our findings, judgment shall issue directing the Municipal Board of the City of Manila immediately after receipt of notice to convene and to name one election inspector and one substitute for each election precinct in the City of Manila from the names submitted by the legitimate representative or representatives of the Partido Nacionalista Consolidado, the appointments heretofore made by the Municipal Board of the City of Manila of election inspectors for the Partido Democrata, and of poll clerks, to remain undisturbed. No costs shall be allowed in either instance. Without awaiting the expiration of the customary fifteen-day period, the record will be remanded at once to the court below. It is so ordered."

For the reasons stated on page 9 (p. 703, *supra*) of the said decision, I am in accord with the majority opinion in so far as it rejects the contention of the Partido Liberal, intervenor in this case. I also agree with the majority decision, holding that the appointment of poll clerks is within the discretion of the Municipal Council or Municipal Board. But I regret to have to disagree with the worthy opinion of the majority confirming the appointments made by the Municipal Board of the City of Manila of the election inspectors and their substitutes from the list of the Partido Democrata, thus reversing the judgment appealed from, which ordered the Municipal Board of the City of Manila to appoint an election inspector and his substitute for each of the election precincts of the City of Manila from the names submitted by the legal representatives of the Partido Nacionalista Consolidado.

Under the premises resulting from the evidence submitted, I have very little to add to justify this humble opinion of mine.

Bearing in mind the findings of facts of the trial court, which, in passing, were not held erroneous by the majority of this court, it seems to me that its finding of law is inescapable—that two inspectors and their substitutes must belong to the Partido Nacionalista Consolidado, and that one inspector and one substitute must belong to the Partido Democrata in each and every precinct of the City of Manila.

Numerous cases are cited by this court, holding that an independent candidate has no right to be represented in the election board (*Lucero vs. Municipal Council of Quezon*, R. G. No. 15439)*; that an independent candidate has no right to recommend appointment of election officers (*Lucero vs. Municipal Council of Lupao*, R. G. No. 15438)*; that a political bloc is not recognized as a political party (*Lucero vs. Municipal Council of Talavera*, R. G. No. 15440)*; that the independent party to which a candidate belongs is not a political party and has no right of representation (*Lucero vs. Municipal Council of Rizal*, R. G. No. 15442)*; and that a person not representing

any political party and who is an independent candidate has no right to recommend anybody for appointment as election inspector (*Lucero vs. Municipal Council of Muñoz*, R. G. No. 15444; *Lucero vs. Municipal Council of Santo Domingo*, R. G. No. 15445).[*]

I am in full accord with the doctrines enunciated in the above mentioned cases, but upon examination, it will be noted that in the same cases, the question was of an independent candidate pretending to be represented in the election board or of an independent political group pretending to have the same right in regard to the appointment of inspectors of election.

In my opinion, an independent candidate is he who presents himself to the electorate alone supported probably by a group of persons adhering to him; or he who, belonging to a political party, goes into the political arena without having been nominated by his party. In these cases, the doctrines laid down by this court are clear and to the point that neither the independent candidate nor the independent political bloc have a right to the appointment of election inspectors of their color or group. The case that we now have before us presents in my opinion very different characteristics which do not permit of the application of the jurisprudence that we have cited. In the instant case, there is no independent candidate claiming for the appointment of an election inspector nor an independent political group claiming that right. The petitioner-appellee is Don Ramon R. Papa, chairman of the provincial committee of the Partido Nacionalista Consolidado for the City of Manila and he is the one who wants the appointment of two election inspectors and their substitutes for the Partido Nacionalista Consolidado; and this party which has taken the place of the Coalition Nationalists which has supported and carried the 1923 election for its candidate Ramon J. Fernandez is the one for which the appointment of the election inspectors is now prayed for. According to the evidence, the Partido Nacionalista Consolidado has substituted itself to the fractions of Gran Partido Nacionalista, that is, the Partido Nacionalista Unipersonalista and Partido Nacionalista Colectivista, which as has been said united to support and work for the election of their candidate Ramon J. Fernandez. That said fractions or branches of the Gran Partido Nacionalista were duly organized for the 1923 election, as political parties, is clear from the evidence and that they were not simply political groups, that is, a number of persons brought together for electoral purposes according to the definition of section 11 of Act No. 3030, amending section 417 of the Election Law.

It is true that the candidate Ramon J. Fernandez in his certificate of candidacy stated that he did not belong to any political party, but this does not destroy the proven fact that he (Ramon J. Fernandez) was nominated as the candidate of the two branches of the Gran Partido Nacionalista, then known as the Coalition Party, and that this party worked and supported his candidacy against Don Juan Sumulong, the candidate of the opposition or of the Partido Democrata; neither does it destroy the proven fact that Ramon J. Fernandez accepted the nomination offered to him by the Coalition Party. It is equally true that the counsel for the appellant Municipal Board excepted to the order of the court admitting in evidence the proof of the petitioner to the effect that the Coalition Party, predecessor of the Partido Nacionalista Consolidado, had nominated as its candidate Don Ramon J. Fernandez, that party publicly campaigned and supported his candidacy, that it celebrated afterwards his victory as that of the Coalition Party. But the majority of this court does not discuss this phase of the question which induces the belief that the orders of the trial court were right, especially when the majority pauses to consider the testimony to this effect of the witness of the petitioner.

It is said that it is not possible to segregate the votes of the Nacionalistas (Unipersonalistas and Colectivistas) that caused the victory of their candidate Ramon J. Fernandez in the 1923 election, because according to the witness D. Vicente de Vera, it seems that democratas and liberales voters also cast their votes for Mr. Fernandez. But such difficulty should not be considered in deciding this case. In the first place, because Mr. De Vera on page 31 of the stenographic notes on cross-examination by appellant's counsel said:

"Q. But don't you know of your knowledge that he was voted for by the electors of the above mentioned parties (Nacionalistas, Democratas and Liberales.)?—A. You know very well that that is impossible in view of the secrecy in voting imposed by the law and I cannot affirm in a positive manner that such and such voter cast his ballot for such and such candidate. I cannot swear to that. I know that you are a democrata, but who knows that you voted for Mr. Fernandez.

"Q. So that all the testimony given by you as to the electors who voted or cast their ballots for Mr. Fernandez is a mere conjecture and conclusion gathered from circumstances of your own knowledge and not from facts that you personally know? A. What I say is this: That our candidate Don Ramon J. Fernandez of the Partido Nacionalista and of the Partido Colectivista, then known as the Coalition Party, has won in the election."

Secondly, because according to the opinion of the majority of this court, the contention of the Partido Liberal does not deserve any serious consideration, and lastly, because there is a strong presumption that the voters who cast their ballots for a candidate nominated by a political party are either affiliated to that party or simply sympathized with its political program. Furthermore, if for one reason or another, it is not possible to determine the number of votes of the Coalition Party that made possible the victory of their candidate Ramon J. Fernandez, then, under what legal provision is the Partido Consolidado, successor of the Coalition Party, now given an election inspector and a substitute in all the election precincts of the City of Manila? If the returns of the 1922 election are to be considered, there is a violation of section 5 of Act No. 321Q, according to which the election of 1923, just immediately preceding the 1925 election, must serve as the basis for determining the proportion of inspectors that should be allotted to each political party that may have polled the largest number of votes in the preceding election, as admitted in the decision of this court.

If in accordance with the evidence, the Coalition Party intervened in the 1923 election and elected its candidate for senator Don Ramon J. Fernandez, if Don Ramon J. Fernandez, candidate of the Coalition Party, polled 19,380 votes in the City of Manila as against 16,022, obtained by Don Juan Sumulong, the candidate of the Partido Democrata; if the Partido Nacionalista Consolidado with regard to the appointment of election inspectors has the same rights as its predecessor (the Coalition Party) would have had, it is evident in my opinion that the trial court decided this case in accordance with law by ordering the Municipal Board of the City of Manila to appoint two election inspectors and two substitutes for each and every precinct of the City of Manila from the list recommended by the legal representatives of the Partido Nacionalista Consolidado. As to this point, I hold that the decision appealed from should be affirmed.

[*] Not reported.

CONCURRING AND DISSENTING

ROMUALDEZ, J.:

I believe it to have been sufficiently shown that Mr. Ramon J. Fernandez, although he did not belong to any political party, was nominated by the coalesced Nacionalista (Unipersonalista) and Colectivista parties as their candidate for Senator in the special elections of the year 1923; that Mr. Juan Sumulong was nominated by the Democrata Party as its candidate for Senator in said elections; that the two parties Nacionalista and Colectivista were merged afterwards under the name of Partido Nacionalista Consolidado, which is the petitioner in this proceeding. As said candidate, Mr. Fernandez, is the one who triumphed in said special elections, which are the

ones immediately preceding the general elections to which the effects of this petition are directed, it results that the party which obtained the highest number of votes in its candidate for Senator in the City of Manila in the immediately preceding elections is the Nacionalista Consolidado, and the party obtaining the next lower place, the Democrata Party. Therefore, I believe that the Partido Nacionalista Consolidado must have two inspectors and the Democrata Party one, with their respective substitutes. In other respects I agree with the majority.

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