

ANSELMO ELLO, PETITIONER, VS. JUDGE OF FIRST INSTANCE OF ANTIQUE AND INOCENCIO VALDEVIN, RESPONDENTS.

G. R. No. 25802. July 23, 1926

Ponente: VILLAMOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-25802/>

VILLAMOR, J.:

This action was originally instituted in this court for the annulment or modification of an order of the respondent judge.

The petition is based upon the grounds that the respondent judge, in deciding the municipal election contest between the petitioner Anselmo Ello and the respondent Inocencio Valdevin, candidates for the office of municipal president of the municipality of Patanongan, Province of Antique, adjudicated 291 votes to the respondent Valdevin and 289 to the petitioner; that the respondent judge failed to adjudicate 3 ballots with detachable coupon numbers to the respondent Valdevin, and likewise failed to adjudicate 6 ballots, also with detachable coupon numbers, to the petitioner; that the failure of the respondent judge to count said 3 ballots, with detachable coupon numbers, in favor of the respondent and 6 in favor of the petitioner constitutes an excess of his jurisdiction.

The respondents filed a demurrer to the herein petition upon the ground that the facts alleged in the petition do not constitute a cause of action of certiorari. For the purposes of this opinion, we will consider this demurrer as an answer to the petition.

The question here at issue is not new in this jurisdiction. There is no doubt that the Code of Civil Procedure permits the remedy of certiorari in cases in which an inferior tribunal, board, or officer exercising judicial functions has exceeded its or his jurisdiction, and there is no appeal nor any other plain, speedy, and adequate remedy (sec. 217), or he has not regularly pursued his authority (sec. 220), or exceeded his power in the performance of his duties (sec. 514). This court, in interpreting the aforesaid sections in the case of *Leung Ben vs. O'Brien* (38 Phil., 182), said, that any irregular exercise of judicial power by a Court of First Instance, in excess of its jurisdiction, is remediable by the writ of certiorari, provided there is no plain, speedy, and adequate remedy. An irregular exercise of judicial powers, according to this doctrine, is not a sufficient ground for the issuance of the writ of certiorari if it is not shown that there has been an excess or abuse of legal powers.

The Election Law grants jurisdiction to Courts of First Instance to try and decide election contests and their decisions are final with respect to municipal offices. It has been repeatedly held by this court that a judicial error in the solution of a question of fact or law is not sufficient for the issuance of the writ of certiorari; in addition, it is necessary that the court, in exercising its powers in an irregular manner, should have exceeded its jurisdiction or should have abused its legal powers. It has also been uniformly held by this court that if a court has jurisdiction to try and decide a case, the fact that it may have decided it right or wrong makes no difference so far as its jurisdiction is concerned. Certiorari is not a remedy for correcting errors of fact or law, but was created for the purpose of protecting interested parties from acts which judges or courts, without jurisdiction or acting in excess

thereof as granted by the law, may commit. As was said in the case of *Bustos vs. Moir and Fajardo* (35 Phil., 415), "Errors may be corrected by appeal in cases where an appeal lies. In other cases the errors must be submitted to and borne because the legislature, the representative of the whole people, so decrees. If the rules just set out did not prevail this court, would be continually deciding election contests on the merits and would be compelling Courts of First Instance to decide them as this court might require. This would be in violation of law because the statute confers not only jurisdiction on the Courts of First Instance to hear and determine election contests of this character (municipal election contest), but it confers exclusive jurisdiction and provides that there shall be no appeal from its decision."

In the case of *De la Cruz vs. Moir* (36 Phil., 213), it was alleged, as ground for the petition for certiorari, that the respondent judge had reached conclusions contrary to the law and the facts proven at the trial of the protest, and this court, in the course of its opinion, says:

"None of the acts set out in the petition affect the jurisdiction of the court. They are acts performed in the exercise of jurisdiction; and, even though the decision of the court upon each one of the questions presented by the allegations of the petition was wrong in fact and in law, his jurisdiction would remain unaffected. As we have said so many times, it is always necessary to bear in mind the difference between jurisdiction and the exercise of jurisdiction. When a court exercises its jurisdiction an error committed while engaged in that exercise does not deprive it of the jurisdiction which it is exercising when the error is committed. If it did, every error committed by a court would deprive it of jurisdiction and every erroneous judgment would be a void judgment. This, of course, is not possible. The administration of justice would not survive such a rule. The decision of the trial court in the case before us holding that certain ballots cast by illiterates which had been prepared for them by the inspectors of election were legal and valid although the illiterates did not, previous to the preparation of their ballots by inspectors, take the oath required by law showing that they could not cast their ballots without assistance, is a decision entirely within the jurisdiction of the court, even if we concede for the sake of argument that the court was wrong in that decision. The same could be said if he had held the precise contrary and had excluded all of the ballots cast by illiterates; and, of course, it necessarily follows that his failure to separate those which the petitioner claims were illegal from those he claims were legal does not alter the situation. The court has power and authority to conduct the case as he believes law and justice require and whatever he does is within his jurisdiction so long as he does not violate the principle of due process of law or transcend the limits of the case before him.

"We reach the same result in discussing the other alleged errors. The denial of the motion to separate the illegal from the legal ballots, the rejection of the offer to prove that the majority of the illiterate voters could read and write, the refusal to annul 62 ballots in favor of Melecio M. Trinidad in spite of the fact that they were marked with certain letters, the finding that a certain ballot box had been tampered with after the ballots have been counted and the box sealed by the inspectors, the refusal to annul the election in the municipality of Macabebe on account Of certain irregularities and violations of law which took place in the conduct thereof, and the counting of more than 40 marked ballots in favor of Trinidad and the refusal to count legal ballots in favor of Juan de la Cruz, do not touch the jurisdiction of the court in any way. They are all decisions made in the exercise of its jurisdiction and however erroneous they may be, if they or any of them are erroneous at all, it had power and authority to make them and they cannot be attacked on the ground of lack of jurisdiction."

In *Venturanza vs. Court of First Instance of Batangas and Cabrera* (36 Phil., 545), it was alleged by the petitioner that the respondent judge had refused to admit the counter-protest of the contestee in an election contest, and the court said:

"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 Prauch*, 1 Phil., 132; *Springer vs. Odlin*, 3 Phil., 344; *Arzadon vs. Chanco and Baldueza*, 14 Phil., 710; *Herrera vs. Barretto and Joaquin*, 25 Phil., 245; *Gala vs. Cui and Rodriguez*, 25 Phil., 522; *De Fiesta vs. Llorente and Manila Railroad Co.*, 25 Phil., 554; *Province of Tarlac vs. Gale*, 26 Phil., 338; *Napa vs. Weissenhagen*, 29 Phil., 180; *Government of the P. I. vs. Judge of First Instance of Iloilo and Bantillo*, 34 Phil., 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."

In *Guerrero vs. Villareal and Guerrero* (41 Phil, 50), the court said:

"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.

* * * * *

"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 cannot 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. (*Banes vs. Cordero*, 13 Phil., 466..)"

In the present case the petitioner alleges that the excess of jurisdiction consists in the respondent judge's failure, in the aforesaid protest, to adjudicate nine ballots with detachable coupon numbers,—three to the respondent Valdevin and six to the petitioner. While it is not necessary, in order to solve the question raised in this proceeding, to determine whether the respondent judge in rejecting the nine ballots in question was right or wrong, it will not be out of place, however, to note that the respondent Valdevin, in his answer, quotes the following paragraph from the decision of the respondent judge regarding the nine ballots in question:

"The detachable coupon numbers of these ballots have not been detached and the court is of the opinion that it must not admit these votes. It is true that "in the case of *Lucero vs. De Guzman* (45 Phil., 852), the doctrine was laid down that "The circumstance that the coupon bearing the number of a ballot is not detached at the time the ballot is voted does not justify the court in rejecting the ballot. The duty of detaching the coupon is placed by law upon the election officials and the voter must not be deprived of the franchise by reason of their failure to perform this duty.' But the court believes that this doctrine is applicable, in general terms, to the case wherein it cannot reasonably be presumed that the detachable coupon number has served to identify the ballot; otherwise the provision of the law giving each ballot a detachable coupon number would serve the purpose of

unscrupulous voters and candidates, for there is no better identification of the vote than the existence of the detachable coupon number which has not been detached from the ballot. In this precinct there is not only one, but various ballots the detachable coupon numbers of which were not detached, and the court is strongly impressed with the idea that the coupon number was not deliberately detached for the purpose of identifying the ballot. * * * (P. 4.)

Supposing that said ruling were erroneous, nevertheless, such error, if any, appears to have been committed in the exercise of the jurisdiction of the respondent judge. And so, adhering to the doctrine enunciated in the cases cited, we find that the petitioner has no right to the remedy applied for and therefore the petition herein must be, as it hereby is, denied, with the costs against the petitioner. It is so ordered.

Avanceña, C. J., Street, Ostrand, Johns, Romnaldez, and Villa-Real, JJ., concur.

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.