

FORTUNATO MAGTAOS, JR., ARTURO FABIAN, JOSE CARLOS, PANTALEON VALENZUELA, CARLOS MARCELO, AND BENJAMIN AUSTRIA, PETITIONERS, VS. HON. CECILIA MUÑOZ PALMA, JUDGE OF THE COURT OF ...

G.R. No. 28239. November 10, 1967

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PER CURIAM:

Upon consideration of the petition for mandamus with preliminary mandatory injunction, and the return thereto of respondents, and the case having been submitted, after oral arguments, for judgment; and it appearing upon the averments of the verified petition before this Court (1) that attempts to personally serve copies of the petitions for exclusion upon respondents in Election Cases Nos. 39 to 55 of the Court of First Instance of Rizal proved futile as they could not be found or were not known in their given addresses; and (2) that service by registered mail could not be effected as respondents therein are fictitious or are non-residents of the Municipality of Cainta, Rizal; (3) appearing further that the demands of due process have been satisfied as to the respondents listed in said petitions below, the exclusion of whose names from the List of Voters are prayed for therein, because notices of hearing have been properly given by posting such notices at (a) Cainta Municipal Building, (b) Bining's Barber Shop, New Provincial Road, Cainta, Rizal, and (c) Garcia's Sari-Sari Store, Wilson Street, Cainta, Rizal, in accordance with the provisions of Sec. 1, R.A. 5178 in conjunction with par. (b), Sec. 123 of the Revised Election Code, and (4) considering that the motion to dismiss below hypothetically admits the allegation of the petition, the Court RESOLVED: (1) to grant the petition for mandamus herein and to declare permanent the preliminary mandatory injunction issued by this Court on November 7, 1967; and (2) to direct respondent Judge to hear and promptly decide aforesaid Election Cases Nos. 39 to 55, without costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Castro, Angeles and Fernando, JJ., concur.

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