

RUFO SAN JUAN, PETITIONER AND APPELLEE, VS. PERFECTO ABORDO, RESPONDENT AND APPELLANT.

G.R. No. 28320. September 20, 1927

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

It appears from the record:

1. That on June 24, 1925, the provincial board of Palawan, acting as board of canvassers, proclaimed Perfecto Abordo elected provincial governor of Palawan with 1,444 votes against 1,406 obtained by his opponent Rufo San Juan;
2. That on July 1, 1925, Rufo San Juan protested in the Court of First Instance of Palawan against the election of Perfecto Abordo, alleging eleven grounds which he specified in his motion of protest;
3. That the protestee Abordo, in turn, presented a counter-protest alleging four grounds which likewise are specified in his answer;
4. That during the course of the election contest in the Court of First Instance of Palawan, the same protestant, Mr. San Juan filed another protest with the Executive Bureau of the Government, against the election of the one who then held the office of provincial governor, apparently on account of not being a legal resident of the province at the time of his election;
5. That this new protest gave rise to administrative proceedings under the provisions of section 408 of the Election Law, which culminated in Proclamation No. 48, series of 1926, of the Governor-General, which reads as follows:

"Pursuant to the opinion rendered by the Attorney-General in the administrative investigation against the election of Governor Perfecto Abordo of Palawan, concurred in by the Acting Chief, Executive Bureau, and the Secretary of the Interior, wherein it is held that Governor Abordo did not have the required residence in Palawan at the time of election for the office of governor on June second, nineteen hundred and twenty-five, and was therefore ineligible to hold the office of governor of that province, I hereby declare, under the provisions of section four hundred eight of the Election Law, the office of the provincial governor of Palawan to be vacant.

"In witness whereof, I have hereunto set my hand and caused the seal of the Government of the Philippine Islands to be affixed.

"Done at the City of Manila, this eighteenth day of October, in the year of our Lord nineteen hundred and twenty-six.

[SEAL] "LEONARD WOOD

"Governor-General"

6. That after the hearing of the election contest in the Court of Palawan on January 25, 1927, the Honorable Judge

who tried the case, rendered his 74-page decision on March 27, 1927, finding that the protestant Mr. Rufo San Juan had obtained 1,340 votes, and the protestee Mr. Perfecto Abordo, 1,067 votes which were declared null by the court for the reason that Mr. Abordo is not eligible to the office of provincial governor of Palawan;

7. That in spite of the above-quoted proclamation of the Governor-General, Mr. Abordo appealed from the judgment of the trial court, and in view of said appeal, the records of the proceedings were brought to this court, having been received in the office of the clerk on September 1, 1927;

8. That on September 8, 1927, counsel for the protestantappellee filed a motion praying for the dismissal of the appeal, for the following reasons:

"(1) That the respondent Perfecto Abordo's appeal was presented out of the time fixed by the law, and therefore the decision of the trial court had become final and subject to execution;

"(2) That said respondent Perfecto Abordo had been declared ineligible for the office of provincial governor of Palawan by his Excellency, the Governor-General, according to Proclamation No. 48, series of 1926, and

"(3) That protestee Perfecto Abordo, not being registered candidate for the office of provincial governor of Palawan in the general elections of June 2, 1925, was not eligible for election to said office."

9. That notice of said motion having been given to the protestee-appellant, his counsel opposes the dismissal prayed for, for the reasons stated in his answer of the 14th instant.

Under the facts stated, the fundamental question raised by the motion for dismissal is whether or not the appellant, who was declared ineligible to hold the office in question, according to section 408 of the Election Law, can prosecute his appeal in this court.

If the appellant desires to obtain the logical result of his appeal, that is to say, that after the examination' of the ballots, he be declared to have a greater number of votes than his opponent, supposing this were practicable, such a result would be entirely ineffectual and nugatory, because, having been declared ineligible to hold the office in dispute, any judgment that in that event may be rendered in his favor, would be impossible of execution. The same difficulty would occur if it were possible to declare the election between the herein litigants a tie.

If, on the other hand, the appellant desires to raise in this appeal, the question of the ineligibility of the appellee, such contention could not prosper, because the courts, authorized to try election contests, have no jurisdiction over the eligibility of a candidate elected to an office. (*Topacio vs. Paredes*, 23 Phil., 238.) The solution of questions of eligibility for provincial elective offices has been committed by the law to the Executive Department.

Thus it is seen that the situation of the appellant in the present case is necessarily prejudged by the said proclamation of the Governor-General, and it would really be unjust for the parties and for this court and for the electoral body of the Province of Palawan, at this time to entertain an appeal that, after requiring lengthy and arduous labor, could produce only negative results.

After this proclamation of the Governor-General declaring the appellant ineligible to hold the office in question, there can be no election contest between the two parties who aspire to obtain the palm of victory. The controversy should cease when one of the litigants has been declared hors de combat by the authority of the law. And there is no need to insist that it is to the public interest that election contests should be rapidly and economically decided, avoiding unnecessary delays. In this way the uncertainty as to the result of the election is done away with, the ardor of party contests is quenched, and political repose, which is so necessary to the progress of the country, is restored in the community. It is for this reason that the Legislature has provided that the courts should hear and decide election contests as promptly as possible, in preference to all other kinds of cases, and whether or not they

are in regular session.

We are of the opinion that the second ground for dismissal, alleged by the appellee in his motion dated the 8th of this month, justifies the dismissal prayed for. And having arrived at this conclusion, it is unnecessary to discuss grounds 1 and 3 of said motion.

For the foregoing, the present appeal must be, as it is hereby, dismissed with costs against the appellant. So ordered.

Avanceña, C, J., Johnson, Street, Malcolm, Johns, Romualdez, and Villa-Real, JJ., concur.

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