

ROMAN ACERDEN, PETITIONER AND APPELLEE, VS. SANTIAGO TONOLETE, RESPONDENT AND APPELLANT.*G.R. No. 30263. December 08, 1928*

Ponente: MALCOLM, J.

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The proper solution of the appeal in this case hinges upon the sufficiency of the allegation contained in the election protest—"Que el recurrente y el recurrido en las elecciones generates celebradas el 5 de junio de 1928 fueron los dos unicos candidates registrados y votados que contendieron en el Municipio de Carigara para el cargo de presidente municipal"—as conferring jurisdiction on the courts. Our conclusion is in the affirmative.

In the last general elections, the candidates for the position of municipal president of Carigara, Leyte, were Santiago Tonolet and Roman Acerden. The municipal council of Carigara, acting as a board of canvassers, declared that Santiago Tonolet received 886 votes and Roman Acerden 885 votes, or a difference in favor of Tonolet of one vote. The election was contested, with the result that the trial judge, the Honorable Eulalio E. Causing, found that Roman Acerden was entitled to 913 votes and Santiago Tonolet to 887 votes, or a plurality for Acerden of 26 votes. On the appeal taken from this judgment by Santiago Tonolet, no point is made as to the correctness of the Judge's findings on the facts, but the whole argument goes to the proposition that the court lacked jurisdiction to consider the protest.

Section 479 of the Election Law, as formerly amended by Act No. S030, provided for election contests to be heard by the Court of First Instance "upon motion by any registered candidate voted for at such election." In a series of cases, this court, by a close division, held that to confer jurisdiction the motion of protest must allege that it was presented by a registered candidate voted for (*Tengco vs. Jocson* [1922], 43 Phil., 715; *Viola vs. Court of First Instance of Camarines Sur and Adolfo* [1925], 47 Phil., 849). Undoubtedly inspired to such action by these decisions, the Philippine Legislature amended section 479 of the Election Law by enacting Act No. 3387 providing that contests in all elections shall be heard by the Court of First Instance "upon motion by any candidate voted for at such election and who has duly filed his certificate of candidacy." Otherwise stated, the word "registered" was eliminated and the phrase "who has duly filed his certificate of candidacy" was added. However, section 481 of the Election Law, as last amended, is still found to make use of the word "registered."

A fair inference is that the purpose of the Legislature was to make the law less rigorous and more practical. While the term "registered candidate voted for at such election" is not exactly synonymous with the phrase "candidate voted for at such election and who has duly filed his certificate of candidacy," yet the first would appear to be the more emphatic and comprehensive. Involved in the meaning of "registered," as connoted to the law, is the idea of a properly filed certificate of candidacy. (*Tolosa vs. Court of First Instance of Leyte and Torreses* [1928], G.R. No. 30134.)[1]

The other points made are of little moment and hardly need be referred to. As an example, the certificate of candidacy is challenged because of the nature of the affidavit. For some reason, the Election Law has substituted

the word "sworn" for the word "verified" as to the certificate of candidacy. However, the certificate of candidacy was "Suscrito y jurado ante mi, etc.," and this is sufficient both in form and substance.

We do not propose to permit supertechnical argumentation to defeat the will of the electorate.

Resolving all assignment of errors against the appellant, it results in the judgment appealed from being affirmed, with the costs against the appellant.

Johnson, Street, Villamor, Ostrand, Romualdez, and Villa-Real, JJ., concur.

[1] Decided by resolution of August 7, 1928, not reported.

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