

RAMON DELES, PROTESTANT AND APPELLANT, VS. ARELLANO ALKONGA, PROTESTEE AND APPELLEE.

G.R. No. 30600. March 25, 1929

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is an appeal taken by the protestant, Ramon Deles, from the judgment of the Court of First Instance of Iloilo finding that the protestee, Arellano Alkonga, obtained 243 votes and said protestant 216 votes for the office of municipal president in the general elections¹ held on June 5, 1928, in the municipality of San Dionisio, Province of Iloilo.

In support of his appeal, the appellant assigns the following errors alleged to have been committed by the trial court in its judgment, to wit:

"1. The lower court erred in counting as valid votes in favor of the protestee, Arellano Alkonga, the twenty-six (26) ballots wherein there appear in the space for municipal president, only AA, Arellano A., and Arillano a.

"2. The lower court erred in counting as valid votes for the protestee, Arellano Alkonga, the ballots in which are written Arellano Ala in one, Arellano Alee or Arellano Alco in another, and in another Arella; Alegr, and in still another Arellano Alkon (4 ballots in all).

"3. The lower court erred in not holding the registration and voting in the third precinct of San Dionisio to be void, unlawful, and fraudulent."

As to the first assignment of error, the appellant, Ramon Deles, contends that the two ballots, one in precinct No. 1, and the other in precinct No. 2, adjudicated to the protestee by the lower court, in which are written in the space for municipal president, the names "Arillano a" and "Arellano A," respectively, should be rejected on the ground that the Christian name and the initial of the surname alone are not sufficient to identify a candidate in accordance with the doctrine laid down in the case of Cailles vs. Gomez and Barbaza (42 Phil., 496), cited with approval in the case of Geukeko vs. Pascual (50 Phil., 221), and in the case of Lucero vs. De Guzman (45 Phil., 852). In several recent decisions in the cases of Adeser vs. Tago (G. R. No. 30282),^[1] and Namocatcat vs. Adag (G. R. No. 30283),^[2] this court has laid down the doctrine that when, for a stated office, there is only one candidate who bears a certain Christian name and surname, the Christian name and the initial of the surname alone are sufficient to identify said candidate. The court below, therefore, did not err in admitting said two ballots in favor of Arellano Alkonga.

It is likewise contended by the appellant, Ramon Deles, in the said first assignment of error that the twenty-four ballots—two in precinct No. 1 and twenty-one in precinct No. 2—where the initials "A. A." appear in the space for the office of municipal president, and one in precinct No. 1, where the letters "a. A." appear, which were all admitted by the lower court as votes in favor of the protestee, must be rejected as being inadequate to identify Arellano Alkonga as candidate for the office of municipal president, since the first letter "A," being the initial of many names, does not necessarily mean "Arellano," and the second letter "A," being the initial of many surnames,

also does not necessarily mean "Alkonga." In order that the initial letter of the Christian name may suffice to identify a candidate, it is necessary that it be accompanied by the full surname, and in order that the initial letter of the sur- name may be sufficient for the same purpose, it is necessary that it be accompanied by the full Christian name.

Passing now to the second assignment of error, the appellant contends that the ballots in one of which is written "Arellano Ala" in another "Arellano Alee" or "Arellano Alco" in another "Arilia Alegr" and in another "Arellano Alcon," four ballots in all, admitted by the trial court as votes in favor of Arellano Alkonga, should be rejected as not falling within the idem sonans rule. Following the liberal view which has guided this court in the solution of similar questions in the cases of Valenzuela vs. Carlos and Lopez de Jesus (42 Phil., 428), Cailles vs. Gomez and Barbaza (42 Phil., 496), Mandac vs. Samonte (49 Phil., 284), and Bulan vs. Gaffud (49 Phil., 906), said ballots must be admitted, with the exception of the one with the words "Arilia Alegr," for Alegr" is not idem sonans with the surname Alkonga.

With reference to the third assignment of error, the fact that the first registration of voters was held in the town of San Dionisio instead of the barrio of Bagacay, which was the place fixed by the resolution of the municipal council, and the second registration in the barrio of Bagacay, and the voting in the town of San Dionisio, while it constitutes an irregularity, said fact is not sufficient to annul the whole election in precinct No. 3 of San Dionisio where 185 electors had voted, inasmuch as it does not appear that the forty-eight electors registered in. said precinct were not able to vote by reason of said change, and not for any other reason, nor does it appear that had they voted, they would have voted for the protestant, Ramon Deles. The only qualified elector whom the protestant, could present and who was not able to vote on account of said change, was Fermin Montejo. Anatolio Begaforo, even if he had wanted to vote, would not have been able to do so, because he was not registered as a voter in said precinct.

Briefly, then, we hold that from the 248 ballots adjudicated to the protestee, Arellano Alkonga, there must be subtracted the 24 ballots in which appear the initials "A. A." in the space for the office of the municipal president, and the one in which appear the words "Arilla Alegr," leaving a remainder of 223 or a plurality of 7 votes over the protestant, Ramon Deles, to whom 216 votes have been adjudicated.

By virtue whereof, and with the sole modification that instead of 32, the protestee's plurality over the petitioner is reduced to 7 votes, the judgment appealed from is hereby affirmed in all other respects, with costs against the appellant. So Ordered.

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

[1] 52 Phil., 856. [2] 252 Phil., 789.

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