

RUFINO FAUSTO, CONTESTANT AND APPELLANT, VS. JOSE VILLARTA, CONTESTEE AND APPELLEE.

G.R. No. 30648. March 30, 1929

Ponente: STREET, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-30648/>

STREET, J.:

This appeal has been brought to reverse a decision of the Court of First Instance of Tarlac, whereby an election protest instituted by the appellant, Rufino Fausto, against Jose Villarta, over the office of municipal president of the municipality of Victoria, Tarlac, was dismissed, and the protestee declared to have been duly elected, with costs and expenses against the appellant.

It appears that there were three candidates for president of the municipality of Victoria at the general election held on June 5, 1928, namely, Jose Villarta, Rufino Fausto and Marcos Villa-Agustin, but the latter was a poor third in the race and, although made a party to this contest, desisted from taking active part herein. The two principal competitors were Jose Villarta (who received 825 votes according to the official canvass) and Rufino Fausto (who received 790), there being a plurality of 35 votes in favor of Villarta. Upon hearing the contest the trial judge found, upon what he considered a correct count of the votes, that Villarta had received 813, while Fausto had received 785, leaving Villarta still with a plurality of 28 votes.

The assignments of error of the appellant in this court are all directed to the findings of fact of the trial court, and after examining the proof, in connection with the assignments of error, we are of the opinion that, with the exception of about 2 ballots improperly admitted by the trial judge in favor of the appellee, no error of any importance was committed.

The first three assignments of error are directed to the refusal of the trial court to annul the election, as affecting the office of president in the fourth, eighth and ninth precincts of Victoria; and in support of these assignments the appellant relies upon testimony tending to show that in these precincts the compartments of the voting booths were separated by cloth (tela), with the result that there was opportunity for invasion of the secrecy of the ballot by meddlesome persons in adjacent booths. We agree with the trial court that the proof is not sufficient to justify the annulment of the election in these precincts for the supposed irregularities relied upon by the appellant.

The contention of the appellant that only 100 ballots were used in precinct 4, while 163 were found in the ballot box, thus indicating, according to the appellant, the commission of fraud in this precinct, is obviously unsound. The truth is that 163 ballots were found in the box of used ballots and 8 in the box of spoiled ballots, making 171, which is precisely the number of official ballots which had been used in this precinct, according to the report of the commissioners, and according to the stubs left in the box. The contention that only 100 ballots had been used is based upon an obvious mistake in the certificate of the board of inspectors.

Other minor irregularities charged against the officers conducting the election in the three precincts mentioned are not of sufficient moment to require discussion and are sufficiently answered in the opinion of the trial court.

With respect to the assignments -directed towards the appreciation of the ballots, we are of the opinion that ballot Exhibit E was incorrectly counted for the appellee. It should have been rejected because the name Ciriaco Pi da appears at the foot of the ballot outside of the spaces indicated on the ballot for the names of candidates. The name thus signed may have been written to identify the ballot, and it should be treated as being a mark which invalidates the ballot.

The ballot Exhibit D should also have been treated as a marked ballot, because it contains the irrelevant expression "para cocinero" after the name of Juan Manila.

The result is that, according to our appraisal of the votes, 2 votes should be deducted from the number conceded to Villarta by the trial court, leaving him with a total of 811 votes, or a plurality of 26 over the contestant.

The judgment appealed from will be affirmed, and it is so ordered, with costs against the appellant.

Johnson, Malcolm, Ostrand, Johns, Romualdez, 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.