

MAMERTO PORTILLO, PROTESTANT AND APPELLEE, VS. ENRIQUE SALVANI, PROTESTEE AND APPELLANT.

G. R. No. 32181. March 10, 1930

Ponente: MALCOLM, J.

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MALCOLM, J.:

The question of first impression in this jurisdiction here to be decided is whether the provision of the amended Election Law that "All proceeding's in an electoral contest shall be terminated within one year" is merely directory and so is attended with no consequences, or is mandatory and so is productive of serious results.

Following the general elections in 1928 in the Province of Antique, the provincial board of canvassers of that province proclaimed Enrique Salvani elected to the office of provincial governor with 2,934 votes as against 2,925 votes for Mamerto Portillo, his nearest competitor. On July 9, 1928, Portillo filed his protest. The case was submitted for the decision of the trial judge on March 23, 1929. On July 26, 1929, Salvani having received no notice of the decision and more than the one year fixed by statute having elapsed, impugned the jurisdiction of the trial court. On August 15th of the same year, there was received in the office of the clerk of court of Antique the decision of the trial judge, which was forwarded from Capiz on the 12th of the same month. This decision of fifty-four pages bore the date of July 3, 1929. In it Portillo was declared elected Governor of the Province of Antique with 2,952 votes and with 2,818 votes for Salvani. On being informed of the decision in the electoral contest, Salvani renewed his motion and again alleged that the judgment rendered was a nullity on the ground that the trial court had lost its jurisdiction over the case. These motions were denied by the Auxiliary Judge of First Instance then presiding over the court of Antique.

The parties have endeavored to enlighten us on the issue by the citation of foreign authorities. On examination, these precedents are, however, found of little help. Salvani, for example, relies on a series of cases relating to justice of the peace courts in the United States, which hold that statutes fixing the time for the rendering of judgments are mandatory, since the powers of the inferior courts are dependent upon and limited by the statute. (Note *State vs. Houston* [1907], 36 Mont, 178.) Portillo on the other hand contends that a fairly exhaustive search for authorities has revealed but one ease in point, *Bernardo vs. Rue* ([1914], 26 Cal. A., 108; 146 Pac., 79). But while this decision does hold that the California statute requiring the court to enter its judgment within ten days after submission of the case is directory as to an election contest, it must not be forgotten that the California courts likewise adhere to the minority doctrine pertaining to the jurisdiction of justice of the peace courts. The various texts, cyclopedias of law, and decisions could be searched out and inserted to encumber this decision, without proving of any particular benefit in the ultimate resolution of the question.

Like in all cases depending for their correct disposition on statutory construction, the primary question is, What was the legislative intent? The real purpose of the Legislature, we believe, can be ascertained by various courses of reasoning. And first let us investigate the legislative history of the existing amendment to the Election Law.

The original Election Law in the Philippines was Act No. 1582. Section 27 thereof, relating to election contests,

was silent as to the time within which the contests must be concluded. In 1912, the Legislature amended the law when it enacted Act No. 2170 by including the mild provision that "The contests shall be filed with the court within two weeks after the election and shall be decided by the same as soon as possible after the hearing of the contest." The Election Law was further strengthened in this respect in 1922 when this law, now incorporated in the Administrative Code, was amended by Act No. 3030 by the inclusion of the provision that "The court shall hear election contests in preference to all other cases and shall try and decide them as soon as possible," It was two or three years ago when the Legislature revised and compiled the Election Law that it continued the above quoted sentence but made the law apply as well to the Supreme Court and inserted the new provision we are scrutinizing to the effect that "All proceedings in an electoral contest shall be terminated within one year."

It will be noted that by progressive steps the Philippine Legislature has proceeded from silence to mild admonition, to stronger suggestion, to inserting finally an explicit and emphatic provision. What the Legislature now desires is that it shall be obligatory upon Courts of First Instance to decide pending election cases within one year from the time of registration. Had the Legislature simply amended the law once without making use of negative words, undoubtedly the courts would be constrained to hold the amendment not a limitation of authority. When, however, the legislative body has felt itself compelled repeatedly to amend the law, an entirely different situation is presented. As the United States Supreme Court in the last number of its Advance Opinions, which has been received, said, "The deliberate selection in a statute of language differing from that of earlier acts on the subject indicates that a change of law was intended." (Brewster vs. Gage [1930], U. S. Sup. Ct. Advance Opinions, p. 183.) To hold the law directory would amount to a ruling that the latest amendment of the Election Law had no more weight, than the law had before the amendment. Surely such was not the legislative purpose.

From another angle, we find the uniform holding to be that Courts of First Instance, while acting in election contest cases, are courts of special and limited jurisdiction (Topacio vs. Paredes [1912], 23 Phil., 238; Tengco vs. Jocson [1922], 43 Phil., 715; Palisoc vs. Tamondong and Medina Cue [1922], 43 Phil., 789; Viola vs. Court of First Instance of Camarines Sur and Adolfo [1925], 47 Phil., 849). The jurisdiction of Courts of First Instance to try contested election cases being special, is confined within the provisions of the statute. The Election Law must be strictly construed and must be exactly followed by those who act under and in pursuance of the powers therein conferred (Topacio vs. Paredes, supra; Tengco vs. Jocson, supra). Certain parts of the Election Law this court has held are mandatory (Ocampo vs. Mina and Arejola [1920], 41 Phil., 880 and Yumul vs. Palma [1928], 52 Phil., 412, with which compare Lino Luna vs. Rodriguez [1918], 39 Phil., 208).

Two of the best known authorities on the Election Law of the Philippines, Justice Ignacio Villamor and Senator Jose P. Laurel, although they have not commented directly on the point here under consideration, yet have used language indicative of their respective points of view. Thus in the case of San Juan vs. Abordo ([1927], 50 Phil., 703), Justice Villamor said:

"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."

Senator Laurel, one of the authors of the codified Election Law, in his work on the Law of Elections of the Philippine Islands, pages 196-198, states the following:

"The Court of First Instance and the Supreme Court shall hear election contests in preference to all other cases and shall try and decide them as soon as possible, whether it be a regular term of court or not; and in no case must the proceedings therein last for more than one year. The law contemplates that election contests should be concluded as speedily as possible to the end that the real will of the voters may be given effect. Unnecessary delay and multiplicity of action should not therefore be imposed upon the people of the municipality without the very best and sufficient reasons. * * * There is the strongest reason for enforcing this rule most rigidly in cases of contested election because promptness in commencing and prosecuting the proceeding is of the utmost importance, to the end that a decision may be reached before the term has wholly or in part expired. The courts should require the parties to speed the cause, so that the official term which is in the dispute may not expire, either in whole or in part, before the final decision is reached."

With the foregoing discussion of the legal question to the forefront, it would now be proper to turn again to the facts. It will be recalled that the protest was filed on July 9, 1928, and that the decision on the protest was received in the office of the clerk of court on August 15, 1929, although purporting to have been signed on July 3, 1929. The court can take judicial notice of the fact that it would not take from July 3d to August 15th for a decision to proceed from Capiz, Capiz, to San Jose, Antique. Although in certain cases it might be wise to distinguish between the rendering of the judgment and its entry in the records of the court, that point need not complicate matters here, for the law contains provisions governing judgments signed by the judge after he has left the province where the case was heard. The law provides that the judgment shall be entered in the court as of the day when the same was received by the clerk in the same manner as if the judge had been present in court to direct the entry of the judgment. In this connection, there may be cited the decision of Justice Johnson in the case of Lino Luna vs. Rodriguez and De los Angeles ([1917], 37 Phil, 186). On this basis, the decision in the election case was thirty- seven days late, which means that the proceedings were not terminated within one year.

To avoid all misunderstanding, it should be said that we have not neglected to take under observation the undeniable fact that the law imposes the duty of prompt action primarily upon the court and secondarily upon the protestant and that the parties, particularly the protestee, have no control over the action of the court. To punish the litigants for the wrongs of the court which the litigants have no power to prevent is not subversive of justice. All this must be conceded. At the same time, not to put strength into the law would completely nullify its force. Confronted with this dilemma, we turn again to rest our judgment on what we conceive to be the legislative purpose in changing the law for courts of special jurisdiction. Should a judge be inclined to move tardily, we entertain little doubt that ,; on the initiative of the protestant either the Department of Justice would take action or the appellate court would coerce the judge to activity. The burden in election contests is continually placed on the protestant, and the law is peculiarly obligatory upon him—much more so than upon the protestee who occupies a purely defensive position.

What has been here said is confined to a discussion of the first assignment of error and the arguments of the parties thereon, and does not purport to decide the legal , effect of extraordinary remedies instituted in this court 4 against Courts of First Instance as tolling the time and so extending the year within which the proceedings must be concluded, a point not discussed on this appeal.

It is accordingly our view that the Philippine Legislature intended the amendment to the Election Law that "All proceedings in an electoral contest shall be terminated within one year" to be mandatory, and that inasmuch as the proceedings in the electoral contest at bar were not terminated within one year, the trial court lost authority over the case at the expiration of the year, with the result that the judgment thereafter attempted to be rendered was void for want of jurisdiction. The remainder of the assignment of errors need not be discussed.

Accordingly, the order of the court below overruling the motions of July 26th and August 19, 1929, shall be

reversed, and all proceedings in the election contest dismissed, without special pronouncement as to the costs in either instance. On the return of the record to the court of origin, a copy of this decision shall be furnished the provincial board of canvassers for its guidance. So ordered.

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

Johns, J., concurs in the result.

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