

ISABELO AGUIRRE, PLAINTIFF AND APPELLANT, VS. PROVINCIAL BOARD OF OCCIDENTAL NEGROS ET AL., DEFENDANTS AND APPELLEES.

G. R. No. 3507. August 09, 1907

Ponente: TRACEY, J.

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TRACEY, J.:

At an election for municipal president of Manapla, Occidental Negros, on January 23, 1906, two hundred and eighty ballots were cast, one hundred and fifty-six in favor of Vicente Ardosa and one hundred and twenty-four in favor of Isabelo Aguirre. From the record it is to be presumed that the result of the canvass was thus certified by the board of judges.

A protest having been filed, the provincial board, upon investigation, ascertained that one hundred and seven of the Ardosa ballots and twelve of the Aguirre ballots were marked, but in what particular way the evidence before us does not disclose. Instead of either allowing or rejecting the marked ballots, the board determining that the voting had been illegal, ordered a special election. The plaintiff contends that the marked ballots should have been rejected and a return made in his favor.

The municipal election law, contained in Chapter II of the Municipal Code, significant omits many detailed requirements usual in laws of this character. The effect of marks upon ballots is not declared, the canvassers are not directed, as in the general election law, to separate or report upon them, nor is there any prohibition of such marks, except as many be inferred from the requirement that "elections shall be by secret ballot," while the only irregularity defined is the use of other ballots where official ballots have been provided.

Read in the light of these omissions, the broad grant to the provincial board in section 13 of the act, of power, on protest, to investigate, take evidence, determine, and generally review the election, certifying the result or, in case of illegality or ineligibility, to so declare and to order a special election, manifests a design of committing to this board a wide discretion in determining what errors call for a new election. The board is directed by the statute to ignore irregularities or informalities, but the marking of ballots so numerous as to change the majority of the total vote is more than an irregularity or informality and may well have constituted an illegality invalidating the election. The determination of this question is a fitting exercise of the power confided to the board by the statute, with which the courts should not interfere unless in case of abuse, bad faith, or manifest error.

The order of the Court of First Instance vacating the injunction as to both the defendants is hereby affirmed with the costs of this instance. So ordered.

Arellano, C.J., Torres Johnson, and Tracey, JJ., concur.

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