

CENON C. MUNOZ ET AL., PETITIONERS, VS. THE COURT OF FIRST INSTANCE OF RIZAL ET AL., RESPONDENTS.*G. R. No. 35951. August 27, 1931*

Ponente: VILLA-REAL, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-35951/>**VILLA-REAL, J.:**

This is a petition for mandamus filed by Cenon C. Muñoz et al., against the Court of First Instance of Rizal et al., praying, for the reasons given, that a writ of mandamus be issued requiring the court to try the election contest instituted by the petitioners against the respondents in civil case No. 4804 of said court, according to the substantial rights of the parties, to set aside the order of dismissal, and to decide said contest upon the merits, with costs against the respondents.

The following relevant facts are necessary to decide this petition:

On June 18, 1931, the herein petitioners filed an election protest (Exhibit A) against the respondents, in the Court of First Instance of Rizal, praying the court to fix the bond to be given by said contestants in order to have their protest heard, and to order that the list of voters, the spoiled and valid ballot boxes, the unused ballots and other documents used in precincts 1 to 25 of the municipality of Caloocan, Province of Rizal, during the last general election, be immediately forwarded to said court. On the same day, that is, June 18, 1931, the said Court of First Instance of Rizal fixed the bond to be given by the aforesaid contestants at P12,500 (Exhibit R-2). On the 20th of the same month, the contestants presented an undertaking (Exhibit R-3) signed by three sureties which lacked P130 of the amount fixed by the court, which the contestants agreed to complete later. Meanwhile, the proper summonses were issued and returned; and it was ordered that the spoiled and valid ballot boxes and other documents used in the contested election, be forwarded to the court in accordance with the contestants' petition. On June 27, 1931, at the instance of the contestees, the respondent Court of First Instance of Rizal entered an order dismissing the contest on the ground that over a week had elapsed without the contestants' having presented the bond required (Exhibit G). On June 29, 1931, the contestants filed a motion for the reconsideration of the order of dismissal (Exhibit H). While this motion was pending, on July 8, 1931, the contestants deposited with the clerk of the Court of First Instance of Rizal the P130 lacking to complete the bond, and the said clerk accepted the amount upon being expressly, though orally, authorized by the court to do so. On July 15, 1931, the respondent Court of First Instance of Rizal, passing upon the aforementioned motion for reconsideration of June 27, 1931, denied it.

In *Hontiveros vs. Mobo* (39 Phil., 230), and *Ancheta and Aguilar vs. Judge of First Instance of La Union and Verpeles* (40 Phil., 73), this court held that the requirements of the law relative to the giving of a bond to answer for the costs and expenses in election contests are not jurisdictional. And *Lucero vs. De Guzman* (45 Phil., 852), the following was said:

"It is true that section 482 of the Administrative Code prescribes that before the court shall entertain an election contest or admit an appeal, the contestant or appellant shall give bond, in an amount to be fixed by the court, with two sureties satisfactory to it, conditioned that he will pay all expenses and costs incident to such motion or appeal. Under this provision, which is undoubtedly mandatory, the court cannot lawfully proceed

with a contest or admit an appeal in a contest case until the necessary bond has been given. But it does not follow that the failure to give the bond destroys the jurisdiction of the court. (Nicholls vs. Barrick, 27 Colo., 432.) The jurisdiction of the court over the contest attaches when a motion containing proper jurisdictional averments is filed within the time prescribed by law; and the jurisdiction of the court cannot thereafter be determined by what the court itself may or may not do. It has been accordingly held to be no error for the court before which a contest is pending to permit a contestant to file a new bond for costs, where the first is considered insufficient. (Davis vs. Jones, 123 Ala., 647.)"

After a bond has been filed, it may be supplemented or substituted by another, if at any time it is found insufficient. In the present case the bond has not only not been disapproved by the respondent court, but the latter, upon the strength of it, proceeded with the contest, issuing the proper summonses and ordering that the ballot boxes and all the documents used in the contested elections be transmitted to it. Furthermore, notwithstanding the order of dismissal, and while the motion for the reconsideration of such order was pending, the court authorized the clerk to accept the P130 needed to complete the bond; this authorization was really an annulment of the order of dismissal which had been based precisely upon the insufficiency of the bond filed.

Inasmuch as the respondent court had proceeded to take cognizance of the protest, by summoning the respondents and ordering the transmission of the spoiled and valid ballot boxes as well as all the other documents of election, and had permitted the defect in the bond to be cured, it was in duty bound to continue with the trial of the case, having acquired jurisdiction to do so.

Wherefore, the writ prayed for is hereby granted, and setting aside the order of dismissal of June 27, 1931, it is ordered that the Court of First Instance of Rizal reinstate civil case No. 4804, the election contest, continuing the proceedings thereon, and deciding it upon the merits. So ordered.

Avanceña, C. J., Johnson, Street, Malcolm, Villamor, Romualdez, and Imperial, 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.