

GERARDO MORRERO, PETITIONER, VS. JUAN L. BOCAR AND THE AUDITOR GENERAL, RESPONDENTS.

G.R. No. 45352. October 31, 1938

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Petitioner Gerardo Morrero and respondent Joan L. Bocar were candidates for membership of the National Assembly from the third district of the Province of Samar. As a result of the canvass of votes cast in the election, the provincial board of canvassers proclaimed the election of respondent Bocar with a total of 5,213 votes as against 4,350 votes cast for the petitioner Morrero. Bocar took the oath of office on November 15, 1935. Shortly thereafter, Morrero filed with the Electoral Commission a protest alleging, among other things:

"That the protestee, Juan L. Bocar, was born sometime in May, 1906, and consequently, he was not thirty years of age or over as required by Article VI, section 2, of the Constitution of the Philippines at the time of his election as Member of the National Assembly; nor will he have attained the age required by the said Constitution at the beginning of his term of office, upon the issuance of the proclamation by the President of the United States, announcing the results of the election, which will be made to coincide with the inauguration of the Commonwealth of the Philippines on November 15, 1935; and that he was, therefore, ineligible for election and to assume office as Member of the National Assembly."

Morrero prayed "that this Honorable Electoral Commission declare the protestee, Juan L. Bocar, ineligible for the office of Member of the National Assembly and his election to said office null and void; and that the herein protestant, Gerardo Morrero, be declared the duly elected Member of the National Assembly, giving him such other remedy as may be deemed just and equitable in the premises." After due hearing, the Electoral Commission dismissed the protest.

The real object of the present petition is to have this court review the decision of the Electoral Commission and "issue an order prohibiting the respondent Auditor General from passing in audit or authorizing in any way the disbursement of funds of the National Assembly as emoluments for the respondent, Juan L. Bocar, and declaring that the latter is without right to continue holding the office of member of the National Assembly from the 3rd district of Samar."

Section 4 of Article VI of the Constitution provides that "* * * The Electoral Commission shall be the sole judge of all contests relating to the election, returns, and qualifications of the Members of the National Assembly." The language of this provision is clear. It vests in the Electoral Commission exclusive jurisdiction to pass upon the qualifications of a member of the National Assembly. The judgment rendered by the commission in the exercise of such an acknowledged power is beyond judicial interference, except, in any event, "upon a clear showing of such arbitrary and improvident use of the power as will constitute a denial of due process of law." (*Barry vs. United States ex ret Cunningham*, 279 U. S., 597; 73 Law. ed., 867, *Angara vs. Electoral Commission*, 35 Off. Gaz., 23.)

The decision involved in this proceeding was rendered by the Electoral Commission after due hearing. It held "that Juan L. Bocar was, under the Constitution, elected Member of the National Assembly for the third district of Samar." This decision is final and beyond the authority of this court to review.

The petition in this case is dismissed with costs. So ordered.

Avanceña, C. J., Diaz, Concepcion, Horrilleno, and Moran, JJ., concur.

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