

SEVERO HERNANDO, PLAINTIFF, VS. SEVERO SAMBRANO (ALIAS SEVERO HERNANDO), DEFENDANT.*G.R. No. 4555. March 12, 1909*

Ponente: JOHNSON, J.

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This was an original petition filed in this court by the plaintiff for the writ of quo warranto. From the record it appears that on the 5th day of November, 1907, an election was held in the municipality of Laoag of the Province of Ilocos Norte for the purpose of electing a president for said municipality. It appears that in said municipality there were two persons known as "Severo Hernando." It appears further that the plaintiff was sometimes called "Severo Hernando y Joaquin" and that the defendant was sometimes called "Severo Hernando y Sambrano." Severo Hernando was a candidate for said office of president. There were also several other candidates. After the votes were counted the election board found that Severo Hernando had received a majority of the votes and he was duly declared elected as president of said municipality. The said defendant was duly notified that he was elected as said president and a certificate of election was issued to him and later he took the oath of office and entered upon the discharge of the duties of the president of said municipality. Later the plaintiff entered a protest against the occupancy of said office by the defendant, alleging that he (the plaintiff) was the one who had been elected as president of said pueblo. This protest was duly denied and on the 31st day of January, 1908, the plaintiff filed his petition in this court praying that the writ of quo warranto might issue against the defendant.

After the filing of said complaint and the answer thereto, this court appointed a commissioner to take proofs upon the question presented. There was much proof introduced before the commissioner relating to the question which of the parties to this action was really the person who had been voted for by the people of said municipality for the office of president. The plaintiff presented several witnesses who swore that they had voted for Severo Hernando, intending thereby to vote for the plaintiff. The defendant presented more than 100 witnesses who swore that they had voted for Severo Hernando, intending to vote for the defendant. In addition to this proof, presented by the defendant, the defendant also presented an affidavit made by the plaintiff in which he swears that he had not been a candidate for the office of president at said election on the 5th day of November, 1907. The affidavit, made before a notary public, is as follows:

"I, Severo Hernando y Joaquin, a native and resident of the municipality of Laoag, Ilocos Norte, Philippine Islands, married, 25 years of age, by occupation a carpenter, and holding1 certificate of registration No. 277853 issued to me on the 13th day of March, 1907, by the collector of internal revenue in Laoag, under oath and in the most solemn form, hereby declare:

"That I have not been a candidate nor have I intended to present my candidacy for the office of municipal president of this municipality of Laoag in the elections held therein on the 5th day of November, 1907, and, even in the case that the authorities and the voters should confer upon me said office of municipal president, I will not accept it because I feel that I am not capable of fulfilling the duties thereof.

"That in the said elections for the aforesaid office of municipal president I have voted for the candidate Sr,

Esteban Castro, and that the candidate who obtained the office by a plurality of votes in said elections is Sr. Severo Hernando, son of Sr. Pedro Hernando and Sra. Francisca Sambrano, now deceased, the portrait of said successful candidate being the one attached to this document.

"In testimony whereof I make the preceding statement, freely and voluntarily, and I sign the same in the presence of the witnesses Sres. Tomas de los Santos and Alejo Ricardo, in Laoag, this 9th day of November, 1907.

(Signed) "SEVERO HERNANDO.

(Signed.) "TOMAS SANTOS, Witness.

(Signed.) "ALEJO RICARDO, Witness.

"Subscribed and sworn to before me this 9th day of November, 1907, in the municipality of Laoag, Ilocos Norte, Philippine Islands, the interested party having exhibited to me his certificate of registration No. 277853 issued in Laoag on the 13th day of March, 1907, by the collector of internal revenue.

"Before me:

(Signed) "ISAIAS G. CLEMENTE,

"Notary Public. Commission expires on the 31st of December, 1908.

"[NOTARIAL SEAL]"

The plaintiff makes no satisfactory explanation showing why he made this affidavit. The said affidavit is conclusive, in our opinion, against the claims made by the plaintiff.

The writ of quo warranto under the Code of Procedure in Civil Actions is the remedy, among other things, by which one who usurps, intrudes into, or unlawfully holds or exercises a public civil office or a franchise within the Philippine Islands, or an office in a corporation created by the authority of the Government of the Philippine Islands, is ousted from such public civil office, franchise, etc. (Sec. 197, Code of Procedure in Civil Actions.)

In the present case the following facts are clearly established by the record:

First. The defendant Severo Hernando was a candidate for the office of president of the municipality of Laoag of the Province of Ilocos Norte at the election held on November 5, 1907;

Second. That said Severo Hernando, the defendant, received a majority of the votes cast at said election; and

Third. That he was duly declared elected as said president and was duly and lawfully inducted into said office and is therefore entitled to exercise the duties under the law of said office.

Therefore, the petition of the plaintiff is denied, with costs.

Arellano, C. J., Torres, Mapa, Carson, and Willard, JJ., concur.

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