

THE MUNICIPAL BOARD OF THE CITY OF MANILA, AND ALFONSO E. MENDOZA AS PRESIDENT OF THE PARTIDO RADICAL, PETITIONERS, VS. SEGUNDO AGUSTIN, REPRESENTATIVE OF THE FRENTE POPULAR, RE...

G. R. No. 45844. November 29, 1937

Ponente: LAUREL, J.

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LAUREL, J.:

This is a petition for a writ of certiorari to review the decision of the Court of Appeals. The municipal board of the City of Manila, pursuant to section 417 of the Election Law, as amended by Commonwealth Act No. 233, appointed inspectors and substitute inspectors of election for the impending December elections, 1937. The said board granted the Partido Radical an inspector and a substitute inspector for each and every election precinct in the City of Manila. The Frente Popular, represented by Segundo Agustin, claimed a better right as an opposition party and instituted in the Court of First Instance of Manila mandamus proceedings to compel the municipal board of the City of Manila to appoint the election inspectors and substitutes for that party (civil case No. 51940, Court of First Instance of Manila). The Partido Radical and the Young Philippines, upon petition, were allowed to intervene in said proceedings.

After hearing and presentation of the evidence by the parties, the Court of First Instance of Manila found "that the Radical Party is the oldest active party of the opposition in the locality, or the one that has been first organized" and is, therefore, the party entitled to one inspector and one substitute inspector of election under the provisions of subsection (d) of section 417 of the Election Law, as amended by Commonwealth Act No. 233. Accordingly, the petition for mandamus was dismissed. The Frente Popular, represented by Segundo Agustin, appealed to the Court of Appeals which reversed the decision of the Court of First Instance and ordered the municipal board of the City of Manila, within two days from the receipt of notice, to meet and revoke the appointments of inspectors and substitute inspectors for the Partido Radical, and to appoint, in their stead, inspectors and substitute inspectors for the Frente Popular. From this decision of the Court of Appeals, the Partido Radical has come before this court on a petition for a writ of certiorari.

The petition sets forth various alleged errors of law which, it is contended, have been committed by the Court of Appeals:

"I. La Corte de Apelaciones cometió un grave error al revisar y alterar las conclusiones de hecho del Juzgado de Primera Instancia de Manila, no obstante de que los abogados del recurrido 'Frente Popular' no han presentado ninguna motion de nueva vista en el Juzgado Inferior.

"II. La Corte de Apelaciones también erró grandemente al declarar que el 'Frente Popular' es un partido político que ha adquirido los derechos del 'Partido Sakdalista', a pesar de los hechos contrarios probados por los exhibits D y D-I presentados por el mismo recurrido 'Frente Popular'.

"III. Cometió también un error fundamental la Corte de Apelaciones al asumir la fecha de la fundación del

Tartido Sakdalista', con todo de que no se ha probado en la vista de la causa de mandamus la fecha exacta en que se ha levantado dicho partido.

"IV La Corte de Apelaciones incurrio igualmente en grave error al declarar que el 'Partido Sakdalista' tiene una organizacion mas general que el 'Partido Radical', fundandose tan solo en su conocimiento judicial, pero sin estar basado en ninguna clase de prueba en el asunto de mandamus.

"V. La Corte de Apelaciones cometio un gran error al declarar que el 'Partido Sakdalista' tiene mejor derecho que el Partido Radical, no obstante que el Partido Sakdalista no ha si do parte en el asunto de mandamus en el Juzgado de Primera Instancia de Manila.

"VI. Erro, ademas, la Corte de Apelaciones al declarar que el 'Frente Popular' tiene el concepto de un partido politico de acuerdo con lo que dispone el articulo 417, inciso (h), de la Ley Electoral vigente, a pesar de que no es mas que una conglomeraci6n de agrupaciones politicas y sociedades.

"VII. Cometio, asimismo, un error de gran bulto la Corte de Apelaciones al asumir que el Partido Radical solamente es un partido local establecido en Manila, no obstante de que, segun las pruebas, esta extendido en casi todas las provincias y municipios del Cuarto Distrito Senatorial.

"VIII. Finalmente, cometio un marcado error la Corte de Apelaciones al revocar la sentencia apelada y al conceder un inspector de eleccion al 'Frente Popular'."

Some of the errors assigned involve questions of fact which we cannot review in these proceedings. There are, however, two points raised in the petition which, in our opinion, involve questions of law of sufficient importance to warrant our attention. We pass on to consider them.

(1) It is contended that the Court of Appeals erred in reviewing and altering the donclusions of fact of the Court of First Instance of Manila, notwithstanding the failure of the respondent Frente Popular to present a motion for new trial in the latter court. The rule in civil cases is that, in the absence of a motion for new trial, the appellate court will not review the evidence presented before the lower court. (Sec. 497, Code of Civil Procedure; Aznar vs. Norris, 3 Phil., 636, 639; Eced vs. Ocampo, 4 Phil., 664; Buencamino vs. Soriano, 29 Phil., 230; Briones vs. Garcia, 40 Phil., 68, 72; Lazarte vs. Nolan, 42 Phil., 563, and cases cited; Granados and Granados vs. Bandelaria, 45 Phil., 505; Jalandoni vs. Carballo, 48 Phil., 857; Matute vs. Matute, 55 Phil., 324.) But a judicial proceeding with reference to elections, whether of primary character and involving a contest, or merely incidental and involving the appointment of election inspectors, is urgent in character. Before us now is a litigation of a public character which must be decided with the utmost promptitude if for no other purpose than to judicially put an end to a controversy productive of discord accentuated by the proximity of elections. Expeditionary settlement of election controversies and their incidents is one of the aims of our electoral system. Under section 480 of the Election Law, the procedure in appeals in cases therein mentioned is required to be the same as in criminal cases. This court, in the exercise of its appellate jurisdiction, possessed before the organization of the Court of Appeals, had thus considered cases of this nature and proceeded to the speedy settlement thereof without requiring the printing of bills of exceptions (Altavas vs. Municipal Council of Capiz [1934], G. R. No. 41537, 32 Off. Gaz., 1082; Villareal vs. Municipal Council of Ibajay [1934], G. R. No. 41552, 32 Off. Gaz., 1082; Tumbokon vs. Municipal Council of Altavas [1934], G. R. No. 41557, 32 Off. Gaz., 1082; Diaz vs. Municipal Council of Kawit [1934], G. R. No. 41580; De la Fuente vs. Municipal Board of Manila [1934], G. R. No. 41640; Bacaltos vs. Municipal Council of Sibonga [1934], G. R. No. 41759; Mendez vs. Municipal Council of Iriga [1934], G. R. No. 41770) ; and, in some cases, without the bills themselves (Jacinto vs. Municipal Council of Gapan [1934], G. R. No. 41661; Garganera vs. Municipal Council of Buenavista [1934], G. R. No. 41856; Consing vs. Municipal Council of Buenavista [1934], G. R. No. 41857; Villanueva vs. Municipal Council of Jordan [1934], G. R. No. 41888; Montinola vs. Municipal Council of Jordan [1934], G. R. No. 41889, and companion cases [G. R. Nos.

41890, 41891, 41893, 41894 and 41895]; *Girado vs. Municipal Council of Guimbal* [1934], G. R. No. 41892; *Vargas vs. Municipal Council of Tigbawan* [1934], G. R. No. 41896; *Quilantang vs. Municipal President of Iloilo* [1934], G. R. No. 41897). No argument is needed to show that there is as much, if not more, urgency in the settlement of a dispute involving the right to representation on the board of election inspectors as in the determination of an election contest. There can be no election without election inspectors. We hold that in special proceedings involving the rights of contending parties to inspectors of election, a motion for new trial is not indispensable to enable the appellate court to review the decision of the lower court and the evidence supporting it, because the appeal therein partakes of the nature of appeal in criminal cases and also because of the urgent character of such proceedings (Cf. *Arnedo vs. Llorente and Liongson*, 18 Phil., 257, 272, 273). We, therefore, approve of and confirm the action taken by the Court of Appeals in this case.

(2) It is urged upon us that the Court of Appeals erred in assuming the date of the formation of the Sakdalista Party without such date having been proved or in any way disclosed by competent evidence below. We cannot, to be sure, review in these proceedings the findings of fact of the Court of Appeals. But, the conclusion of the Court of Appeals granting inspectors and substitute inspectors to the Frente Popular is one of law, because it is necessarily predicated on the recognition of the legal right of the Frente Popular to the political representation claimed by it. The Court of Appeals in its decision finds that the Radical Party was organized in December, 1930. Although the Court of First Instance finds that this party was actually organized on November 15, 1930, this is a finding of fact which the Court of Appeals has the right to modify or even disregard after an examination of the evidence on record. But, the Court of Appeals also finds that, although the Sakdalista Party was organized in 1930, it does not appear which of the two opposition parties was first organized in that year—whether it was the Partido Radical or the Sakdalista Party—and from this uncertainty draws the conclusion that the two parties were organized at the same time. Said the court:

"Y venimos a la cuestion de quien tiene mejor derecho al tercer inspector, si es el Partido Sakdalista o el Partido Radical. La ley resuelve esa cuestion disponiendo que debe ser preferido aquel que sea de organization mas antigua en la loCalidad. Pero, no consta quien se organizo antes entre los dos partidos. Como ya se ha dicho, ambos se organizaron en 1930, el Radical en diciembre de dicho afio, y el Sakdalista no se sabe en que mes. En la imposibilidad de determinar quien se organizo antes, forzosamente tenemos que asumir que se organizaron a un mismo tiempo. * * *"

We are of the opinion that in every case a conclusion of law must have something to support it and cannot be predicated on uncertainty. This is especially true where, as in the case at bar, the right to minority political representation on the boards of election inspectors is made to depend on the priority of organization of the party or parties claiming such right. There, undoubtedly, is a difference between an assumption of fact and a finding of fact. The conclusion that the Frente Popular is entitled to an inspector and substitute inspector of election by derivation from the Sakdalista Party, notwithstanding the express admission in the decision of the Court of Appeals that proof is utterly wanting as to the date of the organization of this latter party, is a conclusion of law based on a non-proven and a legally non-existent fact. Stated otherwise, the conclusion is founded on a mere conjecture and possibility. Under these circumstances, this court will review on certiorary the error committed by the Court of Appeals, because it "has decided a question of substance, not theretofore determined by this court, or has decided it in a way probably not in accord with law or with the applicable decisions of this court" (Rule 47 [e] subsec. 1, Supreme Court), and "has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure * * * as to call for an exercise of this court's power of supervision." (Rule 47 [e], subsec. 2, Supreme Court.)

It is contended in the answer filed by the respondent that the Court of Appeals acted properly in taking judicial notice of the current political history of the Frente Popular in accordance with the decisions of this court in *Bustos*

vs. Municipal Council of Masantol (43 Phil., 290), and Ysip vs. Municipal Council of Cabiao (43 Phil., 352). There are facts, indeed of which courts should take judicial cognizance. These facts refer to a variety of subjects—legislative, political, historical, geographical, commercial, scientific, and artificial—in addition to a wide range of matters, arising in the ordinary course of nature or the general current of human events. The matter of judicial notice is ever expanding and will surely keep pace with the advance of the sciences and the arts. But, a matter to be judicially cognizable must be well-established or authoritatively settled, or of common or general knowledge. Obviously, courts should take notice or whatever is or should be generally known because judges should not be more ignorant than the rest of mankind.

Assuming without deciding that courts may take notice of the existence of the Sakdalista organization at one time or another, as a matter of contemporary social and political history, the date of its organization or the time of its birth for the purposes of the application of the Election Law cannot be said to be of public knowledge. This information is not available from printed books, records or current literature. And though the judge himself or some other persons may know exactly when the Sakdalista Party came into being, the matter does not necessarily become one of public knowledge. A matter may be personally known to the judge and yet not be a matter of judicial knowledge and, vice versa, a matter may not be actually known to an individual judge and, nevertheless, be a proper subject of judicial cognizance. If courts may take judicial notice of the organization of the Sakdalista Party, they may and should take equal notice of the dates of the organization of all the other component political organizations integrating the Frente Popular, namely, "United Workers of the Philippines", "Philippine National Confederation of Peasants", "Partido Republicano", "Liga ng mga Maralita," Katipunan ng mga Anak-Pawis sa Filipinas", Pambansang Liga ng Kababaihan sa Filipinas", Bagong Liga ng mga Kabataan sa Filipinas", etc. (Exhibits D and D-I of the petitioner). While judges will not live in monastic seclusion, they being expected to be live spectators of passing national events (Smith, Bell & Co. vs. Natividad, 40 Phil., 136), they will not spread the mantle of judicial notice over the different dates of organization of divers political groups, when such dates are not recorded or found in books of general information or otherwise possessed of general public recognition. In the present case, where priority of organization is a material element for purposes of political representation on the board of inspectors, this fact must be proved and satisfactorily established.

We have seriously reflected upon the argument that the Frente Popular has a more extended organization as an opposition party than the Partido Radical, and that the spirit of republicanism must be maintained and kept alive by the legitimate encouragement of wholesome criticism and the vigilance of a well-organized opposition. In the case at bar, however, we are not concerned with the denial of political representation to the opposition, but with the determination of which party of the opposition is entitled, under the provisions of the Election Law, to representation on the boards of election inspectors in the City of Manila.

Paragraph (d) of section 417 of the Election Law, as amended by Commonwealth Act No. 233, provides that, if there be more than one opposing party presenting candidates, the minority election inspector "shall belong to the party first organized in the locality." While in the oral argument of counsel for both parties there has been a mutual denial of the existence of the one and the other party, we find from the relation of facts of the decisions of the Court of First Instance of Manila and of the Court of Appeals that the existence of the contending parties here, within the definition of paragraph (h) of section 417 of the Election Law as amended, is not controverted and we cannot properly inject our finding into the record. Paragraph (c) of section 417 aforementioned makes the result of the "next preceding election" the basis for determining the right to election inspectors and their substitutes and provides that "two of the inspectors and the poll clerk, and their substitutes, shall belong to the party which polled the largest number of votes in the city, municipality or municipal district at the next preceding election, and the other inspector and his substitute shall belong to the party which polled the next largest number of votes at said election." Such result is not, however, the basis for the determination of the right of an opposition party to an

inspector or substitute inspector. Rather, the rule in this regard is found in paragraph (d) of section 417 as follows:

" ' (d) In case the parties which polled the largest and next largest number of votes at the next preceding election present only one candidate for each office to be voted for in the city or municipality, the other inspector shall belong to the same party as the opposing candidates, and if there be more than one opposing party presenting candidates, said Inspector shall belong to the party first organized in the locality-" Had not the two major parties fused, one of them—"that one which polled the largest number of votes "at the next preceding election"—would have been entitled to two inspectors, and the other party to one. Obviously, no other political party would have been entitled to representation on the board of election inspectors. But, in a case like the one at hand, where there has been a fusion of the major political parties and where there are more than one opposing political party presenting candidates, the law lays down unequivocally the basis, namely, priority of organization. The Frente Popular, as petitioner or party plaintiff in the mandamus proceedings in the Court of First Instance of Manila, had the burden of proving the date when the Sakdalista Party, from which it pretends to have derived its right to representation on the boards of election inspectors in Manila, was organized. This it has failed to do.

The writ of certiorari prayed for should be, as it is hereby, granted. The judgment of the Court of Appeals is, accordingly, reversed and that of the Court of First Instance declared in full force and effect. Without costs. So ordered.

Avancena, C. J., Abad Santos, Imperial, Diaz, and Concepcion, JJ., concur.

VILLA-REAL, J., concurring in the result:

I concur in the result on the ground that the petitioner in the court below and respondent in this court, having failed to furnish either during the trial or thereafter the exact date of the birth of the Sakdalista Party—of whose existence we can take judicial notice (23 Corpus Juris, par. 1937, pp. 123, 124)—thus preventing us from attaining mental certainty as to said date (23 Corpus Juris, par. 2001, p. 169), we cannot take judicial notice of the same.

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