

GABRIEL N. TRINIDAD, PETITIONER, VS. MUNICIPAL COUNCIL OF LUCBAN, TAYABAS, AND JOAQUIN B. SOLIS ET AL., RESPONDENTS.*G. R. No. 45886. December 09, 1937*

Ponente: LAUREL, J.

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The petition filed in this case will be considered as one of mandamus originally instituted in this court. The prayer of the petition reads:

"Por todo lo aqui expuesto, el recurrente con el mayor respeto pide de esta Hon. Corte Suprema, se sirva dictar la correspondiente decisi6n declarando que las resoluciones objeto de este recurso promulgadas y sostenidas por el Concejo Municipal recurrido, Nos. 129,131, 132,135 y 153 series de 1937, son nulas y sin validez ni efecto legal alguno, y dicte simultaneamente unst orden dirigida a todos y cada uno de los miembros del Concejo Municipal aqui recurrido para a, recibo de su notificado se reunan urgente e inmediatamente en sesion del Concejo Municipal y provean y promulguen una reaolucion por la que se conceda y designe de la lista de nombres (Exhibito H) propuesta por el recurrente, dos inspectores y su secretario, con sus substitutes respectivos, en todos y cada uno de los precintos electorales de Lueban para las proximas elecciones que habran de celebrarse el 14 de diciembre de 1937, con cualquier otro remedio que proceda en justicia, mas el pronunciamiento de las costas cje este recurso, contra los recurridos."

Bluntly stated, the petitioner prays that the Democrata Nacionalista Consolidado Coalition Party, which is a local branch in Lucban, Tayabas, of the Partido Nacionalista, be given two inspectors and. two substitute inspectors of election in each and every electoral precinct of said municipality at the impending elections to be held on the 14th of this month of December, and to this effect, seeks the annulment of certain resolutions approved by the council of that municipality

It appears that at the last preceding general elections held on June 5 1934, the following political organizations presented candidates and obtained the following number of votes in Lucban, Tayabas: Democrata-Nacionalista Consolidado Party—13,668 votes; Sakdalista—9,987; Kaliliitang Nacionalista Consolidado Anti—8,482; that a list of inspectors and substitute inspectors was presented to said counsel by each of them: the Democrata-Nacionalista Consolidado Anti, represented by Joaquin B. Solis, one of the respondents herein; the Kaliliitang Nacionalista Consolidado Anti, represented by Ernesto Q. Rascelis, another respondent herein; and the Frente Popular, represented by Vicente D. Beltran another respondent herein; that at its session held on October 5 1937 , the municipal council of Lucban adopted resolutions Nos. 115 and 116, series of 1937, granting two inspectors and one poll clerk and their respective substitute to the Democrata-Nacionalista Consolidado Party and one inspector and substitute inspector to the Partido Sakdalista, denying at the same time the proposed lists of the Kaliliitang Nacionalista Consolidado Anti and the Frente Popular; that the provincial committee of the Partido Nacionalista in Tayabas, upon being informed of the action taken by the mun cipal coun-cil, requested the council to reconsider its resolution Nos. 115 and 116 and to grant an inspector and substitute inspector of election each to the Democrata Nacionalista Consolidadao Coalition Party, the Kaliliitang Nacionalista Consolidado Anti and the Frente Popular; that the municipal council by its resolution No. 126, series of 1937, declined to comply with the

request of the provincial committee of the Ncionalista Party; that the provincial governor of Tayabas, on October 19, 1937 issued a Peremptory order directing the municipal council to comply with the said request within 24 hours from the receipt of the communication under penalty of suspension of the recalcitrant members; that the municipal council declined to comply with the Order of the Provincial governor, and for this reason, the members thereof were suspended by the acting provincial governor on October 20, 1937; that after designation of the new members thereof were suspended by the acting provincial governor on October 20, 1937, that after designation of the new members of the council, this body on the same date of October 20, 1937, met and revoked resolutions Nos. 115 and 116 aforementioned and granted an inspector and substitute inspector of election each to the three political organizations above-mentioned; and that thereafter, the suspended members of the municipal council were reinstated. It also appears that the municipal council, through its president, was requested by the petitioner to rescind its action taken during the suspension of its members, but the reinstated officials declined to take any further action.

It is admitted that bothe the Democrata-Nacionalista Consolidado Coalition Party and the Kaliliitang Nacionalista Consolidado Anti are local branches of the presented Nacionalista Party in Lucban, Tayabas. Although the representatives of the Sakdalista and the Frente Popular are included in these proceedings as respondents, these political organizations do not complain, it appearing that the municipal council of Lucban has finally granted the Frente Popular an inspector and substitute inspector of election of election in each and every electoral precinct of the municipality. The controversy arises between the two branches aforesaid of the Nacionalista Party. For the purposes of the application of subsection (c) of section 417 of the Election Law, as amended by Commonwealth Act No. 233, the party that polled the largest number of votes in the municipality of Lucban, Tayabas, at the last proceeding general elections of 1934, was the Partido Nacionalista Democratico, commonly known as the anti party. But, we take judicial notice of the fact that this party has of late fused or consolidated with the Partido Nacionalista Pro Independencia, which fusion has resulted in the formation of the presented Nacionalista Party. This party is entitled under the law to two inspectors of election and poll clerk and their substitutes and the third inspector and substitute inspector of election should go to the proper opposition party in the municipality of Lucban. Where, as in the present case, there is a division of the Nacionalista Party in a municipality and each branch or faction of this party has presented separate tickets for elective local officials, the national directorate of the party or its duly authorized representative may ask the municipal council to apportion the inspectors of election equitably among its local branches and the action of the council in compliance therewith will not be disturbed, provided that rights of the proper opposition party are recognized and safeguarded.

The petition is hereby dismissed with costs against the petitioner. So ordered.

Villa-Real, Abad Santos, Imperial, Diaz, and Concepcion, JJ., concur.

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