

## GAUDENCIO GREGORIO, PETITIONER, VS. ELEUTERIO DE JESUS, RESPONDENT.

*G.R. No. 45938. February 26, 1938*

Ponente: CONCEPCION, J.

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### CONCEPCION, J.:

This petition for quo warranto seeks to annul the election of the respondent, Eleuterio de Jesus, as municipal mayor of Malabon, Rizal, alleging that at the time of his election, on December 14, 1937, he was not eligible because he did not know how to write intelligently either in Spanish, in English or in Tagalog, and that the said disqualification has continued thereafter.

In his answer the respondent, after generally and specifically denying the petition, alleged, among other special defenses, that he knows how to read and write, clearly and intelligently, the local dialect, that is, Tagalog, now as well as on the date of the last elections.

After both parties have adduced their evidence, the petitioner asks in his written memorandum that, the respondent having voluntarily introduced evidence of his alleged ability to read Tagalog intelligently and upon which he was cross-examined, and having, it is said, failed in his attempt, the petition should be considered amended in the act according to the proven facts.

We do not believe so, because the respondent clearly erred in alleging in his answer and thereafter presenting evidence that he does not only know how to write but also how to read Tagalog intelligently. The petitioner only questioned his ability to write English, Spanish, or Tagalog intelligently, and the said respondent had no need to amplify the grounds of the protest by defying the petitioner with an allegation of fact which the latter had not put in issue. And as the petitioner could not avail himself of this error of the respondent, we shall limit ourselves in this decision to a discussion and determination of the petition for quo warranto upon the sole ground alleged therein.

Now, considering the question on the merits, the point to be determined is, what should be understood by the qualification required by section 2174 of the Administrative Code that, to be eligible for a municipal office, the candidate should, at the time of the election, know how to read and write Spanish, English, or the local dialect intelligently.

Upon this point the respondent raises the question that, the Court of First Instance of Rizal having been asked to exclude the herein respondent from the list of voters because he did not know how to read and write, and the court having dismissed that petition because the said respondent could read and write; said decision, it is said, should be deemed as *stare decisis*. We cannot give our assent to this proposition because: First, the question to decide and which was decided in that case by the court was whether the respondent knew how to read and write in order to be a duly qualified voter, whereas, the question in the present case is whether he knows how to write intelligently either English, Spanish or Tagalog; and, secondly, the court wherein the aforesaid case for exclusion was heard is not a court of last resort. (7 R. C. L., 1005.)

Now, then: What is meant when the law says that the candidate should know how to write intelligently English, Spanish, or Tagalog?

"To write intelligently"—words of the Administrative Code—in our opinion, can mean no other than that a person should know how to write as to be understood, or should know how to put his ideas in written words so that he be understood. It does not mean acuteness of ingenuity or such a degree of culture as to show more than average learning. The law does not require, in order that a person may be eligible to a municipal office, that he should write as an educated man, but only that he writes like people in general express their ideas.

"A requirement of ability to read and write is not satisfied by ability to write one's name or one's name and post office address. The test is ability to react in a reasonably intelligent manner and to write in a fairly legible way sentences composed of words in common use and of average difficulty; a compliance with this test is sufficient, even though each and every word may not be accurately pronounced or spelled." (20 C. J., 74.)

In the present case the respondent, a merchant 55 years of age, has given evidence that he knew how to write Tagalog intelligently. When evidence was received in this case, he wrote down sixteen (16) lines of dictation in Tagalog (Exhibit 3), containing about one hundred and fifty (150) words, in a handwriting that shows a certain tendency to write. On the other hand, the attorney for the petitioner asked the said respondent to write a full-page letter to Juan de la Cruz thanking him for posting a bond for the temporary release of his son who had run over and killed a woman while he was driving his car in San Fernando, Pampanga. The respondent wrote the letter, Exhibit E, in two minutes, with the heading, "Malabon, Rizal, K. P.", addressed to Juan de la Cruz, telling him, as we translate the same, the following: "Friend,—I thank you for the good thing you have done to my son." For the purpose sought, it was not necessary for the respondent to write one whole page as he was asked to do; but what he wrote clearly gives expression to the principal feeling that prompted the letter.

The same attorney for the petitioner asked the respondent to write on a piece of paper, which was marked as Exhibit 9, a letter to any friend. The respondent, notwithstanding his nervous state (page 37, t. s. n.), wrote Exhibit 9, which is a letter in Tagalog, with the heading "Malabon, Rizal, K. P.", addressed to Basilio Bautista, telling him, as best we can translate it, the following: "I am writing you because the letter you wrote me is not true." And he wrote this letter in three minutes. The attorney for the petitioner also asked the respondent to copy Exhibit 10, and he copied it in three minutes in Exhibit 10-A. It is a statement in Tagalog which to the best of our understanding states: "I support and praise President Quezon for his interest in making Tagalog the national language."

The foregoing evidence, to our mind, more than suffices to show that the respondent knew how to write in Tagalog intelligently.

The petitioner attempted to prove that on December 14, 1937, the date of the last elections, the respondent did not know how to write intelligently either in Tagalog, in English, or in Spanish; but we find satisfactorily established that the said respondent learned to read and write at the age of 12, even learning something about Spanish grammar.

The petition is dismissed with costs to the petitioner. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, Diaz, and Laurel, JJ., concur.

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