

EMILIO GALVEZ, PETITIONER, VS. ALFONSO SALVADOR AND P. M. ENDENCIA, JUDGE OF FIRST INSTANCE OF BULACAN, RESPONDENTS.

G.R. No. 46011. May 31, 1938

Ponente: LAUREL, J.

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LAUREL, J.:

This is a petition for the issuance of a writ of mandamus to compel the respondent Judge of the Court of First Instance of Bulacan to take cognizance of the election protest filed by the petitioner herein and Salvador A. Jose against Alfonso Salvador and Jose Bernardo, candidates-elect for municipal mayor and municipal councilor, respectively, of the municipality of Bigaa, Province of Bulacan.

The only question presented is one of law and that is, whether or not the motion of protest alleges sufficient jurisdictional facts to enable the trial court to acquire jurisdiction over the case. The following are the pertinent portions of the motion of election protest filed with the court below:

"I. That the petitioners are of legal age and residents of the municipality of Bigaa, Province of Bulacan, Philippines and were candidates for municipal mayor, and municipal councilor therein in the last general election of December 14, 1937.

"II. That the respondents Alfonso Salvador and Jose Bernardo are also of legal age and residents of the same municipality and province who were likewise candidates for municipal mayor and municipal councilor, respectively; Laureano Kapalad being another candidate for municipal mayor in the said municipality, in the general elections held-on the aforesaid date of December 14, 1937 is also of legal age and resident of the municipality of Bigaa, Province of Bulacan, Philippines.

"III. That on December 20, 1937, the municipal council of Bigaa, Province of Bulacan, acting in its capacity as board of canvassers, declared that the respondent Alfonso Salvador obtained 964 votes, as against 928 votes obtained by the petitioner Emilio Galvez; and the respondent Jose Bernardo obtained 586 votes, as against 561 votes obtained by petitioner Salvador A. Jose. The other candidate Laureano Kapalad for municipal mayor obtained 556 votes. Consequently, the said board of canvassers proclaimed the said municipal mayor, and councilor elect in the aforementioned municipality of Bigaa, Province of Bulacan, Philippines."

It should be observed that while in the motion it is averred that the protestants were candidates for the elective offices mentioned and that the protestant Emilio Galvez received the number of votes therein indicated, it is not alleged that the protestants or anyone of them "has duly filed his certificate of candidacy." The first paragraph of section 479 of the Election Law provides as follows:

"Contests in all elections for the determination of which provision has not been made otherwise shall be heard by the Court of First Instance having jurisdiction in the judicial district in which the election was held, upon motion by any candidate voted for at such election and who has duly filed his certificate of candidacy. The contest shall be filed with the court within two weeks after the proclamation and shall refer to specific charges: Provided, however, That candidates for vice-president and councilor may file a Joint motion as parties to a

contest."

We have already held that unless it is alleged in the motion of election protest that the protestant has duly filed his certificate of candidacy and received votes in the election, the Court of First Instance does not acquire jurisdiction over the protest. (*Tengco vs. Jocson*, 43 Phil., 715. See also *Viola vs. Court of First Instance of Camarines Sur and Adolfo*, 47 Phil., 849; *Ferrer vs. Gutierrez David and Lucot*, 43 Phil., 795; *Pobre vs. Quevedo*, 52 Phil., 359; *Acerden vs. Tonolet*, 52 Phil., 409; *Saldana vs. Navarro*, 60 Phil., 738; *Anis vs. Contreras*, 55 Phil., 923.) It is argued that the term "candidate" when used in a motion of election protest should be given its legal significance and that, upon a liberal interpretation, an allegation that both the protestants and protestees were candidates voted for in the election implies the filing of the corresponding certificates of candidacy as otherwise the inspectors of election would have considered the vote received by the protestant Emilio Galvez as scattering votes (sec. 464, Election Law; *Anis vs. Contreras*, supra), instead of crediting him with 928 votes as against 964 votes received by the protestee, Alfonso Salvador. There seems to be some weight in this argument and as we are not insensitive to the appeal of counsel that this court, disregarding technicalities, should give the protestants opportunity to prove the frauds and irregularities alleged in his motion of protest, we have endeavored to ascertain the source of the requirement with a view to a reexamination of our previous ruling on this point.

The history of section 479 of the Election Law may be briefly stated as follows: Pursuant to the provisions of section 7 of the Philippine Bill of July 1, 1902, the Philippine Commission, in 1907, enacted Act No. 1582, our first) Election Law. In section 27 (par. 1) of that Act, it was provided that:

"The Assembly shall be the judge of the elections, returns, and qualifications of its members. Contests in all elections for the determination of which provision has not been made otherwise shall be heard by the Court of First Instance having jurisdiction in the judicial district in which the election was held, upon motion by any candidate voted for at such election, which motion must be made within two weeks after the election. * * *"
(Underscoring ours.)

In 1912, the Philippine Legislature enacted Act No. 2170 amending section 27 of Act No. 1582. Save for slight changes in phraseology, the above provisions of law were not altered. In the amendatory Act it was provided that:

"* * * Contests in all elections for the determination of which provision has not been made otherwise shall be heard by the Court of First Instance having jurisdiction in the judicial district in which the election was held, upon motion by any candidate voted for at such election. The contests shall be filed with the court within two weeks after the election and shall be decided by the same as soon as possible after the hearing of the contest. * * *"
(Underscoring ours.)

The foregoing provisions were incorporated in section 576 of the Administrative Code of 1916 (Act No. 2657) and in section 479 of the Administrative Code of 1917 (Act No. 2711). In 1922, section 479 of the Election Law (Administrative Code) was amended by Act No. 3030 of the Philippine Legislature. It was provided that:

"Contests in all elections for the determination of which provision has not been made otherwise shall be heard by the Court of First Instance having jurisdiction in the judicial district in which the election was held, upon motion by any registered candidate voted for at such election. The contests shall be filed with the court within two weeks after the proclamation. * * *"
(Underscoring ours.) Two changes are noticeable: the word "registered" was made to qualify the term "candidate"; the motion of protest may be filed, not "within two weeks after the election", but "within two weeks after the proclamation." The pertinent provisions of section 479 of the Election Law, as amended by Act No. 3030, were repeated verbatim in Act No. 3210 approved in 1924. Thereafter, Act No. 3387 was enacted. This Act, approved in 1927, revised the Election Law. Instead of speaking of "any registered candidate voted for at such election," the new Act referred to "any candidate voted for at such election and who has duly filed his certificate of candidacy." The motion of protest, however, was to be filed also "within two weeks after the proclamation." Section 479 of the revised law provides:

"Contests in all elections for the determination of which provision has not been made otherwise shall be heard by the Court of First Instance having jurisdiction in the judicial district in which the election was held, upon motion by any candidate voted for at such election and who has duly filed his certificate of candidacy. The contests shall be filed with the court within two weeks after the proclamation." (Underscoring ours.)

In 1930, section 479 was again amended by Act No. 3699, but the provisions hereinabove reproduced were not changed in the least. In 1931, the same section of the Election Law was further amended by Act No. 3834. The provisions regarding the persons who may file and the time of filing contests remained unaltered. It was, however, provided that the motion of protest shall specify charges, and the vice-president (now vice-mayor) and councilors were allowed to file a joint motion. As thus amended, the law reads:

"Contests in all elections for the determination of which provision has not been made otherwise shall be heard by the Court of First Instance having jurisdiction in the judicial district in which the election was held, upon motion by any candidate voted for at such election and who has duly filed his certificate of candidacy. The contest shall be filed with the court within two weeks after the proclamation and shall refer to specific charges: Provided, however, That candidates for vice-president and councilor may file a joint motion as parties to a contest." (Underscoring ours.)

This is the law as it now stands, Commonwealth Act No. 233 not having amended section 479 of the Election Law. It will thus be seen that as originally provided in section 27 of the first Election Law (Act No. 1582) all that was required was that the motion of protest be filed "by any candidate voted for" until the enactment of Act No. 3030 in 1922, when the qualification that the motion be presented "by any registered candidate voted for" was inserted. This qualification was added for a purpose, and in *Tengco vs. Jocson* (43 Phil., 715, 720), we held:

"* * * Considering that in Act No. 3030 the Legislature provided that election contest 'shall be heard * * * upon motion by any registered candidate voted for' we must conclude that the legislature considered the amendment important, and that it was wise and advisable. We cannot escape the conclusion, when the Legislature provided that the motion of protest shall be made upon motion by any 'registered candidate voted for', that, that it is what the Legislature intended. The law is perfectly plain; there is no ambiguity and it needs no interpretation. It seems to be clear and free from doubt that the Legislature intended that no election contest, for which provision is not otherwise made, shall be instituted except by a 'registered candidate voted for,' and by no other person."

It was Act No. 3387, enacted in 1927, that provided for a further modification by requiring the motion of protest to be filed by "any candidate voted for * * * and who has duly filed his certificate of candidacy," instead of by "any registered candidate voted for" as required in Act No. 3030. This court, in passing upon the requirement under Act No. 3387, in *Acerden vs. Tonolet* (52 Phil., 409, 410, 411), said:

"Section 479 of the Election Law, as formerly amended by Act No. 3030, provided for election contests to be heard by the Court of First Instance 'upon motion by any registered candidate voted for at such election.' In a series of cases, this court, by a close division, held that to confer jurisdiction the motion of protest must allege that it was presented by a registered candidate voted for (*Tengco vs. Jocson* [1922], 43 Phil., 715; *Viola vs. Court of First Instance of Camarines Sur and Adolfo* [1925], 47 Phil., 849). Undoubtedly inspired to such action by these decisions, the Philippine Legislature amended section 479 of the Election Law by enacting Act No. 3387 providing that contests in all elections shall be heard by the Court of First Instance 'upon motion by any candidate voted for at such election and who has duly filed his certificate of candidacy.' Otherwise stated, the word 'registered' was eliminated and the phrase 'who has duly filed his certificate of candidacy' was added. However, section 481 of the Election Law, as last amended, is still found to make use of the word 'registered'.

"A fair inference is that the purpose of the Legislature was to make the law less rigorous and more practical. While the term 'registered candidate voted for at such election' is not exactly synonymous with the phrase

'candidate voted for at such election and who has duly filed his certificate of candidacy,' yet the first would appear to be the more emphatic and comprehensive. Involved in the meaning of 'registered,' as connoted to the law, is the idea of a properly filed certificate of candidacy. (Tolosa vs. Court of First Instance of Leyte and Torredes [1928], G. R. No. 30134.[1])"

As already observed, the law on this point, as interpreted by this court, continued undisturbed from 1927 to the present day, notwithstanding the subsequent amendments of the Election Law by Acts Nos. 3699 and 3834 of the defunct Philippine Legislature and, quite recently, by Commonwealth Act No. 233 of the National Assembly.

We are of the opinion that the Legislature has the undisputed right to provide for the mode and manner in which an election contest shall be instituted and for this purpose may impose reasonable conditions and restrictions. What these conditions and restrictions shall be is plainly a matter of legislative policy and is left to the wisdom of the coordinate department of the government. The requirement that the motion of protest shall be filed by a candidate who has duly filed his certificate of candidacy was, as indicated above, inserted for a good purpose. It was not designed to discourage contests but was intended to preclude the filing of protests by persons who, on the face of the pleading, are not, in the opinion of the Legislature, entitled to any recognition. If the contention of the petitioner that the term candidate means the candidate who has duly filed a certificate of candidacy, there was no need for amending the original provision of Act No. 1582 which permitted the filing of a contest by any candidate voted for at an election. The Legislature has seen fit to insert the requirement in the law and he who institutes an election contest must allege the essential jurisdictional facts, if he wants the competent court to pay him any attention. (Verceles vs. Araneta Diaz, 47 Phil., 843, 847.)

The petition is hereby dismissed, without pronouncement as to costs. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Diaz, and Concepcion, JJ., concur.

DISSENTING

ABAD SANTOS, J.:

I am unable to concur in the opinion of the court. I believe that the motion of protest is sufficient to confer jurisdiction on the Court of First Instance. We have in this jurisdiction a system of code pleading. Under the code, pleadings are to be liberally construed with a view to substantial justice between the parties. (Code of Civil Procedure, section 106.) No particular forms are required, but substantial compliance with the law is sufficient. (Ibid., section 784.) Contrary to the common law rule, every reasonable intendment and presumption under the rule of liberal construction must be made in favor of the pleader. (21 R. C. L., 466.) By the elementary rules of pleading, facts may be pleaded according to their legal effects, without setting forth particulars that led to them. (Sullivan vs. Iron Silver Min. Co., 109 U. S., 550; 27 Law. ed., 1028.) Pleadings should state the ultimate facts to be proven, and not matters of evidence. (Ely vs. New Mexico, etc., R. Co., 129 U. S., 291; 32 Law. ed., 688.)

In the instant case, the motion of protest alleges in substance that the petitioners were candidates for municipal mayor and municipal councilor in the last general elections of December 14, 1937; that the respondents were likewise candidates for municipal mayor and municipal councilor, respectively, in the same elections; that on December 20, 1937, the municipal council of Bigaa, Province of Bulacan, acting in its capacity as board of canvassers, declared that the respondent Alfonso Salvador obtained 964 votes, as against 928 votes obtained by the petitioner Emilio Galvez; and the respondent Jose Bernardo obtained 586 votes, as against 561 votes obtained by the petitioner Salvador A. Jose; that, consequently, the said board of canvassers proclaimed the respondent

Alfonso Salvador as municipal mayor-elect, and the respondent Jose Bernardo as councilor-elect; that frauds and irregularities had been committed in said elections; and that had it not been for the frauds and irregularities so committed, the petitioners would have obtained more votes than the respondents. The motion of protest concludes with the prayer that the petitioners be declared municipal mayor and municipal councilor, respectively, of the municipality of Bigaa, Province of Bulacan.

While it is true that the motion of protest did not follow the language of the statute, it averred facts which, in legal intendment, meet the requirement of the law. Both upon principle and authority, this is all that is required. The sufficiency of pleadings should be determined not by the particular words employed, but by the facts legally and reasonably deducible therefrom. The object of pleadings is to present definitely the issue to be tried and determined between the parties. The allegations contained in the motion of protest are responsive to that object.

The tendency of all modern pleading is to depart from the original severities and the technical rules of the common law. The rulings in the cases cited in support of the conclusion reached in the prevailing opinion are, in my judgment, not in accord with correct and sound principle, and should be expressly overruled. Those rulings are based on a system of pleading long discredited—a system that would sacrifice substance to form, and subordinate facts to words in the administration of justice. I think it is high time for this court to free itself from the tyranny of forms and of words.

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