

ANDRES FERNANDO, PETITIONER, VS. PASTOR M. ENDENCIA, JUDGE OF FIRST INSTANCE OF BULACAN, LEOPOLDO SANTIAGO, CRESCENCIO DOMINGO AND ESTEBAN CONSTANTINO, RESPONDENTS.

G.R. No. 46099. August 30, 1938

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

On January 5, 1938, petitioner filed in the Court of First Instance of Bulacan. presided over by the respondent judge Honorable Pastor M. Endencia, a motion of protest contesting the election of the respondent Leopoldo Santiago as mayor of the municipality of Polo, Province of Bulacan. The grounds of contest specified in the motion were certain irregularities, frauds and other violations of law alleged to have been committed in precincts Nos. 1, 2, 5, 6 and 9 of the said municipality. Later, on January 18, 1938, petitioner filed an amended motion of protest alleging further irregularities and frauds as having been committed in precincts Nos. 1, 8 and 10. Respondent Leopoldo Santiago objected to the admission of the amended motion of protest on the ground that it was presented out of time and that it referred to three precincts not originally protested. The respondent judge ruled out the amendment except in so far as it referred to precinct No. 1. Petitioner now prays for a writ of mandamus compelling the respondent judge to admit the said amended motion of protest.

While the election law does not say so directly, it is clearly inferred from its relevant provisions that where the grounds of contest are that legal votes were rejected and illegal votes received, the motion of protest should state in what precincts such irregularities occurred. Thus section 481 provides that "* * * the reply shall verse only on the precinct or precincts covered by the allegations of the contest * * *." It also provides that "If the candidate whose election is contested or any other registered candidate voted for desires to contest the votes obtained by the contestant in other precincts, they (sic) shall file a counter contest within the time limit it designated in this paragraph * * *." The specification in the motion of protest of the election precinct or precincts where the alleged irregularities occurred, is required in order to apprise the contestee of the issues which he has to meet; and to allow an amendment to the motion of protest by inserting new precincts after the time prescribed by the statute for filing the original motion, would be productive of surprise to the contestee and of disadvantage to him, unless the trial be postponed to enable him to meet the issues thus newly raised. "If the original contest, or a new one by an amended or supplemental pleading, could be commenced a month after the expiration of the time prescribed, it could be done at any later period, and the litigation in this way prolonged, in many instances until the term of office had expired." (Hammon vs. Tyler, 112 Tenn., 8, 25; 83 S. W., 1041.)

The prompt determination of election contests is a matter of public interest, and the purpose of the election law is to insure such a result. To allow a motion of protest to be amended so as to introduce new matter after the time prescribed for the filing of the original pleading, would prolong the litigation and thus defeat the very purpose of the law.

The petition for a writ of mandamus is denied with costs against the petitioner. So ordered.

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

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