

**FELIPE VILLANUEVA, PETITIONER AND APPELLANT, VS.
FORTUNATO MAGLEO, RESPONDENT AND APPELLEE.***G.R. No. 46986. December 20, 1939*

Ponente: LAUREL, J.

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This is a petition for review by certiorari of the judgment of the Court of Appeals in the above-entitled case declaring the respondent, Fortunato Magleo, the candidate-elect for the office of mayor of the municipality of San Carlos, Province of Pangasinan, with a majority of two votes over his rival, Felipe Villanueva.

In the general elections held on December 14, 1937, the petitioner and the respondent herein were the contending candidates for the aforesaid office. The municipal council of San Carlos, acting as municipal board of canvassers, proclaimed the petitioner as the elected mayor of the said municipality. The respondent filed a motion of protest in the Court of First Instance of Pangasinan which rendered judgment confirming the proclamation of the petitioner herein. The respondent appealed to the Court of Appeals, which reversed the judgment of the Court of First Instance of Pangasinan and declared the respondent, Fortunato Magleo, the candidate-elect for the office in question with a plurality of two votes over the petitioner. Hence this petition for review.

The errors attributed to the Court of Appeals concern the appreciation of the various ballots specified in the petition for review, namely, ballot V-1, ballot V-14, ballot V-19, ballot V-50, and ballot V-89 claimed by the petitioner and alleged to have been improperly rejected by the Court of Appeals. In addition, the petitioner complains of the improper admission of the following ballots for the respondent: ballot M-24, ballot M-27, ballot M-99, ballot M-54, ballots M-16, M-39, M-122, M-123, ballots' M-23, M-64, M-66, M-79, M-97, and ballots M-58, M-67 and M-73. (Petition, pp. 7-35).

Without the necessity of passing upon all of the foregoing controverted ballots, we find that ballots V-14, V-19, V-50 and V-89 should have been admitted in favor of the petitioner. In ballot V-14, the name written in the corresponding space for mayor is "F. Hanoi." The name is idem sonans with that of the petitioner, and we are of the opinion that the intention of the voter was to vote for the petitioner for the office of mayor. In ballot V-19, the name written on the space for mayor is "Pelepi Volataba." This is confirmed by an examination of the ballot itself. This ballot is also admissible for the petitioner for the same reason. The name written on the space for mayor in ballot V-50 is "pilipi si bilia no." This ballot is similarly admissible for the petitioner. In ballot V-89, the name "Domingo t. gan" appears written at the bottom in proper order as ninth councilor. This irregularity does not invalidate the ballot, there being a candidate for councilor by the name of Doming Tulagan.

The fundamental reason for liberal interpretation of ballots is expounded in *Moya vs. Del Fierro*, G. R. No. 46863 and in *Perez vs. Suller*, G. R. No. 46710, promulgated November 18, 1939, and need not be reiterated here.

Without disturbing the conclusions of the Court of Appeals as to the rest of the disputed ballots mentioned hereinabove and crediting the petitioner with the four (4) ballots V-14, V-19, V-50 and V-89, petitioner has a plurality of two (2) votes over his rival.

The decision of the Court of Appeals will be, as the same is hereby, reversed and the petitioner, Felipe Villanueva, declared mayor-elect of the municipality of San Carlos, Pangasinan, without pronouncement regarding costs.

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

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