

JUAN G. MUARES, PETITIONER AND APPELLEE, VS. CIRIACO CUSTORIO, RESPONDENT AND APPELLANT.*G.R. No. 48154. December 03, 1941*

Ponente: ABAD SANTOS, J.

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This suit was brought in the Court of First Instance of Samar by the petitioner-appellee Juan J. Mijares for the purpose of contesting the election of the respondent-appellant Ciriaco Custorio as Mayor of the municipality of Catarman, province of Samar.

The pertinent facts are simple and undisputed. In the general elections held on December 10, 1940, both Custorio and Mijares were registered candidates for mayor of the said municipality of Catarman. Custorio was proclaimed elected by the municipal board of canvassers. Mijares contested his election on the ground that under the law he was disqualified from voting and was therefore ineligible to the office to which he was elected. Section 94, par. (b), of the Election Code provides that any person who has been declared by final judgment guilty of any crime against property shall not be qualified to vote. Prior to his election, Custorio was convicted of a crime against property; but on November 29, 1940, he was granted an absolute and unconditional pardon and restored to his civil and political rights by the President of the Philippines. Upon these facts, which were the subject of stipulation by the parties, the court below rendered judgment declaring Custorio ineligible to the office of mayor and ordered his ouster and exclusion therefrom.

The principal question to be determined is whether the pardon granted Custorio had the effect of removing his disqualification. In *Cristobal vs. Labrador*, 40 Off. Gaz. Supp. 9, 298, this Court held that an absolute pardon not only blots out the crime committed but removes all disabilities resulting from the conviction. The doctrine thus enunciated was later applied in *Pelobello vs. Palatino*, 40 Off. Gaz. 1466. Upon the authority of these two cases we conclude that the pardon granted Custorio has removed his disqualification and his election must therefore be sustained.

We find no merit in appellee's contention that the pardon was ineffective because there was no delivery and acceptance. In the first place, the appellee has no right to raise this question which concerns exclusively the pardoning authority and the party receiving executive clemency. In the second place, upon the facts stipulated, we find that the delivery and acceptance of the pardon is sufficiently proved.

The judgment appealed from is reversed, without costs. It is so ordered.

Diaz, Moran, and Ozaeta, JJ., concur.

Horrilleno, M., disidente:

Las cuestiones suscitadas en este asunto son sustancialmente identicas a las discutidas en el de Fiorencio PelobeHo, demandante y apelante, contra Gregorio Palatino, demandado y apelado, R. G. No. 48100, en que el

infrascrito es tambien disidente. Me remito, pues, a la disidencia por mi escrita en dicho asunto No. 48100.

Judgment reversed.

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