

BAQUIT S. UNDA, PETITIONER, VS. HON. COMMISSION ON ELECTIONS, HON. DIMAPORO T. CASAR, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 10, OF LANA DEL SUR, AND HADJI ACMAD D...

G.R. No. 94090. October 18, 1990

Ponente: REGALADO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-94090/>

REGALADO, J.:

The sole issue presented herein for resolution involves the jurisdiction of the trial court over an election protest filed against a protestee who had died prior to the filing thereof.

The instant petition for certiorari seeks to annul the resolution of respondent Commission on Elections (COMELEC), promulgated on July 12, 1990 in SPR No. 1-90, dismissing the petition for certiorari, prohibition and mandamus filed by petitioner Baquit Unda and ordering the court a quo to proceed with the trial of the election protest.[1]

Hadji Minandang Guiling and private respondent Hadji Acmad Ditangongan Rangiris were the rival candidates for mayor of Masiu, Lanao del Sur in the local elections of February 4, 1988. On February 8, 1988, Hadji Minandang Guiling was proclaimed as the duly elected mayor of Masiu, along with herein petitioner who was proclaimed as the duly elected vice-mayor of the same municipality. Both officials duly took their oaths of office and entered upon the performance of their duties.

On February 12, 1988, private respondent filed in the COMELEC a petition questioning the said proclamation, docketed therein as SPC No. 88-645. On October 26, 1988, private respondent received the decision of the COMELEC dismissing his aforesaid petition, without prejudice to the filing of an election contest within ten days from receipt thereof.

On November 1, 1988, Mayor Minandang Guiling passed away and, the following day, petitioner took his oath of office as mayor and forthwith assumed and exercised the duties of said office.

On November 3, 1988, private respondent filed an election protest against the deceased Mayor Minandang Guiling with Branch 10 of the Regional Trial Court of Lanao del Sur, docketed as Election Case No. 77-88. The summons issued to Mayor Minandang Guiling was returned unserved on December 8, 1988 since protestee Minandang Guiling had already been dead for over a month.

Thereafter, the protest filed by private respondent was brought to the COMELEC three times on certiorari.

The first was SPR No. 4-89 in which the COMELEC declared null and void the order of the aforesaid regional trial court denying petitioner's motion for intervention, and ordered the trial court to admit the intervention and proceed with the trial of the case on the basis of the protest and petitioner's answer in intervention.

The second was SPR No. 17-89 wherein the COMELEC reversed the resolution of the trial court denying

petitioner's motion for reconsideration and affirming the order of the same court denying petitioner's motion for inhibition and manifestation, and ordered the court a quo to proceed with the hearing on the affirmative defenses raised by herein petitioner.

The third is SPR No. 1-90 wherein the COMELEC issued the resolution, now subject of this petition, ordering the court below to proceed with the trial of the case on the ground, among others, that the death of the protestee does not divest the court of jurisdiction over the election protest.

On August 30, 1990, the Court issued a temporary restraining order directing the Presiding Judge of the Regional Trial Court, Branch 10 at Marawi City, to cease and desist from taking further action on the election case pending before him.[2]

Petitioner argues that there is no law which allows a deceased person to be sued as a party defendant, much less as a protestee in an election contest; and that the COMELEC misapplied, in support of its challenged resolution, the case of *Vda. de De Mesa, etc., et al. vs. Mencias, etc., et al.*[3] Impliedly suggested thereby is that the procedure would be to have the case dismissed without prejudice, to be refiled against the proper protestee. This may be the conventional procedure but it overlooks the time element which is of the essence of and constitutes a major consideration in this case.

It has been frequently decided, and it may be stated as a general rule recognized by all courts, that statutes providing for election contests are to be liberally construed to the end that the will of the people in the choice of public officers may not be defeated by mere technical objections. To that end, immaterial defects in pleadings should be disregarded and necessary and proper amendments should be allowed as promptly as possible.[4]

An election case, unlike an ordinary action, is imbued with public interest since it involves not only the adjudication of the private interests of rival candidates but also the paramount need of dispelling the uncertainty which beclouds the real choice of the electorate with respect to who shall discharge the prerogatives of the office within their gift.[5] Moreover, it is neither fair nor just to keep in office for an uncertain period one whose right to it is under suspicion. It is imperative that his claim be immediately cleared not only for the benefit of the winner but for the sake of public interest, which can only be achieved by brushing aside technicalities of procedure which protract and delay the trial of an ordinary action.[6]

On the procedural aspect, it is established that amendments to pleadings may be permitted by this Court even for the first time on appeal in order to substitute the name of the real party in interest, provided that such an amendment would not involve a change in the cause of action or result in undue prejudice to the adverse party. For, as long as there is justice done upon the merits, all the imperfections of form and technicalities of procedure ought to be brushed aside as wholly trivial and indecisive.[7]

It follows, therefore, that the election protest filed by private respondent can and ought to be amended by striking out the name of Hadji Minandang Guiling, as the protestee, and substituting, in his place, petitioner Baquit S. Unda. Besides, we do not find that such a course of procedure will be productive of any undue substantial prejudice to herein private respondent. For that matter, said procedure should have been inceptively adopted by the trial court under the circumstances of the election case before it.

We agree with private respondent that *Vda. de De Mesa*, as well as the other cases invoked and relied upon by public respondent, do not present the same factual situation obtaining in the case before us. In the decisions cited by public respondent, the protestees had been duly served with summons and died either during the pendency of the election protest or on appeal, which is not so in the case at bar wherein the protestee was already dead at the time of the filing of the election protest. However, as earlier explained, we cannot allow public interest to be

fettered by procedural lapses or technicalities where the circumstances demand and warrant the adjudication of the case on the merits as early as practicable.

We can, however, for purposes of the present case avail of the ruling in the Vda. de De Mesa case to the effect that Section 17, Rule 3 of the Rules of Court, on substitution of parties, applies to election contests to the same extent and with the same force and effect as it does in ordinary civil actions.

Now, under the Local Government Code,[8] the vice-mayor stands next in the line of succession to the mayor in case of a permanent vacancy in the latter's position. Upon the death of the protestee mayor in the case at bar, petitioner, as then incumbent vice-mayor, succeeded by operation of law to the vacated office and is ordinarily entitled to occupy the same for the unexpired term thereof. The outcome of the election contest necessarily and primarily bears upon his right to his present position and he is the person directly concerned in the fair and regular conduct of the election in order that the true will of the electorate will be upheld. His status as a real party in interest in the continuation of said case cannot thus be disputed.

It appears that petitioner became a party to the election protest as an intervenor with the approval of respondent COMELEC. As already discussed, the pleadings in the election protest should properly be amended to substitute petitioner as the party protestee, instead of his being merely an intervenor therein, and that the proceedings be thereafter conducted accordingly.

WHEREFORE, judgment is hereby rendered:

1. AFFIRMING the resolution of public respondent Commission on Elections promulgated on July 12, 1990 in SPR No. 1-90;
2. ORDERING the court a quo to forthwith appoint petitioner as the legal representative of the deceased protestee, and cause the amendment of the pleadings and processes concerned to substitute petitioner therein in the name and stead of the late protestee;
3. ALLOWING petitioner to file an answer in said election case within ten (10) days from receipt of this resolution, failing which his aforesaid answer in intervention shall stand as his answer to the amended protest; and
4. DIRECTING the lower court to grant full representation of and participation by petitioner Baquit S. Unda as protestee in all proceedings and incidents in Election Case No. 77-88 of said court.

The temporary restraining order issued in this case is LIFTED, and the court a quo is hereby ORDERED to proceed with the trial and adjudication of said election case with deliberate dispatch.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Gancayco, Padilla, Sarmiento, Bidin, Cortes, Grino-Aquino, and Medialdea, JJ., concur.
Feliciano, J., on leave.

[1] Rollo, 13-21.

[2] Ibid., 33-35.

[3] 18 SCRA 533 (1966).

[4] *Ibasco vs. Ilao, et al.*, 110 Phil. 553 (1960), citing *Heyfron vs. Mahoney*, 18 Am. St. Rep. 757, 763.

[5] *Grand Alliance for Democracy, et al. vs. Commission on Elections, et al.*, 150 SCRA 665 (1987); *Sanchez vs. Commission on Elections*, 153 SCRA 67 (1987).

[6] *Reforma vs. De Luna*, 104 Phil. 278 (1958).

[7] *Alonso vs. Villamor, et al.*, 16 Phil. 315 (1910); *Chua Kiong, etc. vs. Whitaker, et al.*, 46 Phil. 578 (1924).

[8] Section 48(1), *Batas Pambansa Blg. 337*.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.