

LUCIO L. MAYOR, ET AL., PETITIONERS, VS. THE HON. RAYMUNDO VILLACETE, ET AL., RESPONDENTS.*G.R. Nos. 16190 and 16369. May 31, 1961*

Ponente: BAUTISTA ANGELO, J.

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Petitioners in these two cases were voters in the municipality of San Agustin, province of Romblon, and were registered as such in the following precincts: Lucio L. Mayor, Precinct No. 1; Juan Moreno Yap, Felix Mayor Yap, Aurelia Moreno, and Clarita Ang Mayor, Precinct No. 3-A; Esperanza Mayor, Precinct No. 2; and Adoracion Yap, Precinct No. 7. These petitioners had been exercising their right of suffrage since 1934 up to the elections of 1957.

In several petitions filed with the Justice of the Peace Court of San Agustin, Romblon, by Pablo Burguete, the latter sought to exclude petitioners from the permanent list of voters in the precincts where they were registered on the ground that, not being Filipino citizens, they are not qualified voters. Pending hearing, however, of these petitions, Burguete moved that they be elevated to the court of first instance because of the issues involved, which motion was readily granted by the justice of the peace court. The trial court, after taking cognizance of the cases, set them for hearing on November 4, 1959, but on this date petitioners filed a motion to dismiss alleging, among other grounds, that the trial court has no jurisdiction to entertain the petitions because the ground upon which the same are based is the citizenship of petitioners which cannot be inquired into in an exclusion case, and that this ground which involves their status as Filipino citizens does not come within the purview of Section 121, in relation to Section 123, of the Revised Election Code.

This motion having been denied, petitioners manifested to the trial court their intention to press the issue before the Supreme Court by filing a special civil action for prohibition with preliminary injunction and their desire that the hearing of the petitions be postponed until such time as that action shall have been determined, but the trial court did not accede to the request for lack of time and because of the urgent nature of the petitions for exclusion. However, considering that one of the petitioners, Lucio L. Mayor, was an official candidate for the position of mayor with a duly registered certificate of candidacy, Mayor was compelled to file a petition for prohibition before this Court on November 6, 1959, which was docketed as G. R. No. L-16190. This petition was given due course in a resolution issued on November 9, 1959. Considering that the Supreme Court could not act on the petition immediately, Mayor requested by telegraphic wire the deferment of the hearing of the exclusion case affecting him, but the trial court, on November 7, 1959, proceeded to hear all the exclusion cases affecting petitioners, including that of Mayor, and immediately thereafter rendered decision holding that petitioners were not Filipino citizens and as such were disqualified to vote in the ensuing elections.

In the meantime, the elections were held on November 10, 1959, and on December 11, 1959 petitioners interposed the present petition for certiorari attributing to the trial court the commission of a grave abuse of discretion amounting to lack of jurisdiction. Because of their interrelation the two cases were consolidated.

We hold that these two petitions are now moot since with the elections held on November 10, 1959 the purpose for which they had been filed has become *functus officio*. And this is so because their purpose is to prevent the trial court from acting on the exclusion case filed before it on the ground of lack of jurisdiction so that if they succeed their names may continue in the permanent list of voters and they may in turn vote in the elections scheduled for November 10, 1959. Evidently, this objective has become purposeless with the holding of the elections thereby rendering these cases moot.

It is true that the decision of a court of first instance in an exclusion case is final and unappealable except when the petition is tried before the justice of the peace when the case may be appealed to the corresponding court of first instance, for which reason petitioners have instituted the present civil action of certiorari considering it to be the only legal remedy available to them to bring to this court the issue concerning the lack of jurisdiction of the trial court. Nevertheless, we still hold that this petition does not serve now any useful purpose considering that its main objective is to dispute the action of the trial court insofar as the last elections are concerned. It should be here stated that considering the summary character of an exclusion case the decision that a court of first instance may render thereon, even if final and unappealable, does not acquire the nature of *res judicata* (*Nuval vs. Guray*, 52 Phil., 645). In this sense, it does not operate as a bar to any future action that a party may take concerning the subject passed upon in the exclusion case.

We are not oblivious of the fact that new elections will be held this year and that because of the exclusion of their names from the permanent list of voters petitioners are not now considered as qualified voters in their respective precincts, but their situation is not without a remedy. They can still file such appropriate action as they may find necessary to seek their reinstatement wherein they can establish that they are Filipino citizens and qualified voters in the municipality where they reside thereby rendering ineffective the previous ruling rendered by the trial court. Verily, they still have enough time to take such action.

Wherefore, petitions are dismissed, without pronouncement as to costs.

Bengzon, C.J., Padilla, Labrador, Concepcion, Reyes, J.B.L., Paredes, Dizon, De Leon, and Natividad, JJ., concur.

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