

[G. R. No. 18844. April 06, 1922]

**HILARION ALQUISOLA, PETITIONER, VS. MUNICIPAL COUNCIL OF BARILI,
PROVINCE OF CEBU, ET AL., RESPONDENTS.**

D E C I S I O N

MALCOLM, J.:

The municipal council of Barili, Province of Cebu, along with other municipal councils of the same province, met on March 8, 1922, one day prior to the date when the new Election Law (Act No. 3030) was approved, and appointed three election inspectors, and three substitutes, as proposed by the local committee of the Nacionalista Party, for each of the five election precincts in the municipality. The president of the local committee of the Democrata Party having failed in his effort to persuade the municipal council to select election inspectors to represent the Democrata Party, has filed an original action in mandamus in this court, in which he prays for an order requiring the municipal council of Barili to convene and to appoint two election inspectors and their corresponding substitutes, for each election precinct, in accordance with his communication addressed to the local council. The respondent municipal council has interposed a demurrer to the petition, predicated on two grounds: (1) That the Democrata Party was not organized in the municipality at the time of the last elections, and (2) that the action of the municipal council was taken pursuant to the provisions of the Election Law before it was last amended.

The sole and controlling facts are that at the election in 1919 in the municipality of Barili, Province of Cebu, two parties contested, the Nacionalista Party, and the Democrata Party; that the candidates of the Nacionalista Party were successful; that the candidates of the Democrata Party received a varying number of votes, and that prior to the election day, a formal organization of the Democrata Party in this locality had been perfected. As to the law applicable to the facts, it makes no particular difference whether we base a decision in this case on the provisions of the old election law, or on the provisions of the new election law, because, in the first place, it was presumably the intention of the Philippine Legislature, in

enacting Act No. 3030, to have the new law govern in the coming elections, and this intention should be given effect, and because, in the second place, both under the old law and the new law, it was the practice of the courts to give the statutory language a liberal construction to the end that the two principal contending political parties might each have representation on the election board so as to make the election as pure as possible.

The attitude of neither the Democrata petitioner, nor of the Nacionalista-controlled municipal council, is correct. On the one hand, the claim of the local organization of the Democrata Party in the municipality of Barili is preposterous, when it modestly asserts that it was the only regularly organized party in the municipality during the last elections, and when it as modestly asks that it be given the election inspectors which rightfully belong to the majority party. On the other hand, the action taken by the municipal council of Barili in giving all of the election inspectors to the Nacionalista Party, was in violation of law and in derogation of the rights of a minority party, which the law attempts to protect.

The law as now existing reads: “* * * Should there be in/such municipality one or more political parties or branches or fractions thereof, or political groups, then two of said inspectors and two substitutes for the same shall belong to the party which polled the largest number of votes in said municipality at such preceding election and the other inspector and his substitute shall belong to the party, branch or fraction thereof, or political group which polled the next largest number of votes at said election; and the inspectors so appointed shall be persons proposed by the legitimate representative or representatives of such political parties, branches or fractions thereof, or political group.” (Act No. 3030, sec. 11, amendatory of sec. 417, of the Administrative Code.) Enforcing the plain provisions of the law, as it is our duty to do, it results that in the municipality of Barili, Province of Cebu, two election inspectors and two substitutes for the same should be appointed for the party which polled the largest number of votes in said municipality, at the preceding election in 1919, which is the Nacionalista Party, and one inspector and one substitute should be appointed for the party which polled the next largest number of votes at said election, which is the Democrata Party.

The demurrer is overruled, and it appearing that an opportunity for the respondent council to answer would serve no purpose other than delay, the writ prayed for is granted, and it is the order of the court that the municipal council of Barili, Cebu, shall immediately convene and proceed to appoint, for each election precinct of the municipality, two inspectors and two substitutes therefor from the persons proposed by the legitimate representative of the Nacionalista Party, and one election inspector and one substitute therefor, from the persons

proposed by the legitimate representative of the Democrata Party. Without special finding as to costs, it is so ordered.

Araullo, C. J., Villamor, Ostrand, Johns, and Romualdez, JJ., concur.

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