

[ G.R. No. 1697. January 18, 1904 ]

**MUNICIPAL COUNCIL OF SANTA ROSA, PETITIONER, VS. THE PROVINCIAL BOARD OF THE PROVINCE OF LA LAGUNA, RESPONDENT.**

**D E C I S I O N**

**JOHNSON, J.:**

On the 6th day of January, 1904, the plaintiff made application to Justice Willard, of this court, praying for a preliminary injunction against the said defendant, to prohibit it from executing an order of the 17th of December made by the said board, which order directed a special election to be held in the pueblo of Santa Rosa, of said province, on the 12th day of January, 1904. The application for the preliminary injunction was denied by Justice Willard. On the 7th day of January the said plaintiff, having been notified of the decision of Justice Willard, amended said application by making it an application for the same preliminary injunction to this court. The facts in the said application for the said preliminary injunction are as follows:

1. That on the 1st day of December the election for municipal officials was duly and legally held in the said municipality.
2. That on the same day notice was given, granting a period of three days within which any resident of the said municipality of Santa Rosa might present to the said municipal board of election, or to the president of the same, by writing, protests to be justly and legally considered against the parties declared elected by the electoral judges.
3. At  
6.15 on the night of December 3, a protest was presented to the board

of electors for supposed infringement of the elections, the nullification of which was asked.

4. Notwithstanding said protests, the provincial board of La Laguna declared the elections valid and ordered the municipal secretary of Santa Rosa to communicate to the newly elected officials that they could qualify and take possession of their respective offices the first Monday in January.

Said ruling of approval was, adopted by the provincial board of La Laguna in session held the 7th day of December, 1903, in the following terms: "In view of the duplicate return of the municipal elections of \* \* Santa Rosa \* \* \* and the protests presented, the board has resolved that said municipal elections were legal, considering the motive upon which the protests were founded insufficient to believe that the result of the elections is not truly the will of the electors."

Notwithstanding the said decision of the provincial board, it did, by a ruling of the 17th of December, 1903, amend its approval in these terms: "Agapito Carpena and other residents of Santa Rosa, having presented to the provincial board an amplification of the protest against the result of the municipal elections of said pueblo, and it appearing that an error was made in approving the result of the municipal elections of Santa Rosa, and it having been found upon a further examination of the protest that there were more voters who deposited their ballots in the ballot box than actually appeared in the list previously posted in the public places: *It is resolved*, That the approval ratified in the session of December 7, 1903, be amended, that the result of the municipal election of Santa Rosa be declared illegal, and that a new municipal election be ordered to be held on Tuesday, the 12th of January, 1904, and that this resolution be communicated to the municipal council and to the board of electoral judges."

Section 13 of Act No. 82 of the Philippine Commission provides for the method of counting the ballots and declaring the result in municipal elections in these Islands, and provides for a term of three

days after the counting of the said ballots in which “any resident of the town may present to the board or to the chairman thereof, in writing, such objections, as he may deem just and legal against those declared elected.” Subsection (b) of said section 13 provides that “on the day following the said term of three days a duplicate of the election certificate and the objections made, if any, shall be sent by the chairman of the board of judges to the provincial board. Should the provincial board, upon investigation and after hearing of evidence, if necessary, find the election legal, they shall, within seven days after the receipt of said documents, direct the newly elected officers to qualify and enter upon their duties on the day fixed by this Act, but, if the provincial board determine that there has been an illegality committed in the election of any officer or that any candidate returned is not eligible, they shall so declare in writing, with the reasons therefor, and shall order a special election to fill the vacancies thus occasioned and shall certify their finding and order to the municipal secretary, who shall spread the same on the records of the council.”

The facts quoted from the application of the said plaintiff show the following :

1. That the election was held on the 1st day of December, 1903.
2. That upon the evening of the 3d day of December a protest was presented to the election board.
3. That upon the 7th day of December, 1903, the said provincial board found the said protest insufficient to declare the said municipal election illegal.
4. Later, upon the 17th day of December, after having been presented to the said provincial board an amplification of the former protest against the irregularity of the said election in the said municipality, the provincial board amended its resolution of the 7th day of December, 1903, and declared the said municipal election illegal, and, in accordance with the provisions of subsection (b) of section 13 of the said Act No. 82 of the Philippine Commission, ordered a new election to be held on the 12th day of January, 1904.

Section 162 of the Code of Civil Procedure defines an injunction as follows:

“An injunction is a writ or order requiring a person to refrain from a particular act.”

In the foregoing case it appears that the provincial board has done all it can do with reference to the special election to be held in the said pueblo of Santa Rosa. The record shows that it has ordered the election. Everything that is to be done, with reference to the election, subsequent to the said order, is done upon the part of the proper officials of the municipality of Santa Rosa. There is nothing left for the provincial board to do with reference to the special election so ordered; therefore, there is no “particular acts’ on the part of the said provincial board relating to the said election which this court can order said provincial board to refrain from doing.

The application for the preliminary injunction is therefore denied.

Subsection (b) of section 13 of said Act No. 82 provides that the provincial board “shall, within *seven days* after the receipt of said documents (protest), direct,” etc., either that the newly elected officers enter upon their duties, etc., or “shall order a special election,” etc. If, for any reason, the resolution of the provincial board should be void or unlawful, then the proper parties might, by a preliminary injunction based upon a final right to the writ of prohibition, prevent the municipal election board from complying with the same.

*Arellano, C.J., Torres, Cooper, Willard, Mapa, and Mc Donough, JJ., concur.*

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