

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
EN BANC**

LUIS G. DE CASTRO,
Petitioner,

-versus-

**G.R. No. L-30058
March 28, 1969**

**JULIAN G. GINETE and UBALDO Y.
ARCANGEL, Judge of the Court of First
Instance of Sorsogon, 10th Judicial
District, Branch I,**
Respondents.

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RESOLUTION

ZALDIVAR, J.:

Petitioner Luis G. De Castro and respondent Julio G. Ginete were opposing candidates for the office of municipal mayor of the municipality of Bulan, province of Sorsogon, in the general elections held on November 14, 1967. On January 1, 1968 the board of canvassers, as constituted by the Commission on Elections, proclaimed petitioner as the winning candidate with a margin of 12 votes over respondent.

On January 8, 1968 Ginete filed a motion of protest against the election of De Castro before the Court of First Instance of Sorsogon,

alleging the commission of frauds and irregularities to favor the candidacy of De Castro. In due time De Castro, as protestee in the election case, filed a counter-protest, also alleging the commission of frauds and irregularities to favor the candidacy of Ginete.

On April 15, 1968, after the ballots in 20 out of the 25 precincts that were protested by Ginete were revised, De Castro filed a so-called "Manifestation and Motion," which is practically a motion to dismiss the protest upon the ground of estoppel. It is alleged in the "Manifestation and Motion" that Ginete filed his protest after he had made a written concession of the election of De Castro, and after he had publicly declared during the inauguration and induction of De Castro as Mayor that De Castro had won by a margin of 12 votes and on that occasion he urged the people of Bulan to cooperate with the administration of De Castro. On April 22, 1968, before the hearing on the "Manifestation and Motion," De Castro filed an "Amended Manifestation and Motion" wherein he alleged another ground for the dismissal of the protest, namely: the failure on the part of protestant Ginete to allege in his motion of protest that if the irregularities mentioned in the protest are corrected the result would be the election of the protestant, "hence there is no claim upon which the relief sought in the prayer of the protestant may be granted."^[4] After hearing, wherein the parties were afforded opportunity to present evidence, and after they had filed their respective memoranda, on September 6, 1968, respondent Judge Ubaldo Y. Arcangel of the Court of First Instance of Sorsogon issued an order denying De Castro's amended manifestation and motion. On October 4, 1968 De Castro filed a motion for reconsideration of the order denying the amended manifestation and motion, upon the ground that the order was not in conformity with law. Ginete filed his opposition to the motion for reconsideration. The motion for reconsideration was set for hearing on November 12, 1968. On December 16, 1968, respondent Judge, the Hon. Ubaldo Y. Arcangel, issued an order denying De Castro's motion for reconsideration. Thereafter, De Castro filed before this Court a petition for certiorari with preliminary injunction, alleging that respondent Judge acted without or in excess of jurisdiction, or with grave abuse of discretion, in denying his manifestation and motion as well as his motion for reconsideration. The petition prayed that the orders of respondent Judge denying his amended manifestation and motion and his motion for

reconsideration be annulled and a new one entered finally dismissing the protest; and that pending the resolution of the petition by this Court a writ of preliminary injunction be issued against respondent Judge enjoining him from proceeding further with the election protest of Ginete.

It is now urged by petitioner De Castro before this Court that the lower court should have dismissed the protest because respondent Ginete, by his own acts and utterances, is estopped from contesting the election of herein petitioner.

The evidence shows that on January 1, 1968, after petitioner De Castro was proclaimed elected by the board of canvassers respondent Ginete wrote a note to petitioner, which reads as follows:

“January 1, 1968

“To Mayor Cesing De Castro:

“Our congratulations to the winner and here’s hoping you good luck and success in your administration. Wishing you Happy New Year and may God bless us all. (Inclosed are the keys).

“J. Ginete”

Petitioner De Castro invited respondent Ginete to attend the ceremony on his inauguration as municipal mayor, scheduled for January 6, 1968, and said respondent accepted the invitation. During the inauguration respondent Ginete accompanied the petitioner to the municipal building and to the plaza where the inaugural program was held. Respondent Ginete went up the inaugural stage along with other officials. Before turning over the symbolic key of responsibility to petitioner De Castro, respondent Ginete delivered a speech saying that the mayor elect had been proclaimed with a majority vote and that the people of Bulan should cooperate with his administration. The outgoing mayor Ginete pleaded with the people that if he had any shortcomings during the four years of his incumbency that he be forgiven by the people.

We do not consider that the acts or conduct, or utterances, of respondent Ginete, as mentioned in the foregoing paragraph, had placed him in estoppel to protest the election of petitioner De Castro. We view the conduct and utterances of respondent as simply a laudable gesture of sportsmanship and a manifestation of his respect for the proclamation made by the board of canvassers. There is no showing that Ginete had admitted that De Castro had won in an election that was clean and honest, or free from irregularities. Ginete, as a law-abiding citizen, had to abide by the proclamation of the board of canvassers. But, certainly, his having recognized De Castro as the winner in virtue of the proclamation by the board of canvassers did not preclude him from questioning the validity of De Castro's election in the manner prescribed by law, if he had grounds to show that the election of De Castro was brought about through the commission of frauds and other election irregularities.

We cannot sustain the contention of De Castro that Ginete is in estoppel to contest his election. Estoppel rests on this rule: "Whenever a party has, by his own declaration, act or omission, intentionally and deliberately led another to believe a particular thing true, and to act upon such belief, he cannot, in any litigation arising out of such declaration, act, or omission, be permitted to falsify it."^[2] The elements of estoppel by conduct are: (1) that there must have been a representation or concealment of material facts; (2) that the representation must have been made with knowledge of the facts; (3) that the party to whom it was made must have been ignorant of the truth of the matter; and (4) that it must have been made with intention that the other party would act upon it.^[3]

In the case now before Us, it cannot be said that Ginete had by his acts and declarations made representations of fact regarding De Castro's election which were not known to the latter. Ginete simply made a formal recognition of the fact that De Castro had been proclaimed winner by the municipal board of canvassers of Bulan, and congratulated him — and this Ginete did only after the board of canvassers had proclaimed De Castro winner. It can not be said that De Castro came to know about his having won the election because Ginete told him so. Ginete did not mislead De Castro to the belief that he had won the election. It can not be said that De Castro was led to act — in assuming the office as mayor — because Ginete has made

representation to him that he (De Castro) had won the election. De Castro assumed office as mayor by operation of law, because he was proclaimed elected by the municipal board of canvassers in accordance with law. Ginete, by his acts and/or utterances, had not induced De Castro to believe that his election was unquestionable. Ginete is not the one called upon to declare the election of De Castro valid, and so De Castro can not claim that he was induced to believe that he was elected and he assumed office as mayor simply on the basis of Ginete's acts and utterances. Ginete never made any statement that he would not question the election of De Castro. The election case, or the election protest, case that Ginete brought against De Castro did not arise out of any act or declaration of Ginete. The election was that Ginete brought against De Castro has for its basis circumstances that had taken place during the election held on November 14, 1967, or long before Ginete had recognized the proclamation of De Castro as winner. If De Castro was not the real winner in the elections it would not help his case in the election protest to assert that Ginete had congratulated him after he was proclaimed winner by the board of canvassers. We do not see in the facts and/or circumstances shown by the evidence in this case the elements of estoppel that would bar Ginete from questioning the election of De Castro.

The purpose of an election protest is to ascertain whether the candidate proclaimed elected by the board of canvassers is really the lawful choice of the electorate. What is sought in an election protest is the correction of the canvass of the votes, which is the basis of the proclamation of the winning candidate.^[4] An election contest involves a public office in which the public has an interest. Certainly, the act of a losing candidate of recognizing the one who is proclaimed the winner should not bar the losing candidate from questioning the validity of the election of the winner in the manner provided by law.

The only case where this Court has held that a party is estopped to contest the election of the winning candidate is in the case of a tie where the candidates who were declared to have obtained equal number of votes had voluntarily submitted themselves to the drawing of lots to determine the winner, as provided by law. It was ruled by this Court that the candidate who lost in the drawing of lots is estopped from contesting the election of the one who won in the

draw, because by submitting himself to the draw the defeated candidate is considered to have admitted that the announcement made by the board of canvassers regarding the tie was the result of a valid and lawful canvass. The candidate who submitted himself to the draw is considered as having deliberately induced his opponent to believe that canvass which resulted in a tie was legal and he had thereby led his opponent to act upon such belief in the validity of the canvass and the tie, so that he can not be permitted to repudiate his own acts.^[5]

This court has even adopted a more liberal view on this matter when in a latter case^[6] it held that a candidate who has tied with another and who submits himself to the said drawing of lots, stating that if the result of said drawing of lots should be adverse to him, he would file a protest before a competent court, is not estopped from doing so. The view adopted by the Court in this latter case is in keeping with the doctrine that an election protest involves public interest, so that the court should allow all opportunity possible for the ascertainment of the true result of the elections.

We, therefore, find no merit in the contention of petitioner De Castro that respondent Ginete is estopped from contesting his election.

Likewise, We find no merit in the contention of petitioner that there is no claim upon which the relief sought in the prayer of the protest may be granted because there is no allegation in the protest that the irregularities mentioned therein, if corrected, would result in the election of the protestant. By this contention, petitioner seeks the dismissal of the protest upon the ground that the motion of protest does not state a cause of action.^[7]

It is a settled rule that when a complaint — t he motion of protest in the present case — is sought to be dismissed upon the ground that it does not state a cause of action the party seeking the dismissal admits hypothetically the facts alleged in the complaint. A cursory reading of the motion of protest readily apprises one of the existence of a cause of action. The motion of protest alleges that protestee De Castro was proclaimed winner by the municipal board of canvassers of Bulan with a margin of only 12 votes over the protestant. The motion of protest impugns the votes of the protestee in 26 election precincts in

the municipality of Bulan. Among the irregularities alleged are: (1) that protestee had resorted to vote- buying, such that over 450 ballots were marked by the voters in order to identify the same, following instructions from the protestee; (2) that in precincts 40, 46 and 63 of Bulan, absent registered voters were misrepresented by men of protestee who were allowed to cast the votes of the absent voters, resulting in the illegal adjudication of over 100 votes in protestee's favor; (3) that at least 100 ballots where the protestee was not properly voted in the space for mayor were adjudicated to protestee; (4) that 200 ballots where the protestant was properly voted for mayor were wrongfully counted by the boards of inspectors in favor of protestee; (5) that in precinct 45 of Bulan over 50 ballots where protestee was voted were written by only one hand, and about 50 ballots where protestee was voted were prepared by two distinct persons; and in same precinct 45 about 50 ballots in a bunch were credited in favor of protestee without the chairman of the board of inspectors having read their contents, thereby depriving protestant's watchers the opportunity of seeing whether the ballots cast were for the protestant or for the protestee. It thus follows that if those allegations of frauds and irregularities in the motion of protest are proved, the majority of 12 votes whereby the protestee was declared winner by the board of canvassers would easily be overcome, and the result of the election would change in favor of the protestant. It would be an undue recourse to technicality to dismiss the motion of protest simply because there is no allegation that if the irregularities are corrected the result of the election would be changed, when it is very apparent that if the allegations in the motion of protest are proved a change in the result of the election would necessarily follow. It is a settled rule that statutes providing for election contests are to be liberally construed, and that immaterial defects in pleadings should be disregarded, to the end that the will of the people in the choice of public officers may not be defeated by merely formal or technical objections.^[8] When an election protest alleges frauds and irregularities such that the legality of the election of the protestee is placed in serious doubt, the courts should proceed to ascertain the truth of the allegations of frauds and irregularities, not necessarily to declare the protestant elected but to determine whether the protestee was legally elected, because once it is shown that frauds and irregularities had characterized the election the court may annul the election and declare that no candidate had been elected.^[9]

IN VIEW OF THE FOREGOING, the Court resolves to dismiss the instant petition for certiorari with preliminary injunction. No pronouncement as to costs.

IT IS SO ORDERED.

Concepcion, C.J., Reyes, Dizon, Makalintal, Sanchez, Castro, Fernando, Capistrano, Teehankee and Barredo, JJ., concur.

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- [1] Quoted from par. 4 of Manifestation and Motion, p. 39-40, Record.
[2] Section 3, paragraph (a), Rule 131, Rules of Court.
[3] Moran, Comments on the Rules of Court, Vol. VI, p. 14, 1963 Edition; citing Bigelo on Estoppel, 437; and Cristobal vs. Gomez, 50 Phil. 810.
[4] Aquino vs. Calabia and Sahagun, 55 Phil. 984.
[5] Radaza vs. Enage, 53 Phil. 149; Montiague vs. Buyson-Lampa, 61 Phil. 58.
[6] Yap vs. Court of First Instance of Zambales and Evalle, 66 Phil. 112.
[7] World Wide Insurance & Surety Co., vs. Manuel, 51 O.G. 6214; 98 Phil. 46.
[8] Galang vs. Miranda, 35 Phil. 269.
[9] Badilles vs. Cabili, G.R. No. L-29333, February 27, 1969; Legaspi, et al., vs. Actub, et al., G.R. No. L-29334, February 27, 1969.