

SECTION 176 (f), REVISED ELECTION CODE

THE REGISTRATION LIST OF VOTERS AS FINALLY DETERMINED BY THE BOARD OF INSPECTORS IS CONCLUSIVE AS TO WHO HAVE THE RIGHT TO VOTE, AND WHERE VOTERS ARE NOT CHALLENGED DURING THE LEGAL PERIOD, ANY EVIDENCE TENDING TO SHOW THAT THE VOTERS REGISTERED AND VOTED ALTHOUGH NOT POSSESSING THE NECESSARY QUALIFICATIONS IS IMMATERIAL.

FACTS: In the election of November 13, 1951, for the office of mayor of Mayantoc, Tarlac, candidate Generoso Sana was proclaimed elected by the municipal board of canvassers with a majority of 18 votes over his opponent Pantaleon Naval. In due time the latter filed his motion of protest in the C. F. I. of Tarlac, and upon receiving an adverse verdict, elevated the case here on a question of law.

The question is whether the trial court erred in ruling out evidence to prove the contestant's allegation that no less than 100 minors were registered in the voters' list and that said minors actually voted in the election, the trial court being of the opinion that the qualifications of electors registered in the voters' list, having been already finally determined either by the board of election inspectors or by the corresponding circuit judges during the period for the inclusion and exclusion of voters, could no longer be inquired into.

HELD: This court has established the ruling in several cases,¹ that the registration list of voters as finally determined by the board of inspectors is conclusive on the question as to who have the right to vote in an election,² and that where voters are not challenged during the legal period, any evidence tending to show that these voters were registered and that they voted although not possessing the necessary qualifications is immaterial.

July 18, 1935), the Supreme Court stated that "it is now a uniform rule in this jurisdiction that ballots with the names of conspicuous politicians or personages voted for offices for which they are not candidates and are not eligible for being nonresidents should invariably be considered as marked and void." However, this doctrine should now be taken with caution in view of Rule 13, Sec. 149 of the Revised Election Code.

¹ *Icay vs. Diapo* (G. R. No. 30671); *Fernandez vs. Mendoza* (57 Phil. 687, 697).

² Revised Election Code, Sec. 176 (f).

In the United States the rule is practically the same.³ (*Pantaleon Naval, Protestant-Appellant, vs. Generoso Sana, Protestee-Appellee, G. R. No. A-5899, promulgated February 28, 1953.*)

SECTION 177, REVISED ELECTION CODE

SECTION 177 OF THE REVISED ELECTION CODE WHICH PROVIDES THAT THE COURT SHALL DECIDE THE PROTEST WITHIN SIX MONTHS AFTER ITS PRESENTATION IS DIRECTORY.

FACTS: On November 28, 1951, Andres Cordero, filed an electoral protest (Civil Case No. 1024) against Timoteo Cachola in the C.F.I. of Ilocos Sur. Thereafter, protestant (respondent Cordero) filed motions for continuances which were granted by the respondent judge, the first motion being without objection on the part of the protestee (petitioner Cachola) and the second with the latter's conformity. On the other hand, respondent judge also postponed the hearing as late as May 21 and 28, 1952, upon petition of the protestee and even over the objection of the protestant. Some delay was also caused by the time consumed by the commissioners in revising the ballots. When the trial was resumed on May 28, 1952, the respondent judge had to continue it to June 2, 1952, because of an order from the Department of Justice transferring him to Laoag, Ilocos Sur.

On June 2, 1952, or six months and five days after the filing of Civil Case No. 1024, a motion to dismiss said Civil Case No. 1024 was filed by petitioner Cachola. The motion having been overruled, this petition for mandamus was originally instituted in the Supreme Court to compel respondent judge to dismiss said Civil Case No. 1024 on the ground that the applicable provision of Section 177 of the Revised Election Code is mandatory.

³ "Under some provisions, the final registration list is conclusive evidence of those entitled to vote, until reversed or set aside in the prescribed manner, and it cannot be collaterally attacked." (29 C. J. S. 49). Also, "In the absence of challenges or other proceedings prior to the election to have the names of voters who are legally registered erased from the registration rolls, such rolls are binding on the court. (*Marrero vs. Middleton*, 59 So. 863, 131 La. 432)" (Ibid.)