

ELECTION PROTEST—EVIDENCE

ON THE STRENGTH MERELY OF THE ELECTION STATEMENTS WITHOUT NECESSITY OF SUBMITTING BALLOTS AS EVIDENCE, THE COURT HAS JURISDICTION TO ENTERTAIN AN ELECTION PROTEST WHEREIN IT IS CLAIMED THAT THE BOARD OF CANVASSERS DID NOT MAKE A CORRECT TALLY OF THE VOTES AS THEY APPEAR IN SAID ELECTION STATEMENTS.

FACTS: In the elections held on November 13, 1951, petitioners were candidates for the office of councilor of Donsol, Sorsogon. After respondents were proclaimed by the Board of Canvassers as the duly elected councilors, the petitioners filed a protest claiming that the Board of Canvassers did not make a correct tally of the votes as they appeared in the election statements. During the trial, petitioners submitted their evidence consisting of 30 election statements submitted by the inspectors of the contested precincts plus other documentary evidence. Respondents filed a motion to dismiss the protest. The respondent judge sustained the motion holding in substance that the court lacked jurisdiction to entertain the protest because of the failure of petitioners to submit the ballots cast as part of their evidence. Hence this petition for certiorari.

HELD: There is nothing in the election law, nor in the rules of evidence insofar as they may be applicable, which would require as an absolute rule the presentation of the ballots as evidence in the determination of an electoral contest.

Their production may be necessary when fraud is claimed to have been committed in casting said ballots, or when they were allegedly forged or falsified. The principal basis of the protest in question is that the protestants had reason to believe that the canvass made by the Board did not tally with the true count as it appeared on the various election statements submitted by the inspectors in the 30 election precincts involved in the protest. There is indeed no need for the presentation of the ballots to determine the correctness of the canvass made by the Board.

Petition granted. (*Briccio Madrid, et al., Petitioners, vs. Hon. Anatolio C. Mañalac, et al., Respondents, G. R. No. L-5770, promulgated April 17, 1953.*)

WHERE THE EVIDENCE IN AN ELECTION PROTEST IS NOT ALLOWED ON THE GROUND THAT IT COULD NOT SERVE A USEFUL PURPOSE, THE PROPER REMEDY IS APPEAL BECAUSE IT IS A MERE ERROR OF JUDGMENT.

FACTS: Arcadio Perez filed an electoral protest in the C. F. I. of Camarines Sur against Salvador Bimeda, the elected mayor of Pamplona, Camarines Sur. In his answer, Bimeda set up a counter-protest contending that the electoral returns in Precinct No. 6 of Pamplona, Camarines Sur. In his answer, Bimeda set up a counter-Pamplona should be annulled on the ground of wholesale irregularity and gross violation of the election law, because said precinct was closed at five o'clock in the afternoon, notwithstanding the fact that 20 or more voters who were in the premises had not yet voted.

During the trial of the election case, Bimeda was not allowed by the presiding judge to present his evidence proving his counter protest, on the ground that it could not serve a useful purpose. Hence this petition for certiorari and mandamus.

HELD: As a rule the errors which the court may commit in the exercise of its jurisdiction are merely errors of judgment. In the trial of a case, it becomes necessary to distinguish errors of jurisdiction from errors of judgment. The first may be reviewed by a certiorari proceeding; the second, by appeal. Errors of jurisdiction render an order or judgment void or voidable but errors of judgment or of procedure are not necessarily a ground for reversal.

The action taken by petitioner to correct the ruling of the court is not the proper one, it being a mere error of judgment which should be corrected by appeal and not an act of lack of jurisdiction or grave abuse of discretion which is the proper subject of a petition for certiorari.

Petition denied. (*Salvador Bimeda, Petitioner, vs. Arcadio Perez, et al., Respondents, G. R. No. L-5588, promulgated August 26, 1953.*)

ELECTION PROTEST—ANNULMENT OF ELECTIONS

FRAUD AND TERRORISM TO WARRANT THE ANNULMENT OF AN ELECTION MUST BE OF SUCH NATURE AND MAGNITUDE AS TO