

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.*)

HELD: In the case of *Querubin vs. Court of Appeals, et al.* (46 O. G. 1554), the latest on the point, we held that Section 177 of the Revised Election Code is directory in nature. The following observations are controlling:

"The provision of Section 177 of the Revised Election Code . . . that the trial court shall decide a protest within six months or one year from its filing when contesting a municipal or provincial office is directory in nature.

"To dismiss an election contest or appeal because the respective courts, regardless of cause or reason, have failed to render final decisions within the time limits of said sections is to defeat the administration of justice upon factors beyond the control of the parties. That would defeat the purpose of due process of law and would make of the administration of justice in election contests an aleatory process where the litigants, irrespective of the merits of their claims, will be gambling for a deadline."

In the case at bar, the Supreme Court held that the protest was not disposed of by the respondent judge within the statutory period of six months due to justifiable causes.

Petition dismissed. (*Timoteo Cachola, Petitioner, vs. Andres Cordero, et al., Respondents, G. R. No. L-5780, promulgated February 28, 1953.*)

SECTION 180, REVISED ELECTION CODE

IN AN ELECTION PROTEST, COMMISSIONERS' FEES ARE COLLECTIBLE AGAINST THE LOSING PARTY AS PART OF THE "EXPENSES AND COSTS", BUT NOT THE PRINTING EXPENSES FOR THE BRIEF AND THE STENOGRAPHIC NOTES.

FACTS: Bernardo Torres filed an election protest against Mamerto Ribo for the office of provincial governor of Leyte. After trial, Mamerto Ribo was declared winner and upon appeal said decision was affirmed by the Court of Appeals. After the judgment had become final, Mamerto Ribo filed a bill of expenses and costs, which was opposed by Bernardo Torres. The court rendered

judgment allowing the payment of commissioners' fees and other items except attorney's fees and printing of brief. The motion for reconsideration filed by Torres having been denied, the present appeal was interposed.

HELD: The commissioners' fees are included within the term "expenses and costs" used in Section 180 of the Revised Election Code as collectible against the losing party. However, printing expenses for the brief¹ and the stenographic notes are not allowed as the latter are part of the record and no party is called upon to get a copy thereof. (*Bernardo Torres, Protestant-Appellant, vs. Mamerto Ribo, Protestee-Appellee, G. R. No. L-5394, promulgated April 29, 1953.*)

¹No allowance shall be made to the prevailing party in the Supreme Court or Court of Appeals for the brief or written arguments of his attorney, or copies thereof... (Rule 131, Sec. 11 (d), Rules of Court).