

[G. R. No. 42181, March 15, 2010]

PEDRO V. MANZA ET AL., PETITIONERS, VS. EDUARDO GUTIERREZ DAVID, JUDGE OF FIRST INSTANCE OF TAYABAS, ET AL., RESPONDENTS.

D E C I S I O N

GODDARD, J.:

This is a petition for a writ of prohibition in which it is prayed:

"Por tanto, al Honorable Tribunal respetuosamente pide que, previos los tramites correspondientes, declare que el Juez recurrido no adquirio ni tiene jurisdiction para conocer de dicha protesta excepto para sobreseerla; y expida un mandamiento de inhibition para que se abstenga de continuar conociendo de la misma—con las costas a los recurridos."

Within the time fixed by law a motion of protest was filed in the Court of First Instance of Tayabas in which the election to the offices of municipal president and municipal councilors of the municipality of Lopez, Province of Tayabas, was contested. This protest was signed and sworn to by Emilio A. Siazon, a candidate for the office of municipal president, and clearly shows upon its face that its object was to contest the election of June 5, 1934, for all of the above-mentioned offices. The first paragraph of that motion reads in part as follows: "Comparecen los recurrentes, y como motivo de action, Emilio Siazon contra los recurridos Tomas V. Florido y Perfecto Reyes, y los demas recurrentes contra los recurridos * * *, respetuosamente alegan:" The first allegation in the motion commences as follows: "Que los recurrentes son mayores de edad, etc." and further alleges that "Emilio Siazon siendo candidato registrado y votado para el cargo de Presidente Municipal de Lopez, Tayabas, y siendo los demas recurrentes candidates registrados y votados para el cargo de Concejal, del mencionado municipio * * *."

In view of the fact that this motion of protest was signed by Emilio A. Siazon and not signed by any of the other contestants, a motion was presented asking that the protest be dismissed as to the offices of municipal councilors. After that motion was filed the persons included therein as contestants for the offices of municipal councilors filed an affidavit which reads as follows:

"Antonio D. Villapando, Jose R. Barros, Rufo Javier, Emilio A. Mascardo, Efigenio Panganiban, Leon Salumbides y Potenciano Desembrana, previo juramento, en forma legal, declaran: Que la motion de protesta presentada en esta causa con fecha 20 de junio de 1934, y suscrita por Emilio A. S'iazon en su propia representation, y en nombre y representacion de los aqui declarantes, fue de hecho presentada, suscrita y jurada bajo nuestra expresa autorizacion; que los declarantes tambien ratifican y aprueban y hacen suyo todo lo que el mencionado Sr. Siazon ha hecho hasta ahora en.relation a dicha morion de protesta"