

ROMEO M. JALOSJOS, JR., PETITIONER, VS. THE COMMISSION ON ELECTIONS AND DAN ERASMO, SR., RESPONDENTS.

G.R. No. 192474. June 26, 2012

Ponente: ABAD, J.

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ABAD, J.:

These cases reiterate the demarcation line between the jurisdiction of the Commission on Elections (COMELEC) and the House of Representatives Electoral Tribunal (HRET).

The Facts and the Case

In May 2007 Romeo M. Jalosjos, Jr., petitioner in G.R. 192474, ran for Mayor of Tampilisan, Zamboanga del Norte, and won. While serving as Tampilisan Mayor, he bought a residential house and lot in Barangay Veterans Village, Ipil, Zamboanga Sibugay and renovated and furnished the same. In September 2008 he began occupying the house.

After eight months or on May 6, 2009 Jalosjos applied with the Election Registration Board (ERB) of Ipil, Zamboanga Sibugay, for the transfer of his voter's registration record to Precinct 0051F of Barangay Veterans Village. Dan Erasmo, Sr., respondent in G.R. 192474, opposed the application.[1] After due proceedings, the ERB approved Jalosjos' application and denied Erasmo's opposition.[2]

Undeterred, Erasmo filed a petition to exclude Jalosjos from the list of registered voters of Precinct 0051F before the 1st Municipal Circuit Trial Court of Ipil-Tungawan-R.T. Lim (MCTC).[3] After hearing, the MCTC rendered judgment on August 14, 2009, excluding Jalosjos from the list of registered voters in question. The MCTC found that Jalosjos did not abandon his domicile in Tampilisan since he continued even then to serve as its Mayor. Jalosjos appealed[4] his case to the Regional Trial Court (RTC) of Pagadian City[5] which affirmed the MCTC Decision on September 11, 2009.

Jalosjos elevated the matter to the Court of Appeals (CA) through a petition for certiorari with an application for the issuance of a writ of preliminary injunction.[6] On November 26, 2009 the CA granted his application and enjoined the courts below from enforcing their decisions, with the result that his name was reinstated in the Barangay Veterans Village's voters list pending the resolution of the petition.

On November 28, 2009 Jalosjos filed his Certificate of Candidacy (COC) for the position of Representative of the Second District of Zamboanga Sibugay for the May 10, 2010 National Elections. This prompted Erasmo to file a petition to deny due course to or cancel his COC before the COMELEC,[7] claiming that Jalosjos made material misrepresentations in that COC when he indicated in it that he resided in Ipil, Zamboanga Sibugay. But the Second Division of the COMELEC issued a joint resolution, dismissing Erasmo's petitions for insufficiency in form and substance.[8]

While Erasmo's motion for reconsideration was pending before the COMELEC En Banc, the May 10, 2010 elections took place, resulting in Jalosjos' winning the elections for Representative of the Second District of

Zamboanga Sibugay. He was proclaimed winner on May 13, 2010.[9]

Meantime, on June 2, 2010 the CA rendered judgment in the voter's exclusion case before it,[10] holding that the lower courts erred in excluding Jalosjos from the voters list of Barangay Veterans Village in Ipil since he was qualified under the Constitution and Republic Act 8189[11] to vote in that place. Erasmo filed a petition for review of the CA decision before this Court in G.R. 193566.

Back to the COMELEC, on June 3, 2010 the En Banc granted Erasmo's motion for reconsideration and declared Jalosjos ineligible to seek election as Representative of the Second District of Zamboanga Sibugay. It held that Jalosjos did not satisfy the residency requirement since, by continuing to hold the position of Mayor of Tampilisan, Zamboanga Del Norte, he should be deemed not to have transferred his residence from that place to Barangay Veterans Village in Ipil, Zamboanga Sibugay.

Both Jalosjos and Erasmo came up to this Court on certiorari. In G.R. 192474, Jalosjos challenges the COMELEC's finding that he did not meet the residency requirement and its denial of his right to due process, citing *Roces v. House of Representatives Electoral Tribunal*. [12] In G.R. 192704, Erasmo assails the COMELEC En Banc's failure to annul Jalosjos' proclamation as elected Representative of the Second District of Zamboanga Sibugay despite his declared ineligibility.

Subsequently, the Court ordered the consolidation of the three related petitions.[13] In its comment,[14] the Office of the Solicitor General (OSG) sought the dismissal of Erasmo's petitions and the grant of that of Jalosjos since all such petitions deal with the latter's qualifications as proclaimed Representative of the district mentioned. The OSG claims that under Section 17, Article VI of the 1987 Constitution, jurisdiction over this issue lies with the HRET.

Threshold Issue Presented

The threshold issue presented is whether or not the Supreme Court has jurisdiction at this time to pass upon the question of Jalosjos' residency qualification for running for the position of Representative of the Second District of Zamboanga Sibugay considering that he has been proclaimed winner in the election and has assumed the discharge of that office.

The Court's Ruling

While the Constitution vests in the COMELEC the power to decide all questions affecting elections,[15] such power is not without limitation. It does not extend to contests relating to the election, returns, and qualifications of members of the House of Representatives and the Senate. The Constitution vests the resolution of these contests solely upon the appropriate Electoral Tribunal of the Senate or the House of Representatives.[16]

The Court has already settled the question of when the jurisdiction of the COMELEC ends and when that of the HRET begins. The proclamation of a congressional candidate following the election divests COMELEC of jurisdiction over disputes relating to the election, returns, and qualifications of the proclaimed Representative in favor of the HRET.[17]

Here, when the COMELEC En Banc issued its order dated June 3, 2010, Jalosjos had already been proclaimed on May 13, 2010 as winner in the election.[18] Thus, the COMELEC acted without jurisdiction when it still passed upon the issue of his qualification and declared him ineligible for the office of Representative of the Second District of Zamboanga Sibugay.

It is of course argued, as the COMELEC law department insisted, that the proclamation of Jalosjos was an exception to the above-stated rule.[19] Since the COMELEC declared him ineligible to run for that office,

necessarily, his proclamation was void following the ruling in *Codilla, Sr. v. De Venecia*.^[20] For Erasmo, the COMELEC still has jurisdiction to issue its June 3, 2010 order based on Section 6 of Republic Act 6646. Section 6 provides:

Section 6. Effects of Disqualification Case. Any candidate who has been declared by final judgment to be disqualified shall not be voted for, and the votes cast for him shall not be counted. If for any reason a candidate is not declared by final judgment before an election to be disqualified and he is voted for and receives the winning number of votes in such election, the Court or Commission shall continue with the trial and hearing of the action, inquiry, or protest and, upon motion of the complainant or any intervenor, may during the pendency thereof order the suspension of the proclamation of such candidate whenever the evidence of his guilt is strong.

Here, however, the fact is that on election day of 2010 the COMELEC En Banc had as yet to resolve Erasmo's appeal from the Second Division's dismissal of the disqualification case against Jalosjos. Thus, there then existed no final judgment deleting Jalosjos' name from the list of candidates for the congressional seat he sought. The last standing official action in his case before election day was the ruling of the COMELEC's Second Division that allowed his name to stay on that list. Meantime, the COMELEC En Banc did not issue any order suspending his proclamation pending its final resolution of his case. With the fact of his proclamation and assumption of office, any issue regarding his qualification for the same, like his alleged lack of the required residence, was solely for the HRET to consider and decide. ^[21]

Consequently, the Court holds in G.R. 192474 that the COMELEC En Banc exceeded its jurisdiction in declaring Jalosjos ineligible for the position of representative for the Second District of Zamboanga Sibugay, which he won in the elections, since it had ceased to have jurisdiction over his case. Necessarily, Erasmo's petitions (G.R. 192704 and G.R. 193566) questioning the validity of the registration of Jalosjos as a voter and the COMELEC's failure to annul his proclamation also fail. The Court cannot usurp the power vested by the Constitution solely on the HRET.^[22]

WHEREFORE, the Court GRANTS the petition in G.R. 192474, REVERSES and SETS ASIDE the respondent Commission on Elections En Banc's order dated June 3, 2010, and REINSTATES the Commission's Second Division resolution dated February 23, 2010 in SPA 09-114(DC), entitled *Dan Erasmo, Sr. v. Romeo Jalosjos Jr.* Further, the Court DISMISSES the petitions in G.R. 192704 and G.R. 193566 for lack of jurisdiction over the issues they raise.

SO ORDERED.

Carpio, Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Villarama, Jr., Perez, Sereno, Reyes, and Perlas-Bernabe, JJ., concur.
Mendoza, J., on official leave.

[1] Docketed as Case 0901.

[2] Resolution dated July 31, 2009.

[3] Docketed as Election Case 590.

[4] Docketed as Election Case 0006-2K9.

[5] Initially, the appeal was filed before the Regional Trial Court of Ipil, Zamboanga Sibugay, however, the appeal was transferred to the RTC of Pagadian City after the inhibition of the Presiding Judge of RTC Ipil, Zamboanga Sibugay.

[6] Docketed as CA-G.R. SP 03179-MIN.

[7] Docketed as SPA 09-114(DC).

[8] Joint Resolution of the Second Division of the COMELEC dated February 23, 2010.

[9] Rollo (G.R. 192474), p. 436.

[10] Decision dated June 2, 2010. Erasmo's motion for reconsideration was also denied by the CA in its Resolution dated August 10, 2010.

[11] The Voters Registration Act of 1996.

[12] 506 Phil. 654 (2005).

[13] Resolutions dated July 20, 2010 and December 13, 2010.

[14] Comment dated October 11, 2010. Rollo (G.R. 192474), pp. 638-653.

[15] Constitution (1987), Art. IX (B), Sec. 2, par. (3).

[16] Id. at Art. VI, Sec. 17.

[17] Planas v. Commission on Elections, 519 Phil. 506, 512 (2006). See also Vinzons-Chato v. Commission on Elections, G.R. No. 172131, April 2, 2007, 520 SCRA 166, 178; Perez v. Commission on Elections, 375 Phil. 1106, 1115-1116 (1999), cited in Agpalo, R., Philippine Political Law, 2005 ed.

[18] Rollo (G.R. 192474), p. 436.

[19] In Mutuc v. Commission on Elections, 130 Phil. 663, 672 (1968), the Court held that: It is indeed true that after proclamation the usual remedy of any party aggrieved in an election is to be found in an election protest. But that is so only on the assumption that there has been a valid proclamation. Where as in the case at bar the proclamation itself is illegal, the assumption of office cannot in any way affect the basic issues. (Emphasis supplied)

[20] 442 Phil. 139 (2002).

[21] Perez v. Commission on Elections, *supra* note 17.

[22] Id..

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