

EN BANC

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

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

[G.R. NO. 192704]

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

[G.R. NO. 193566]

**DAN ERASMO, SR., PETITIONER, VS. ROMEO M. JALOSJOS, JR.,
RESPONDENT.**

D E C I S I O N

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