

EN BANC

[G. R. No. 187478, December 21, 2009]

**REPRESENTATIVE DANILO RAMON S. FERNANDEZ, PETITIONER,
VS. HOUSE OF REPRESENTATIVES ELECTORAL TRIBUNAL AND
JESUS L. VICENTE, RESPONDENTS.**

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This petition for *certiorari* and prohibition filed under Rule 65 of the Rules of Court stems from the **Decision^[1]** in **HRET CASE No. 07-034** for *quo warranto* entitled ***Jesus L. Vicente v. Danilo Ramon S. Fernandez*** promulgated by the House of Representatives Electoral Tribunal (HRET) on December 16, 2008 as well as **Minute Resolution No. 09-080** promulgated on April 30, 2009, likewise issued by the HRET, denying petitioner's Motion for Reconsideration.

The dispositive portion of the questioned Decision reads as follows:

WHEREFORE, the Tribunal **DECLARES** respondent Danilo Ramon S. Fernandez ineligible for the Office of Representative of [the] First District of Laguna for lack of residence in the district and [**ORDERS**] him to vacate his office.

As soon as this Resolution becomes final and executory, let notices be sent to the President of the Philippines, the House of Representatives through the Speaker, and the Commission on Audit through its Chairman, pursuant to Rule 96 of the 2004 Rules of the House of Representatives Electoral Tribunal.

No pronouncement as to costs.

SO ORDERED.^[2]

On December 22, 2008, petitioner Danilo Ramon S. Fernandez (petitioner) filed a Motion for Reconsideration of the above-quoted Decision. The HRET, in the questioned Resolution, found petitioner's Motion to be "bereft of new issues/arguments that [had] not been appropriately resolved"^[3] in the Decision.

Petitioner thus applied for relief to this Court, claiming that the questioned Decision and Resolution should be declared null and void for having been respectively issued *with grave abuse of discretion amounting to lack of or in excess of jurisdiction*, and praying for the issuance of a writ of prohibition to enjoin and prohibit the HRET from implementing the questioned Decision and Resolution.^[4]

The antecedent facts are clear and undisputed.

Petitioner filed for candidacy as Representative of the **First** Legislative District of the Province of Laguna in the May 14, 2007 elections. In his Certificate of Candidacy (COC), he indicated his complete/exact address as "No. 13 Maharlika St., Villa Toledo Subdivision, Barangay Balibago, Sta. Rosa City, Laguna" (alleged Sta. Rosa residence).^[5]

Private respondent Jesus L. Vicente (private respondent) filed a "Petition to Deny Due Course to and/or Cancel Certificate of Candidacy and Petition for Disqualification" before the Office of the Provincial Election Supervisor of Laguna. This was forwarded to the Commission on Elections (COMELEC) and docketed therein as **SPA No. 07-046 (PES)**. Private respondent sought the cancellation of petitioner's COC and the latter's disqualification as a candidate on the ground of an alleged material misrepresentation in his COC regarding his place of residence, because during past elections, he had declared Pagsanjan, Laguna as his address, and Pagsanjan was located in the **Fourth** Legislative District of the Province of Laguna. Private respondent likewise claimed that petitioner maintained another house in Cabuyao, Laguna, which was also outside the First District.^[6] The COMELEC (First Division) dismissed said petition for lack of merit.^[7]

Petitioner was proclaimed as the duly elected Representative of the First District of Laguna on June 27, 2007, having garnered a total of **95,927 votes, winning by a margin of 35,000 votes** over the nearest candidate.^[8]

On July 5, 2007, private respondent filed a petition for *quo warranto* before the HRET, docketed as **HRET CASE No. 07-034**, praying that petitioner be declared ineligible to hold office as a Member of the House of Representatives representing the First Legislative District of the Province of Laguna, and that petitioner's election and proclamation be annulled and declared null and void.^[9]

Private respondent's main ground for the *quo warranto* petition was that petitioner lacked the required one-year residency requirement provided under Article VI, Section 6 of the 1987 Constitution. In support of his petition, private respondent argued that petitioner falsely declared under oath: (1) his alleged Sta. Rosa residence; (2) the period of his residence in the legislative district before May 14, 2007, which he indicated as one year and two months; and (3) his eligibility for the office where he was seeking to be elected. Private respondent presented the testimony of a certain Atty. Noel T. Tiampong, who stated that petitioner is not from the alleged Sta. Rosa residence but a resident of *Barangay Pulo*, Cabuyao, Laguna; as well as the respective testimonies of *Barangay Balibago* Health Workers who attested that they rarely, if ever, saw respondent in the leased premises at the alleged Sta. Rosa residence; and other witnesses who testified that contrary to the misrepresentations of petitioner, he is not a resident of the alleged Sta. Rosa residence. A witness testified that petitioner attempted to coerce some of the other witnesses to recant their declarations and change their affidavits. Finally, private respondent presented as witness the lawyer who notarized the Contract of Lease dated March 8, 2007 between petitioner as lessee and Bienvenido G. Asuncion as lessor.^[10]

Petitioner, as respondent in **HRET Case No. 07-034**, presented as his witnesses residents of Villa de Toledo who testified that they had seen respondent and his family residing in their locality, as well as Bienvenido G. Asuncion who testified that petitioner is the lessee in Unit No. 13 Block 1 Lot I, Maharlika St., Villa de Toledo Subdivision, Brgy. Balibago, Sta. Rosa City, Laguna. Petitioner likewise presented Mr. Joseph Wade, President of South Point Homeowner's Association of Cabuyao, Laguna, as well as Engr. Larry E. Castro (Castro), who testified that since February 2006 up to the present, petitioner had no longer been residing in his property located at Block 28, Lot 18, South Point Subdivision, Cabuyao, Laguna, and that said property was being offered for sale and temporarily being used by Castro, together with some security men of petitioner and employees of Rafters Music Lounge owned by petitioner.^[11] Petitioner testified that he had been a resident of Sta. Rosa even before February 2006; that he owned property in another Sta. Rosa subdivision (Bel-Air); that he and his wife had put up a business therein, the "RAFTERS" restaurant/ bar; and that he had prior residence in another place also at Sta. Rosa as early as 2001.^[12]

Since the HRET ruled in favor of private respondent, this petition was filed before us.

In petitioner's assignment of errors, he alleges that the HRET grievously erred and committed grave abuse of discretion:

1. In not placing on the *quo warranto* petitioner Jesus L. Vicente the burden of proving that then respondent (now petitioner) Fernandez is not a qualified candidate for Representative of the First District of the Province of Laguna;
2. When it disregarded the ruling of a co-equal tribunal in SPA No. 07-046;
3. When it added a property qualification to a Member of Congress;
4. When it determined that the petitioner failed to comply with the one (1) year residency requirement based on the contract of lease;
5. When it completely disregarded the testimonies of material witnesses;
6. When it failed to consider the intent of the petitioner to transfer domicile based on the totality of the evidence adduced; and
7. When it failed to find the petitioner in HRET Case No. 07-034 guilty of forum-shopping.^[13]

On the first assignment of error, petitioner questions the following pronouncement of the HRET in its decision:

In the case before us, petitioner has clearly asserted, and respondent does not deny, that his domicile of origin is Pagsanjan in the Fourth District of Laguna. Hence, the burden is now on respondent to prove that he has abandoned his domicile of origin, or since his birth, where he formerly ran for provincial Board Member of Laguna in 1998, for Vice-

Governor of Laguna in 2001 and for Governor of Laguna in 2004. In all his Certificates of Candidacy when he ran for these positions, he indicated under oath that his domicile or permanent residence was in Pagsanjan in the Fourth District of Laguna, not in the First District where he later ran in the last elections.^[14]

Petitioner contends that "it is a basic evidentiary rule that the burden of proof is on he who alleges, and he who relies on such an allegation as his cause of action should prove the same."^[15] Since private respondent is the party alleging that petitioner is not eligible for his position, it is therefore incumbent on the former, who filed the *quo warranto* case before the HRET, to prove such allegation. He cites in support of his contention Sec. 1, Rule 131 of the Rules of Court, to wit:

SECTION 1. *Burden of proof* . -- Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law.

Petitioner avers that private respondent failed to establish his claim and to adduce evidence sufficient to overcome petitioner's eligibility to be a candidate for Representative of the First District of Laguna.

On the second assignment of error, petitioner submits that the HRET should have been "guided and/or cautioned" by the COMELEC's dispositions in **SPA No. 07-046**, wherein he was adjudged as qualified to run for the position of Congressman of the First District of Laguna by an agency tasked by law and the Constitution to ascertain the qualifications of candidates before election. Petitioner claims that the HRET should have *respected* the findings of the COMELEC and should have discreetly denied the petition.

On the third assignment of error, petitioner argues that under Article V, Section 1, of the 1987 Constitution, any citizen of the Philippines who is a qualified voter may likewise, if so qualified under the appertaining law and the constitution, be able to run and be voted for as a candidate for public office. Said provision reads:

SECTION 1. Suffrage may be exercised by all citizens of the Philippines not otherwise disqualified by law, who are at least eighteen years of age, and who shall have resided in the Philippines for at least one year and in the place wherein they propose to vote for at least six months immediately preceding the election. **No literacy, property, or other substantive requirement shall be imposed on the exercise of suffrage.**

Petitioner alleges that in the questioned Decision, the HRET added a new qualification requirement for candidates seeking election to the position of Member of the House of Representatives, and that is, they must be real property owners in the legislative district where they seek election.

On the fourth assignment of error, petitioner addresses private respondent's

arguments against the contract of lease that he presented as part of the proof of his compliance with the residency requirement. Petitioner asserts that the nomenclature used by contracting parties to describe a contract does not determine its nature, but the decisive factor is the intention of the parties to a contract - as shown by their conduct, words, actions, and deeds - prior to, during and after executing the agreement.^[16] Petitioner claims that he has presented ample proof of his residency in terms of evidence more numerous and bearing more weight and credibility than those of private respondent. He proceeds to highlight some of the evidence he offered in the *quo warranto* case that allegedly prove that his transfer of residence and intention to reside in Sta. Rosa were proven by his stay in Villa de Toledo, to wit: (1) even earlier than 2006, he had purchased a house and lot in Bel-Air Subdivision in Sta. Rosa which he rented out because he was not yet staying there at that time; (2) he sent his children to schools in Sta. Rosa as early as 2002; and (3) he and his wife established a restaurant business there in 2003. Petitioner contends that when he and his family moved to Sta. Rosa by initially renting a townhouse in Villa de Toledo, it cannot be said that he did this only in order to run for election in the First Legislative District.^[17]

As regards the alleged infirmities characterizing the execution of the contract of lease and the renewal of said contract of lease, petitioner contends that these are not material since the lessor, Bienvenido Asuncion, affirmed his stay in his townhouse; the neighbors and other barangay personalities confirmed his and his family's stay in their area; and petitioner has continued actual residence in Sta. Rosa from early 2006 to the present. Petitioner claims that all these prove that he had effectively changed his residence and could therefore likewise transfer his voter's registration from Pagsanjan to Sta. Rosa under Sec. 12 of R.A. No. 8189.^[18] Petitioner also alleges that he had become qualified to seek elective office in his new place of residence and registration as a voter.

To further prove that he has made Sta. Rosa his domicile of choice from early 2006 to the present, petitioner points out that he and his wife had purchased a lot in the same area, Villa de Toledo, on April 21, 2007, built a house thereon, and moved in said house with their family.

Regarding the non-notarization of the contract of lease raised by private respondent, petitioner avers that this "does not necessarily nullify nor render the parties' transaction void *ab initio*."^[19]

On the fifth assignment of error, petitioner alleges that the HRET relied on private respondent's witnesses in negating petitioner's claim that he had validly resided at the alleged Sta. Rosa residence for more than one year and two months prior to the May 14, 2007 elections, and did not touch on the testimonies of his witnesses. The questioned Decision pointed out petitioner's alleged non-appearance in the day-to-day activities of the Homeowners' Association and considered this as failure to prove that he is a resident of Villa de Toledo, without considering the fact that private respondent failed to discharge the burden of proof in support of his indictment against petitioner.

On the sixth assignment of error, petitioner claims that the questioned Decision was arrived at based on the perceived weakness of his evidence and arguments as respondent, instead of the strength of private respondent's own evidence and