

686 Phil. 563

EN BANC

[G.R. No. 191970. April 24, 2012]

ROMMEL APOLINARIO JALOSJOS, PETITIONER, VS. THE COMMISSION ON ELECTIONS AND DAN ERASMO, SR., RESPONDENTS.

D E C I S I O N

ABAD, J.:

This case is about the proof required to establish the domicile of a reinstated Filipino citizen who seeks election as governor of a province.

The Facts and the Case

Petitioner Rommel Jalosjos was born in Quezon City on October 26, 1973. He migrated to Australia in 1981 when he was eight years old and there acquired Australian citizenship. On November 22, 2008, at age 35, he decided to return to the Philippines and lived with his brother, Romeo, Jr., in Barangay Veteran's Village, Ipil, Zamboanga Sibugay. Four days upon his return, he took an oath of allegiance to the Republic of the Philippines, resulting in his being issued a Certificate of Reacquisition of Philippine Citizenship by the Bureau of Immigration.^[1] On September 1, 2009 he renounced his Australian citizenship, executing a sworn renunciation of the same^[2] in compliance with Republic Act (R.A.) 9225.^[3]

From the time of his return, Jalosjos acquired a residential property in the same village where he lived and a fishpond in San Isidro, Naga, Zamboanga Sibugay. He applied for registration as a voter in the Municipality of Ipil but respondent Dan Erasmo, Sr., the Barangay Captain of Barangay Veteran's Village, opposed the same. Acting on the application, the Election Registration Board approved it and included Jalosjos' name in the Commission on Elections' (COMELEC's) voters list for Precinct 0051F of Barangay Veterans Village, Ipil, Zamboanga Sibugay.^[4]

Undaunted, Erasmo filed before the 1st Municipal Circuit Trial Court (MCTC) of Ipil-Tungawan-R.T. Lim in Ipil a petition for the exclusion of Jalosjos' name from the official voters list. After hearing, the MCTC rendered a decision, denying the petition.^[5] On appeal,^[6] the Regional Trial Court (RTC) affirmed the MCTC decision. The RTC decision became final and executory.

On November 28, 2009 Jalosjos filed his Certificate of Candidacy (COC) for Governor of Zamboanga Sibugay Province for the May 10, 2010 elections. Erasmo promptly filed a petition to deny due course or to cancel Jalosjos' COC^[7] on the ground that the latter made material misrepresentation in the same since he failed to comply with (1) the requirements of R.A. 9225 and (2) the one-year residency requirement of the Local Government Code.

After hearing, the Second Division of the COMELEC ruled that, while Jalosjos had regained Philippine citizenship by complying with the requirements of R.A. 9225, he failed to prove the residency requirement for a gubernatorial candidate. He failed to present ample proof of a *bona fide* intention to establish his domicile in Ipil, Zamboanga Sibugay. On motion for reconsideration, the COMELEC En Banc affirmed the Second Division's decision, ruling that Jalosjos had been a mere guest or transient visitor in his brother's house and, for this reason, he cannot claim Ipil as his domicile.

Acting on Jalosjos' prayer for the issuance of a temporary restraining order, the Court resolved on May 7, 2010 to issue a status quo ante order, enjoining the COMELEC from enforcing its February 11, 2010 decision pending further orders. Meanwhile, Jolosjos won the election and was proclaimed winner of the 2010 gubernatorial race in the Province of Zamboanga Sibugay.^[8]

The Issue Presented

The sole issue presented in this case is whether or not the COMELEC acted with grave abuse of discretion amounting to lack or excess of jurisdiction in ruling that Jalosjos failed to present ample proof of a *bona fide* intention to establish his domicile in Ipil, Zamboanga Sibugay.

The Court's Ruling

The Local Government Code requires a candidate seeking the position of provincial

governor to be a resident of the province for at least one year before the election.^[9] For purposes of the election laws, the requirement of residence is synonymous with domicile,^[10] meaning that a person must not only intend to reside in a particular place but must also have personal presence in such place coupled with conduct indicative of such intention.^[11]

There is no hard and fast rule to determine a candidate's compliance with residency requirement since the question of residence is a question of intention.^[12] Still, jurisprudence has laid down the following guidelines: (a) every person has a domicile or residence somewhere; (b) where once established, that domicile remains until he acquires a new one; and (c) a person can have but one domicile at a time.^[13]

It is inevitable under these guidelines and the precedents applying them that Jalosjos has met the residency requirement for provincial governor of Zamboanga Sibugay.

One. The COMELEC appears hasty in concluding that Jalosjos failed to prove that he successfully changed his domicile to Zamboanga Sibugay. The COMELEC points out that, since he was unable to discharge the burden of proving Zamboanga Sibugay to be his rightful domicile, it must be assumed that his domicile is either Quezon City or Australia.

But it is clear from the facts that Quezon City was Jalosjos' domicile of origin, the place of his birth. It may be taken for granted that he effectively changed his domicile from Quezon City to Australia when he migrated there at the age of eight, acquired Australian citizenship, and lived in that country for 26 years. Australia became his domicile by operation of law and by choice.^[14]

On the other hand, when he came to the Philippines in November 2008 to live with his brother in Zamboanga Sibugay, it is evident that Jalosjos did so with intent to change his domicile for good. He left Australia, gave up his Australian citizenship, and renounced his allegiance to that country. In addition, he reacquired his old citizenship by taking an oath of allegiance to the Republic of the Philippines, resulting in his being issued a Certificate of Reacquisition of Philippine Citizenship by the Bureau of Immigration. By his acts, Jalosjos forfeited his legal right to live in Australia, clearly proving that he gave up his domicile there. And he has since lived nowhere else except in Ipil, Zamboanga Sibugay.

To hold that Jalosjos has not establish a new domicile in Zamboanga Sibugay despite the loss of his domicile of origin (Quezon City) and his domicile of choice and by operation of law (Australia) would violate the settled maxim that a man must have a domicile or residence somewhere.

Two. The COMELEC concluded that Jalosjos has not come to settle his domicile in Ipil since he has merely been staying at his brother's house. But this circumstance alone cannot support such conclusion. Indeed, the Court has repeatedly held that a candidate is not required to have a house in a community to establish his residence or domicile in a particular place. It is sufficient that he should live there even if it be in a rented house or in the house of a friend or relative.^[15] To insist that the candidate own the house where he lives would make property a qualification for public office. What matters is that Jalosjos has proved two things: actual physical presence in Ipil and an intention of making it his domicile.

Jalosjos presented the affidavits of next-door neighbors, attesting to his physical presence at his residence in Ipil. These adjoining neighbors are no doubt more credible since they have a better chance of noting his presence or absence than his other neighbors, whose affidavits Erasmo presented, who just sporadically passed by the subject residence. Further, it is not disputed that Jalosjos bought a residential lot in the same village where he lived and a fish pond in San Isidro, Naga, Zamboanga Sibugay. He showed correspondences with political leaders, including local and national party-mates, from where he lived. Moreover, Jalosjos is a registered voter of Ipil by final judgment of the Regional Trial Court of Zamboanga Sibugay.

Three. While the Court ordinarily respects the factual findings of administrative bodies like the COMELEC, this does not prevent it from exercising its review powers to correct palpable misappreciation of evidence or wrong or irrelevant considerations.^[16] The evidence Jalosjos presented is sufficient to establish Ipil, Zamboanga Sibugay, as his domicile. The COMELEC gravely abused its discretion in holding otherwise.

Four. Jalosjos won and was proclaimed winner in the 2010 gubernatorial race for Zamboanga Sibugay. The Court will respect the decision of the people of that province and resolve all doubts regarding his qualification in his favor to breathe life to their manifest will.

WHEREFORE, the Court **GRANTS** the petition and **SETS ASIDE** the Resolution of the COMELEC Second Division dated February 11, 2010 and the Resolution of the COMELEC En Banc dated May 4, 2010 that disqualified petitioner Rommel Jalosjos from seeking election as Governor of Zamboanga Sibugay.

SO ORDERED.

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

^[1] *Rollo*, p. 110.

^[2] *Id.* at 112.

^[3] An Act making the Citizenship of the Philippines who acquire Foreign Citizenship permanent, amending for the purpose Commonwealth Act 63, as amended and for other purposes.

^[4] *Rollo*, p. 111.

^[5] Docketed as Election Case 589.

^[6] Docketed as RTC Election Case 0007-2K9.

^[7] Docketed as SPA 09-115 (DC).

^[8] *Rollo*, p. 445.

^[9] Republic Act 7160, Section 39.

^[10] Domicile is classified into: (a) domicile of origin, which is acquired by every person at birth; (b) domicile of choice, which is acquired upon abandonment of the domicile of origin; and (c) domicile by operation of law, which attributes to a person independently of his residence or intention (See *Ugdoracion, Jr. v. Commission on Elections*, G.R. No. 179851, April 18, 2008, 552 SCRA 231, 240-241).

^[11] *Limbona v. Commission on Elections*, G.R. No. 181097, June 25, 2008, 555 SCRA 391, 401.

^[12] *Id.* at 402.

^[13] *Pundaodaya v. Commission on Elections*, G.R. No. 179313, September 17, 2009, 600 SCRA 178, 184-185.

^[14] See *Caasi v. Court of Appeals*, G.R. Nos. 88831 and 84508, November 8, 1990, 191 SCRA

229, 235.

^[15] *Co v. Electoral Tribunal of the House of Representatives*, G.R. Nos. 92191-92 and 92202-03, July 30, 1991, 199 SCRA 692, 715, citing *De los Reyes v. Solidum*, 61 Phil. 893, 899 (1935).

^[16] *Mitra v. Commission on Elections*, G.R. No. 191938, July 2, 2010, 622 SCRA 744, 767.

Date created: April 14, 2016