

## EN BANC

[ G.R. No. 224302, August 08, 2017 ]

**HON. PHILIP A. AGUINALDO, HON. REYNALDO A. ALHAMBRA, HON. DANILO S. CRUZ, HON. BENJAMIN T. POZON, HON. SALVADOR V. TIMBANG, JR., and the INTEGRATED BAR OF THE PHILIPPINES (IBP), Petitioners, vs. HIS EXCELLENCY PRESIDENT BENIGNO SIMEON C. AQUINO III, HON. EXECUTIVE SECRETARY PAQUITO N. OCHOA, HON. MICHAEL FREDERICK L. MUSNGI, HON. MA. GERALDINE FAITH A. ECONG, HON. DANILO S. SANDOVAL, HON. WILHELMINA B. JORGE-WAGAN, HON. ROSANA FE ROMERO-MAGLAYA, HON. MERIANTHE PACITA M. ZURAEK, HON. ELMO M. ALAMEDA, and HON. VICTORIA C. FERNANDEZ-BERNARDO, Respondents.**

**JUDICIAL AND BAR COUNCIL, Intervenor.**

### RESOLUTION

**LEONARDO-DE CASTRO, J.:**

In its Decision dated November 29, 2016, the Court *En Banc* held:

**WHEREFORE**, premises considered, the Court **DISMISSES** the instant Petition for *Quo Warranto* and *Certiorari* and Prohibition for lack of merit. The Court **DECLARES** the clustering of nominees by the Judicial and Bar Council **UNCONSTITUTIONAL**, and the appointments of respondents Associate Justices Michael Frederick L. Musngi and Geraldine Faith A. Econg, together with the four other newly-appointed Associate Justices of the Sandiganbayan, as **VALID**. The Court further **DENIES** the Motion for Intervention of the Judicial and Bar Council in the present Petition, but **ORDERS** the Clerk of Court *En Banc* to docket as a separate administrative matter the new rules and practices of the Judicial and Bar Council which the Court took cognizance of in the preceding discussion as **Item No. 2**: the deletion or non-inclusion in JBC No. 2016-1, or the Revised Rules of the Judicial and Bar Council, of Rule 8, Section 1 of JBC-009; and **Item No. 3**: the removal of incumbent Senior Associate Justices of the Supreme Court as consultants of the Judicial and Bar Council, referred to in pages 35 to 40 of this Decision. The Court finally **DIRECTS** the Judicial and Bar Council to file its comment on said Item Nos. 2 and 3 within thirty (30) days from notice.

The Judicial and Bar Council (JBC) filed a Motion for Reconsideration (with Motion for the Inhibition of the *Ponente*) on December 27, 2016 and a Motion for Reconsideration-in-Intervention (of the Decision dated 29 November 2016) on February 6, 2017.

The Court, in a Resolution dated February 21, 2017, denied both Motions in this wise:

**WHEREFORE**, premises considered, except for its motion/prayer for intervention, which the Court has now granted, the Motion for Reconsideration (with Motion for the Inhibition of the *Ponente*) and the Motion for Reconsideration-in-Intervention (Of the Decision dated 29 November 2016) of the Judicial and Bar Council are **DENIED** for lack of merit.<sup>[1]</sup> (Underscoring supplied.)

Presently for resolution of the Court are the following Motions of the JBC: (a) Motion for Reconsideration of the Resolution dated 21 February 2017 (MR-Resolution), filed on March 17, 2017; and (b) Motion to Admit Attached Supplement to Motion for Reconsideration of the Resolution dated 21 February 2017 and the Supplement to Motion for Reconsideration of the Resolution dated 21 February 2017 (Supplement-MR-Resolution) filed on March 24, 2017.

The aforementioned MR-Resolution and Supplement-MR-Resolution lack merit given the admission of the JBC itself in its previous pleadings of lack of consensus among its own members on the validity of the clustering of nominees for the six simultaneous vacancies in the Sandiganbayan, further bolstering the unanimous decision of the Court against the validity of such clustering. The lack of consensus among JBC members on the validity of the clustering also shows that the *ponente's* decision in this case did not arise from personal hostility - or any other personal consideration - but solely from her objective evaluation of the adverse constitutional implications of the clustering of the nominees for the vacant posts of Sandiganbayan Associate Justice.

The JBC contends in its MR-Resolution that since JBC consultants receive monthly allowance from the JBC, then "[o]bviously, JBC consultants should always favor or take [the] side [of] the JBC. Otherwise, there will be conflict of interest on their part."<sup>[2]</sup> While the *ponente* indeed received monthly allowance from the JBC for the period she served as consultant, her objectivity would have been more questionable and more of a ground for her inhibition if she had received the allowance **and** decided the instant case in favor of the JBC.

It bears to stress that the Court also unanimously held in its Resolution dated February 21, 2017 that there is no factual or legal basis for the *ponente* to inhibit herself from the present case. Worth reiterating below is the *ponente's* explanation in the Resolution dated February 21, 2017 that there was no conflict of interest on her part in rendering judgment in this case, and even in her voting in *Jardeleza v. Sereno*,<sup>[3]</sup> considering that she had absolutely no participation in the decisions made by the JBC that were challenged before this Court in both cases:

As previously mentioned, it is the practice of the JBC to hold executive sessions when taking up sensitive matters. The *ponente* and Associate Justice Velasco, incumbent Justices of the Supreme Court and then JBC consultants, as well as other JBC consultants, were excluded from such executive sessions. Consequently, the *ponente* and Associate Justice Velasco were unable to participate in and were kept in the dark on JBC proceedings/decisions, particularly, on matters involving the nomination of candidates for vacancies in the appellate courts and the Supreme