



**Republic of the Philippines  
Supreme Court  
Manila**

EN BANC

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,

- versus -

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.

G.R. No. 224302

Present:

SERENO, *CJ.*,  
CARPIO,  
VELASCO, JR.,  
LEONARDO-DE CASTRO,  
PERALTA,  
BERSAMIN,  
DEL CASTILLO,  
MENDOZA,  
PERLAS-BERNABE,  
LEONEN,  
JARDELEZA,  
CAGUIOA,  
MARTIRES,  
TIJAM,\* and  
REYES, JR., *JJ.*

Promulgated:

August 8, 2017

*[Signature]*

X-----X

**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

\* No part.

*[Signature]*

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.

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<sup>1</sup> *Rollo*, p. 358.

*mth*

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 Court. The matter of the nomination to the Supreme Court of now Supreme Court Associate Justice Francis H. Jardeleza (Jardeleza), which became the subject matter of *Jardeleza v. Sereno*, was taken up by the JBC in such an executive session. This *ponente* also does not know when and why the JBC deleted from JBC No. 2016-1, “The Revised Rules of the Judicial and Bar Council,” what was Rule 8, Section 1 of JBC-009, the former JBC Rules, which gave due weight and regard to the recommendees of the Supreme Court for vacancies in the Court. The amendment of the JBC Rules could have been decided upon by the JBC when the *ponente* and Associate Justice Velasco were already relieved by Chief Justice Sereno of their duties as consultants of the JBC. The JBC could have similarly taken up and decided upon the clustering of nominees for the six vacant posts of Sandiganbayan Associate Justice during one of its executive sessions prior to October 26, 2015.

Hence, even though the *ponente* and the other JBC consultants were admittedly present during the meeting on October 26, 2015, the clustering of the nominees for the six simultaneous vacancies for Sandiganbayan Associate Justice was already *fait accompli*. Questions as to why and how the JBC came to agree on the clustering of nominees were no longer on the table for discussion during the said meeting. As the minutes of the meeting on October 26, 2015 bear out, the JBC proceedings focused on the voting of nominees. It is stressed that the crucial issue in

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<sup>2</sup> Id. at 384.

<sup>3</sup> 741 Phil. 460 (2014).

*nmh*

the present case pertains to the clustering of nominees and not the nomination and qualifications of any of the nominees. This *ponente* only had the opportunity to express her opinion on the issue of the clustering of nominees for simultaneous and closely successive vacancies in collegiate courts in her *ponencia* in the instant case. As a Member of the Supreme Court, the *ponente* is duty-bound to render an opinion on a matter that has grave constitutional implications.<sup>4</sup>

Since all the basic issues raised in the case at bar had been thoroughly passed upon by the Court in its Decision dated November 29, 2016 and Resolution dated February 21, 2017, the Court need not belabor them any further.

Considering the foregoing, the Court resolves to **DENY** for lack of merit the Motion for Reconsideration of the Resolution dated 21 February 2017 and Supplement to Motion for Reconsideration of the Resolution dated 21 February 2017 of the Judicial and Bar Council.

No further pleadings will be entertained.

Let entry of judgment be made in due course.

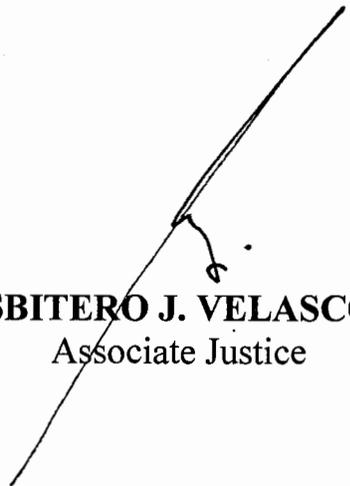
**SO ORDERED.**

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

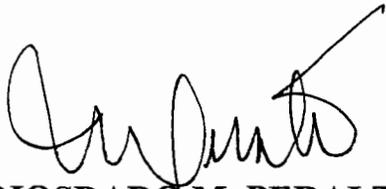
WE CONCUR:

No part  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

  
**ANTONIO T. CARPIO**  
Senior Associate Justice, Presiding

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice

<sup>4</sup> Rollo, pp. 343-344.

  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

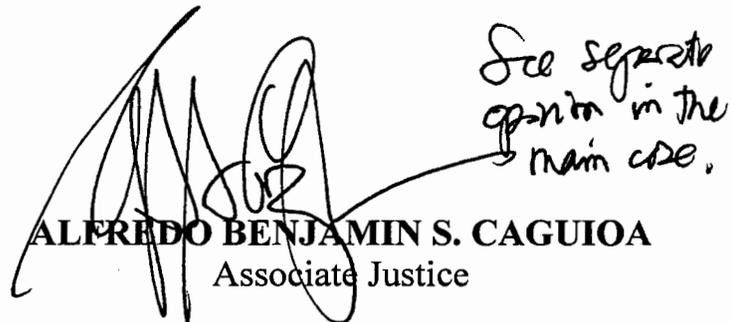
  
**JOSE CATRAL MENDOZA**  
Associate Justice

*See separate opinion in  
the main decision*

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

  
**MARVIC M.V.F. LEONEN**  
Associate Justice

  
**FRANCIS H. JARDELEZA**  
Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

*See separate  
opinion in the  
main case.*

  
**SAMUEL R. MARTIRES**  
Associate Justice

~~(NO PART)~~  
  
**NOEL GOMEZ TIJAM**  
Associate Justice

  
**ANDRES B. REYES, JR.**  
Associate Justice

**CERTIFICATION**

Pursuant to Article VIII, Section 13 of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



**ANTONIO T. CARPIO**  
Senior Associate Justice

CERTIFIED XEROX COPY:  
  
**FELIPA B. ANAMA**  
CLERK OF COURT, EN BANC  
SUPREME COURT