

EN BANC

A.M. No. 17-07-05-SC (Re: Memorandum dated July 10, 2017 from Associate Justice Teresita J. Leonardo-De Castro); and A.M. No. 18-02-13-SC (Re: Letter of Resignation of Atty. Brenda Jay Angeles Mendoza, PHILJA Chief of Office for the Philippine Mediation Center)

Promulgated:

July 3, 2018

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SEPARATE OPINION

VELASCO, JR., J.:

It is clear that the 1987 Constitution vests the power of appointment within the judiciary in the Supreme Court. Article VIII, Section 5(6) provides:

Section 5. The Supreme Court shall have the following powers:

x x x x

(6) Appoint all officials and employees of the Judiciary in accordance with the Civil Service Law.

Nonetheless, such power may be delegated and the Court resolved to delegate this power to its three divisions, or their Chairpersons, or to the Chief Justice alone. Consequently, on April 22, 2003, this Court issued its Resolution in A.M. No. 99-12-08-SC, entitled "Referral of Administrative Matters and Cases to the Divisions of the Court, The Chief Justice, and to the Chairmen of the Divisions for Appropriate Action or Resolution" (A.M. No. 99-12-08-SC (Revised)).

A.M. No. 99-12-08-SC (Revised) empowers the Chairmen of the Divisions to act for and in behalf of the Court *En Banc* in rendering the appropriate action or resolution of administrative matters relating to, or in connection with the "appointment of regular (including coterminous), temporary, casual, or contractual personnel in the Supreme Court, Court of Tax Appeals, Sandiganbayan, Court of Tax Appeals, the Lower Courts (including the Sharia'h courts), the Philippine Judicial Academy (PHILJA), and the Judicial and Bar Council (JBC); officers and members of existing committees; and consultants."¹

¹ Section II(a), A.M. No. 99-12-08-SC (Revised).

The delegation of this appointing power was even reiterated by the Court *En Banc* in its Resolution dated August 10, 2010 in A.M. No. 10-4-13-SC, to wit:

NOW THEREFORE, the Court hereby **RESOLVES**

x x x x

III. To maintain the **STATUS QUO**, or, in other words, follow existing rules and procedure for the following administrative and financial management functions and authorities:

1. x x x
2. Appointment of personnel.

Likewise, in Chapter Two of the Supreme Court Human Resource Manual (SC HR Manual), entitled Personnel Policies and Procedures, which was approved by the Court *En Banc* as A.M. No. 00-6-1-SC dated January 31, 2012, it was stated that in filling career positions, the Chief Justice shall assess the merits of the Selection and Promotion Board's recommendation for appointment and in the exercise of his sound discretion and with the concurrence of the Chairpersons of the Divisions, pursuant to A.M. No. 99-12-08-SC, select the candidate who is most qualified for appointment to the position. The selection of appointees to third-level positions which have been classified as highly technical and/or policy determining pursuant to A.M. No. 05-9-29-SC dated September 27, 2005 shall be made by the Chief Justice with the concurrence of the Chairmen of the Divisions.

Taking into consideration the above-mentioned law and issuances, there is no doubt that the Court *En Banc* has delegated the power to appoint personnel to the Chief Justice with the concurrence of the Chairpersons of the Divisions. As such, it is humbly submitted that the appointment of Atty. Brenda Jay A. Mendoza (Atty. Mendoza) as PHILJA Chief of Office for the Philippine Mediation Center was validly made in accordance with the rules and practice.

Moreover, Atty. Mendoza was qualified and recommended by the PHILJA, through Chancellor Justice Azcuna, to be appointed for the vacant position, to wit:

After due deliberation, Atty. Brenda Jay Angeles-Mendoza topped the screening process, with a rating of 93.96%. With her commendable educational background, training and experience, both in law and in alternative dispute resolution, we highly recommend Atty. Mendoza as PHILJA Chief of Office for Philippine Mediation Center (PMC).

The undersigned relied in good faith that there was compliance with the pertinent rules for the appointment of Atty. Mendoza because of the recommendation of Chancellor Justice Azcuna.



Furthermore, as stated by Acting Chancellor Justice Callejo in his Comment dated October 27, 2017, the recommendation of Chancellor Justice Azcuna was fully compliant with Section 2(B) of Administrative Order No. 33-2008 which states that the **PHILJA** may only recommend the PHILJA Chief of Office for the Philippine Mediation Center to the Supreme Court. The said provision does not specifically indicate that the recommendation for the position of the PHILJA Chief of Office for the Philippine Mediation Center must come only from the PHILJA Board of Trustees. Thus, as Acting Chancellor Justice Callejo opined, it is clear that Section 2(B) of Administrative Order No. 33-2008 authorizes the following: (1) Chair and Members of the PHILJA Board of Trustees; and/or (2) Chancellor Justice Azcuna; and/or (3) the other executive officials of the PHILJA. Any of them can recommend to the Supreme Court their nominees for appointment of PHILJA Chief of Office for the Philippine Mediation Center. Hence, the Chief Justice and the Chairpersons of the Supreme Court may rely on the report and recommendation made by Chancellor Justice Azcuna in the appointment of Atty. Mendoza because it is already compliant with Administrative Order No. 33-2008.

From the foregoing, it is submitted that the appointment of Atty. Mendoza is legal and valid. Indeed, it should be upheld. To do otherwise, will cause unnecessary harm and injustice to Atty. Mendoza who stands to be innocent and who has made major accomplishments during her stint in the Philippine Mediation Center as PHILJA Chief of Office for one year and eight months. It is likewise respectfully submitted that any interpretation or clarification of the above-mentioned rules and issuances should be applied prospectively to be fair and reasonable under the circumstances.

In view of the resignation of Atty. Mendoza as PHILJA Chief of Office for the Philippine Mediation Center Office, I submit that this matter be considered closed and terminated.



PRESBITERO J. VELASCO, JR.
Associate Justice

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court