EN BANC

G.R. No. 237428 **REPUBLIC OF THE PHILIPPINES, REPRESENTED BY SOLICITOR GENERAL JOSE C. CALIDA, *Petitioner*, v. MARIA LOURDES P. A. SERENO, *Respondent*.**

Promulgated:

May 11, 2018

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CONCURRING OPINION

LEONARDO-DE CASTRO, *J.*:

I **DENY** the motion for my inhibition and concur with the **GRANT** of the Petition for *Quo Warranto*.

It is not my personal interest or actual bias but the common interest of every incumbent Member of the Court to find the truth in whether or not respondent Maria Lourdes P. A. Sereno has the integrity to qualify her to hold the highest position in the Judiciary. Did she employ deceit regarding her Sworn Statement of Assets, Liabilities and Net Worth (SALN) in order to be included by the Judicial and Bar Council (JBC) in the shortlist of nominees for the Chief Justice position? Of this I had no personal knowledge and had to ask the question ("*ang tanong*") during the hearing at the Committee on Justice of the House of Representatives, if indeed she did not submit her SALNs to the JBC and if the JBC unduly exempted her from this requirement. The question was never answered because respondent refused to appear at the hearings before the House of Representatives Committee on Justice. It is only in the proceedings of the instant Petition for *Quo Warranto* where respondent voluntarily appeared that we can ferret out the truth regarding the grave integrity issue raised against her.

I testified before the House of Representatives Committee on Justice, not as a complainant but as a resource person who must tell the truth, and I did so, based on authentic and official court records. I was merely invited by the said Committee, along with other incumbent and retired Supreme Court Associate Justices, as a resource person in the investigation. I had been duly authorized by the Court *en banc* during the *en banc* session on November 28, 2017 to testify on administrative matters and specific adjudication matters[1] subject of the impeachment complaint.

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[1] The Court Resolution dated November 28, 2017 pertinently states:

NOW, THEREFORE, the Court *En Banc* hereby authorizes the invited officials and Justices to so appear and testify, if they wish to do so, under the following conditions:

x x x x

I truthfully answered questions about respondent's **falsification** of a Supreme Court Resolution and Order; her **manipulation** of the JBC processes during the screening of applicants to the position vacated by Supreme Court Associate Justice Roberto A. Abad (Abad), her **false narration** of facts in a letter she sent to each of the Justices to prevent their exercise of a function vested in them by the JBC Rules; and the **unconstitutional** clustering of nominees for the six new Associate Justices of the Sandiganbayan, adopted during her incumbency as Chairperson of the JBC.

Respondent's Motion for Inhibition against me utterly lacks basis.

Respondent's Motion for Inhibition against me is not spared of her **blatant lies**. In her said Motion, respondent alleged that:

> 15. On 27 August 2012, the first working day after the Chief Justice was sworn into office, she contacted the Associate Justices of the Supreme Court either by telephone or by personally visiting each of them at their respective offices to request their cooperation. When she came to Justice Leonardo-De Castro's office, she was told by Justice Leonardo-De Castro: "*I will never forgive you for having accepted the Chief Justiceship. You should never have even applied for it. You're not even a friend of PNoy. Buti pa si Bojie, he had the decency to refuse the appointment when it was being offered to him.*" (Bojie refers to Associate Justice Bienvenido Reyes, Jr.) The Chief Justice replied that she still hoped that she could have Justice Leonardo-De Castro's cooperation. The statement is more or less an accurate recount of what Justice Leonardo-De Castro told the Chief Justice.

The aforequoted alleged conversation between respondent and me, which she claimed was "[b]ased on the honest recollection of the Chief Justice"[2] **NEVER HAPPENED.**

Respondent was appointed and sworn in as Chief Justice on August 24, 2012, a Friday. While respondent was rumored to be going around to see the Justices on August 27, 2012, in the morning of the following Monday, I

> 3. Justice Teresita J. Leonardo-De Castro of this Court may testify on administrative matters, and on adjudicatory matters only in the following cases:
>
> a. G.R. Nos. 206844-45 (*Coalition of Association of Senior Citizens in the Philippines Party List v. Commission on Elections*): Justice Leonardo-De Castro may testify only on the issuance of the Temporary Restraining Order and on the exchange of communications between Chief Justice Sereno and Justice Leonardo-De Castro, but not on the deliberations of the *En Banc* in this case;
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> b. G.R. No. 224302 (*Hon. Philip Aguinaldo, et al. v. President Benigno S. Aquino III*): Justice Leonardo-De Castro may testify only on the merits of her *ponencia* but not on the deliberations of the *En Banc* in this case;
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> c. G.R. No. 213181 (*Francis H. Jardeleza v. Chief Justice Maria Lourdes P.A. Sereno*): Justice Leonardo-De Castro may testify only on the merits of her separate concurring opinion, but not on the deliberations of the Court in this case.

[2] Footnote no. 27 of Respondent's *Ad Cautelam* Respectful Motion for Inhibition (Of the Hon. Associate Justice Teresita J. Leonardo-De Castro).

was not at my chambers at that time and we did not have the chance to talk at all. According to my staff, they heard someone had opened the door, closed it right away, and left because there was no one in the reception area as it was too early in that morning before the flag ceremony.

The first time respondent and I saw each other after her appointment as Chief Justice was at the Court *en banc* session on Tuesday, August 28, 2012. Respondent expressed delight that all the incumbent Justices, all mindful of their official duties and very professional, were present at the first *en banc* session she would preside over. All that I said was: "It is our Constitutional duty." The Court *en banc* then proceeded to deliberate on the agenda items and the deliberations went on smoothly without any untoward incident.

It was only later when respondent had **falsified** a Court Resolution and a temporary restraining order (TRO) that I thought that a decent person like Supreme Court Associate Justice Bienvenido L. Reyes, Jr. (Reyes) would have been a better Chief Justice if he only aspired for the position, as it was widely reported that he was the first choice of then President Benigno Simeon C. Aquino III (Aquino). However, I **will not** say and, in fact, **have not** said that to respondent. Every lawyer or Member of the Court ought to know that since respondent was included in the JBC shortlist of nominees, President Aquino could appoint her to the Chief Justice position. Accepting the appointment by a nominee to the highest office in the Judiciary is to be expected and should come as a matter of course. I was not in a position to give or withhold forgiveness for respondent's acceptance of the appointment. Respondent's accusation against me is but a figment of her imagination. She lied once again as she did many times even under oath **without remorse or guilt feelings.**

I have been publicly maligned and accused to be bitter about not being appointed as Supreme Court Chief Justice. Due to this, I am forced to reveal that when I applied for the post of Chief Justice, after a battery of written tests and interviews by the JBC psychiatrist and psychologist, I had been given the highest psychiatric and psychological numerical rating of one ("1"), with the following verbal description: "[d]efenses are predominantly adaptive and healthy. Clinically assessed as having a superior functioning in a wide range of activities. Life's problems never seem to get out of hand, is sought by others because of many positive qualities." And true to said test result, I have never dwelled on not being appointed as Supreme Court Chief Justice and continued to work productively as an Associate Justice.

For years now, respondent and I have had a generally professional relationship and I have been exerting my best as a Supreme Court Associate Justice, as the Working Chairperson of the Supreme Court First Division of which respondent is the Chairperson, and with utmost dedication, I continue to serve as the Chairperson of the Supreme Court committees assigned to me

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by respondent, namely, the Committee on Gender Responsiveness in the Judiciary and the Committee on Family Courts and Juvenile Concerns.

The disagreements between respondent and me are clearly not personal but work-related, arising from instances when I called the Court's attention that respondent **bypassed** the Court *en banc*, **falsified** a Court Resolution and Order, and **misled or lied** to us, her colleagues in the Supreme Court. My intention was to correct the wrong done, not to rebuke or shame respondent, and only to remind her that she should not repeat the same as it will not always escape the attention of the Justices.

Hereunder are legitimate subjects of concern to the Court, of which the Supreme Court *en banc* Resolution authorized me to testify on at the House of Representatives Committee on Justice:

(a) Respondent's creation of the JDO in the 7th Judicial Region without knowledge and approval of the Court *en banc* and falsification of a Court resolution to make it appear that the Court *en banc* ratified the operation of the JDO, under the pretext of reviving the RCAO in the 7th Judicial Region

Soon after her appointment as Chief Justice, respondent, without the knowledge and approval of the Court *en banc*, established a permanent office known as the Judiciary Decentralized Office (JDO) in the 7th Judicial Region by issuing Administrative Order (AO) No. 175-12 and made it **falsely** appear that she was merely reviving the Regional Court Administration Office (RCAO) in the 7th Judicial Region. Worse, when the Court *en banc* decided to form a study group to be headed by then Judge Geraldine Faith A. Econg[3] (Econg) in lieu of the JDO, respondent issued a Resolution containing a **false** narration that the Court ratified her Administrative Order.

Background of the RCAO for Region VII: Previously, through Resolutions dated November 14, 2006 in **A.M. No. 06-11-09-SC** and March 18, 2008 in **A.M. No. 06-12-06-SC**, the Court *en banc*, under Chief Justice Artemio V. Panganiban and Chief Justice Reynato S. Puno, respectively, approved the establishment and operationalization of the RCAO in the 7th Judicial Region as part of the efforts to decentralize the financial and administrative functions of the Court. However, the operations of the RCAO were eventually discontinued because of unexpected and insurmountable problems encountered during its initial implementation.

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[3] Now Sandiganbayan Associate Justice.

Less than three months after respondent was appointed as Supreme Court Chief Justice on August 24, 2012, she issued **AO No. 175-2012**, entitled "Designating the Head for the Judiciary Decentralized Office (JDO) in the Seventh Judicial Region," on November 9, 2012, without the prior knowledge and approval of the Court *en banc*.

Despite respondent's misleading statements that the RCAO and the JDO are the same, there are marked differences between the two offices, to wit:

DIFFERENCES	**RCAO (A.M. Nos. 06-11-09-SC and 06-12-06-SC)**	**JDO (AO No. 175-2012)**
Office created	Created the Regional Court Administration Office (RCAO) in the 7th Judicial Region[4]	Created the Judiciary Decentralized Office (JDO) in the 7th Judicial Region
Period of Implementation	RCAO Pilot decentralized unit implemented over a one-year period	Effective immediately and until revoked by respondent
Implementation Head	The Court Administrator is the Implementation Head of the Pilot Project	Respondent specifically designated Judge Econg as JDO Head;[5] JDO Head is not under the Court Administrator
Official Functions	Official functions in the Pilot RCAO shall be vested in the following: • Court Administrator • Regional Court Administrator[6] • Deputy Regional Court Administrator[7] • Assistant Regional Court Administrator • Oversight Committee[8]	Official functions vested in the JDO Head
Staffing Pattern Approval	Staffing pattern must be approved by the Court	Hiring of contractual personnel for the JDO must be consistent with the staffing pattern approved by respondent[9]

On November 23, 2012, the Office of the Chief Justice (OCJ) circulated an invitation to the Associate Justices to attend the reopening of the RCAO in Region 7 on November 29, 2012 in Cebu.

It was only then that I, along with my other colleagues at the Supreme Court, came to know of AO No. 175-2012 creating the JDO and designating Judge Econg as JDO Head. Through a Memorandum dated November 26,

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4 Section 2(b), A.M. No. 06-11-09-SC.

5 Judge Econg was then Project Management Office (PMO) Head, but was completely relieved of her functions and responsibilities as such.

6 Part (a), Section 2, A.M. No. 06-12-06-SC.

7 Part (a), Section 5, A.M. No. 06-12-06-SC.

8 Part (c), A.M. No. 06-12-06-SC.

9 Paragraph (a), A.O. No. 175-2012.

2012, I questioned the creation of the JDO (made by respondent under the pretext of reopening of the RCAO) as it was neither deliberated upon nor approved by the Court *en banc*. I wrote in my Memorandum:

> With due respect to the Chief Justice, her creation of the "Judiciary Decentralized Office" (JDO) would not be in consonance with the *En Banc* Resolutions issued by the Court, which established not a JDO, but the Pilot Regional Court Administration Office (PRCAO) and designated, not [a] JDO head, but a Regional Court Administrator who is under the direction and supervision of the Court Administrator, as the Implementation Head of the Pilot Project for the RCAO in Region 7. (*En Banc* Resolutions dated November 14, 2006 in A.M. No. 06-11-09-SC [Sec. 5] and dated March 18, 2008 in A.M. No. 06-12-8-SC.)

I further suggested that the above matter be taken up at the session on November 27, 2012 for deliberation and collective action of the Court *en banc*.

During the Court *en banc* session on November 27, 2012, the Justices vehemently objected to respondent's AO No. 175-2012. In response, respondent declared before the Court *en banc* that she would **amend** her administrative order.

Yet, instead of amending AO No. 175-2012 as she had undertaken to do and in contravention of the consensus reached by the Justices during the *en banc* session, respondent caused the issuance of a **Resolution dated November 27, 2012 in A.M. No. 12-11-9-SC** (RCAO Resolution) which **falsely states**:

> *Please take notice that the Court en banc issued a Resolution dated* **NOVEMBER 27, 2012**, *which reads as follows*:
>
> "**A.M. No. 12-11-9-SC** (Re: Reopening of the Regional Court Administration Office [RCAO] in Region 7). - The Court Resolved to:
>
> (a) **RATIFY** the action of Chief Justice Maria Lourdes P.A. Sereno to revive the Regional Court Administration Office in Region 7, with Phase I on: (a) procurement; (b) approval of leave; and (c) payroll administration; and
>
> (b) **APPOINT** Judge Geraldine Faith A. Econg, Deputy Clerk of Court and Judicial Reform Program Administrator, as ***Officer-in-Charge of RCAO-Region 7***, effective immediately and for a period of two (2) months."

The aforequoted Resolution was a **complete fabrication** and a **deliberate deviation from the truth** as it was contrary to the actual resolution agreed upon by the Court *en banc* during the November 27, 2012 session.

In addition to the said falsified RCAO Resolution, respondent issued **AO Nos. 185-2012 and 186-2012**, both dated **November 27, 2012**, providing for the mandatory attendance of various officials and personnel from the Office of the Court Administrator (OCA), Project Management Office (PMO), and OCJ, as well as Judges and Clerks of Court of first and second level courts in the 7th Judicial Region, at the launching ceremony of the RCAO at the Radisson Blu Hotel in Cebu City on November 29, 2012. Although respondent, in her said AOs, misleadingly referred to the reconstitution and launching of the RCAO, she still directed the "RCAO head," namely, Judge Econg, "to perform her tasks and functions as provided by SC Administrative Order No. 175-2012[,]" which pertained to the JDO and not the RCAO.

I chose to raise respondent's **false and misleading issuances** concerning the JDO/RCAO before the Court *en banc* so that her unilateral acts could be rectified and thereby avoid detrimental consequences to the operation of the trial courts in the 7th Judicial Region, and not to rebuke or chastise her.

I then issued another Memorandum dated December 3, 2012 in which I wrote that, to the best of my recollection, the RCAO Resolution did not reflect the Court's deliberations and the Justices' consensus opposing the reopening of the RCAO when the said administrative matter was taken up during the *en banc* session on November 27, 2012. I meticulously noted down in my Memorandum the objections raised against AO No. 175-2012 during the deliberations, to wit:

> (1) The Chief Justice has no authority to create the Judiciary Decentralized Office which under the **AO** shall take full responsibility over the Regional Court Administration Office in Region 7, which was to be reopened without Court *en banc* approval on November 27, 2012;
>
> (2) The **AO** of the Chief Justice cannot deprive: (1) the Court *en banc* of its constitutional duty to exercise administrative supervision over all courts and their personnel and (2) the Office of the Court Administrator of its statutory duty under Presidential Decree No. 828, as amended[,] to assist the Supreme Court in the exercise of said power of administrative supervision, which is the case under the **AO** where an official, outside of OCA was designated to take charge of RCAO-7, answerable only to the Chief Justice without any guidelines set by the Court *en banc*;
>
> (3) The RCAO-7 which was intended only to be a **"pilot" project** cannot be reopened or revived on a permanent basis even on a limited scale without first undertaking a study, particularly, among many other concerns, why it failed when it was first organized, resulting in black armband rally against RCAO-7 organized by Judges and Court personnel in the Region, led by Program Management Office (PMO) head then RTC Judge Geraldine Faith Econg;

(4) The RCAO-7 cannot be reopened without showing to the Court the content/scope of the functions to be transferred from the Office of the Court Administrator to RCAO-7 and the process of decentralization or devolution of functions and the justification for the reopening;

(5) The PMO head cannot be appointed in-charge of the RCAO-7 since it is not part of her duty to assist in the administrative supervision of lower courts. At best, a Justice opined, she may take part in the conduct [of] a study for a period of say two months to determine of whether or not to reopen RCAO-7;

(6) The Court *en banc*, which is constitutionally vested with the administrative supervision of all courts has the authority to decide on the reopening of RCAO-7 and it must be assisted by the Office of the Court Administrator (OCA);

(7) Administrative Order No. 175-2012 dated November 9, 2012, which was reiterated in Administrative Order No. 185-2012 dated November 27, 2012, **had transgressed the said constitutional authority of the Court *en banc* and the statutory authority of OCA**. (Emphases mine.)

At the end of my Memorandum, I submitted that:

> In view of the foregoing, the Court *en banc* did not reach a decision to reopen RCAO-7, instead it accepted the undertaking of the Chief Justice to amend **AO** No. 175-2012 to address the foregoing adverse observations of the Justices during the deliberation on November 27, 2012. The Resolution dated November 27, 2012 ratifying the action of the Chief Justice reviving RCAO-7 which she did through Administrative Order No. 175-2012 and appointing the PMO head as Officer-in-Charge of RCAO-7 must be recalled or amended to faithfully reflect the deliberation of the Court *en banc*, particularly the objections raised against said **AO**.

My Memorandum dated December 3, 2012 was taken up by the Court *en banc* during the session on December 11, 2012.

Proof of the falsity of the RCAO Resolution dated November 27, 2012 issued by respondent was the subsequent issuance of the **Resolution dated January 22, 2013** by the Court *en banc* in A.M. No. 12-11-9-SC which recounts the true version of the events that transpired during the sessions on November 27, 2012 and December 11, 2012 and reflects the real intention of the Court *en banc* not to operationalize the JDO or reopen the RCAO, but to create first a committee that would study the need for decentralization of functions, thus:

> CREATING A NEEDS ASSESSMENT COMMITTEE TO STUDY THE NECESSITY OF DECENTRALIZING THE FUNCTIONS IN SUPPORT OF THE SUPREME COURT'S POWER OF ADMINISTRATIVE SUPERVISION OVER LOWER COURTS

> Whereas, on **27 November 2012** and on **11 December 2012**, the Supreme Court *En Banc*, considering the operational inactivity of the pilot project under A.M. No. 06-11-09-SC, determined that there is a need to further study the decentralization of functions relative to the Supreme Court's power of administrative supervision over lower courts;
>
> NOW, THEREFORE, the Court hereby resolves to create a **Decentralization Needs Assessment Committee** to study and determine the necessity of decentralizing administrative functions appurtenant to the exercise of the Supreme Court's power of supervision over lower courts; the functions to be devolved; the implementation of the devolution of functions; and the efficient and effective performance of the devolved functions.
>
> x x x x
>
> This Resolution **supersedes all prior resolutions, administrative orders and issuances** on the covered matter and shall take effect upon its promulgation. (Emphases mine.)

Thus, the Resolution dated January 22, 2013 effectively revoked AO No. 175-2012 and the **falsified** RCAO Resolution of November 27, 2012 issued by respondent. The JDO, created by virtue of respondent's AO No. 175-2012, has not been operationalized even up to this time.

(b) Respondent's falsification and unlawful expansion of the coverage of the TRO issued in the *SENIOR CITIZENS cases*, in contravention of my recommendation as the Member-in-Charge

Another example of respondent's propensity to commit acts of dishonesty was when she unlawfully expanded the coverage of the TRO she issued in *Coalition of Associations of Senior Citizens in the Philippines, Inc. v. Commission on Elections* (*SENIOR CITIZENS cases*),[10] in contravention of my recommendation as Member-in-Charge, but **falsely stated** in said TRO that it was upon my written recommendation.

The *SENIOR CITIZENS cases* involved the Omnibus Resolution dated May 10, 2013 of the Commission on Elections (COMELEC) that disqualified the Coalition of Associations of Senior Citizens in the Philippines, Inc. (SENIOR CITIZENS), among other party-list groups, from participating in the May 13, 2013 elections and cancelled its registration and accreditation as a party-list organization. Despite its disqualification, SENIOR CITIZENS still obtained 677,642 votes. Two rival groups, both claiming to represent SENIOR CITIZENS, filed their respective petitions for *certiorari* before the Court, challenging the disqualification of their party-list group.

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[10] 714 Phil. 606 (2013).

On May 27, 2013, as the Member-in-Charge of the *SENIOR CITIZENS cases*, I forwarded to respondent the *rollos* and synopses of the petitions therein and my recommendation to grant the prayer in both petitions for the issuance of a TRO. In accordance with established practice in the Court, I attached the draft TRO, which reads:

> [A] TEMPORARY RESTRAINING ORDER is hereby ISSUED, effective immediately and continuing until further orders from this Court, ordering You, respondent COMELEC, your agents, representatives, or persons acting in your place or stead, **to refrain from implementing the assailed COMELEC Resolution, insofar as COALITION OF ASSOCIATIONS OF SENIOR CITIZENS IN THE PHILIPPINES, INC., is concerned**, particularly, Omnibus Resolution promulgated on May 10, 2013, issued in SPP No. 12-157 (PLM) and SPP No. 12-191 (PLM). (Emphasis mine.)

Clearly, my recommendation was to specifically enjoin the COMELEC from implementing the disqualification of the SENIOR CITIZENS as a party-list candidate in the May 13, 2013 elections. In that way, said group would be retained in the list of party-list candidates pending the disposition of the petitions before the Court, and the actual seats intended for it, based on the number of votes it garnered, would be reserved. I further expressly stated in my cover letter dated May 27, 2013 that "[t]he TRO is subject to confirmation by the Court *En Banc* on June 4, 2013."

After verifying that no TRO had been approved for release yet by respondent, I modified my draft TRO two times on May 28, 2013 but the modifications were only in the "Whereas" clauses and the substance of the draft TRO remained the same.

However, the TRO actually approved for release by respondent on May 29, 2013 contained the following directive:

> [A] TEMPORARY RESTRAINING ORDER is ISSUED, effective immediately and continuing until further orders from this Court, ordering You, respondent COMELEC, your agents, representatives, or persons acting in your place or stead, **to cease and desist from further proclaiming winners from among the party-list candidates**.
>
> "GIVEN by authority of the Honorable Maria Lourdes P. A. Sereno, Chief Justice of the Supreme Court of the Philippines, **upon the written recommendation of the Member-in-Charge** x x x."[11] (Emphases mine.)

Obviously, respondent radically changed my recommendation on the scope of the TRO, *viz.*:

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[11] *Rollo* (G.R. Nos. 206844-45), pp. 351-353.

DIFFERENCES	DRAFT TRO	ISSUED TRO
Party Enjoined	COMELEC	COMELEC
Act/s Enjoined	The implementation of the assailed Resolution, which disqualified SENIOR CITIZENS as a party-list candidate in the elections and cancelled the registration and accreditation of SENIOR CITIZENS as a party-list organization	The proclamation of winners from among party-list candidates
Parties Affected	SENIOR CITIZENS, the two rival factions of which are the petitioners in the instant cases	All winning party-list candidates in the elections who have not been proclaimed yet as of the date of issuance of the TRO, even those not party to the pending petitions

Evidently, the TRO actually issued was **NOT AT ALL** what I recommended and the statement in the said TRO that it was issued by respondent's authority, upon my written recommendation, was an **absolute falsity**.

Respondent, unilaterally – without prior notice and discussion with me as the Member-in-Charge and without authority from the Court *en banc* – essentially disregarded my draft TRO and issued her own version of the TRO. Worse, the blanket TRO respondent issued enjoining the proclamation of all winning party-list candidates, including those who were not parties to the petitions pending in court, was a violation of the constitutional right to due process of said party-list organizations.

In an exchange of correspondences, I respectfully called respondent's attention to her unauthorized and unconstitutional TRO, but respondent maintained the propriety of the same.

When the TRO was submitted before the Court *en banc* during its session on June 5, 2013, it was not confirmed. Instead, the Court *en banc* issued a *Status Quo Ante* Order[12] dated June 5, 2013, the pertinent portions of which are reproduced below:

> WHEREAS, the Supreme Court, on June 5, 2013, adopted a resolution in the above-entitled case, to wit:
>
> ***G.R. Nos. 206844-45 (Coalition of Associations of Senior Citizens in the Philippines, Inc. [Senior Citizens Party-List], represented herein by its Chairperson & 1st Nominee, Francisco G. Datol, Jr. vs. Commission on Elections)*** and ***G.R. No. 206982 (Coalition of Associations of Senior Citizens in the Philippines, Inc. [Senior Citizens], represented by its President and Incumbent***

[12] 714 Phil. 606, 627 (2013).

Representative in the House of Representatives, Atty. Godofredo V. Arquiza vs. Commission on Elections). – x x x.

x x x x

WHEREAS, on June 4, 2013, the TRO dated May 29, 2013 was submitted to the Court *En Banc* for confirmation;

After due deliberation, the Court *En Banc* resolved as follows:

(a) The COMELEC, its agents, representatives, and/or persons acting in its place or stead are directed to refrain from implementing the assailed COMELEC Omnibus Resolution promulgated on May 10, 2013 in SPP No. 12-157 (PLM) and SPP No. 12-191 (PLM), **insofar as the COALITION OF ASSOCIATIONS OF SENIOR CITIZENS IN THE PHILIPPINES, INC. is concerned** and to observe the *status quo ante* before the issuance of the assailed COMELEC Resolution;

(b) **The COMELEC shall reserve the seat(s) intended for petitioner COALITION OF ASSOCIATIONS OF SENIOR CITIZENS IN THE PHILIPPINES, INC.** according to the votes it garnered in the May 13, 2013 elections; however, the proclamation insofar as petitioner is concerned shall be held in abeyance until the present petitions are decided by this Court; and

(c) Acting on the *Most Urgent Motion for Issuance of an Order Directing Respondent to Proclaim Petitioner Pendente Lite*, the same is denied for lack of merit.

Previous orders, resolutions or issuances of the Court in these consolidated cases are superseded only insofar as they may be inconsistent with the present resolution. Carpio, J., on official leave. Velasco, Jr., J., no part. (adv4)

NOW, THEREFORE, effective immediately and continuing until further orders from this Court, You, COMMISSION ON ELECTIONS, your agents, representatives, or persons acting in your place or stead, are hereby directed to refrain from implementing the assailed COMELEC Omnibus Resolution promulgated on May 10, 2013 in SPP No. 12-157 (PLM) and SPP No. 12-191 (PLM) **insofar as the COALITION OF ASSOCIATIONS OF SENIOR CITIZENS IN THE PHILIPPINES, INC. is concerned** and to observe the *status quo ante* before the issuance of the assailed COMELEC Resolution.

Furthermore, you shall reserve the seat(s) intended for petitioner COALITION OF ASSOCIATIONS OF SENIOR CITIZENS IN THE

> PHILIPPINES, INC. according to the votes it garnered in the May 13, 2013 elections; however, the proclamation insofar as petitioner is concerned shall be held in abeyance until the present petitions are decided by this Court. (Emphases mine.)

Other than issuing a *Status Quo Ante* Order in lieu of a TRO, the Court *en banc* essentially adopted my recommended action as Member-in-Charge on the scope and extent of the injunctive relief granted to the petitioners, particularly that the Order should cover only the Coalition of Associations of Senior Citizens in the Philippines, Inc.

(c) Respondent's false claim before her colleagues to deprive the Court *en banc* of the opportunity to vote on and submit recommendees for a vacancy in the Supreme Court

Another instance when respondent exhibited her **lack of candor and honesty in dealing with her colleagues** was in relation to the application of then Solicitor General (SolGen),[13] now Supreme Court Associate Justice, Francis H. Jardeleza for the vacancy in the Supreme Court brought about by Associate Justice Abad's retirement on May 22, 2014, which became the subject of the case of *Jardeleza v. Sereno*[14] (*Jardeleza case*).

SolGen Jardeleza applied for the vacant post of Supreme Court Associate Justice vice Associate Justice Abad. SolGen Jardeleza was among the applicants interviewed by the JBC. However, respondent, as JBC Chairperson, raised questions as to SolGen Jardeleza's integrity and invoked against him the "unanimity requirement" under Section 2, Rule 10 of JBC-009,[15] which imposes a higher voting requirement for applicants whose integrity is being challenged. The JBC then verbally summoned SolGen Jardeleza for a hearing on the issue of his integrity on June 30, 2014. This prompted SolGen Jardeleza to file a letter-petition before the Court *en banc*, praying that the Court exercise its power of supervision over the JBC by directing the JBC, among other things, to give him written notice of the specific details of the charges against him; to give him an opportunity to cross-examine the witnesses against him; to postpone the hearing set on June 30, 2014; and to disallow respondent from participating in the voting for the shortlist of nominees for the Supreme Court post vacated by Associate Justice Abad.

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13 I will be using the title "Solicitor General" in my narration/discussion of events prior to Justice Jardeleza's appointment as Supreme Court Associate Justice.

14 741 Phil. 460 (2014).

15 Section 2, Rule 10 thereof provides:

> Section 2. *Votes required when integrity of a qualified applicant is challenged.* – In every case when the integrity of an applicant who is not otherwise disqualified for nomination is raised or challenged, the affirmative vote of all the Members of the Council must be obtained for the favorable consideration of his nomination.

Pursuant to the summons, SolGen Jardeleza appeared before the JBC for the hearing set on June 30, 2014 but before presenting his defense, he insisted that the JBC follow due process by first reducing the charges against him into a written sworn statement. SolGen Jardeleza also requested that the JBC postpone the hearing until after the Court *en banc* had taken up his letter-petition. Without ruling on SolGen Jardeleza's requests, the JBC excused him from the hearing. The JBC then, in the afternoon of the same day, June 30, 2014, proceeded with the voting for the shortlist of nominees for the post of Supreme Court Associate Justice vacated by Associate Justice Abad. The said shortlist did not include SolGen Jardeleza, despite the fact that he obtained four out of six votes from the JBC members, as the unanimity rule was applied to him. With the transmittal of the shortlist to Malacañang, the Court *en banc* issued a Resolution dated July 8, 2014 which merely noted SolGen Jardeleza's letter-petition since it had already become moot and academic, "without prejudice to any remedy, available in law and the rules that Solicitor General Jardeleza may still wish to pursue."

Thus, SolGen Jardeleza filed before the Court *en banc* a petition for *certiorari* and *mandamus* against respondent, the JBC, and then Executive Secretary Paquito N. Ochoa, Jr. In its Decision dated August 19, 2014, the Court *en banc* adjudged that the JBC committed grave abuse of discretion in applying the "unanimity rule" on integrity against SolGen Jardeleza, which resulted in the deprivation of his right to due process. Consequently, the Court *en banc* granted SolGen Jardeleza's petition and ordered that he be included in the shortlist of nominees for the vacancy for Supreme Court Associate Justice vice Associate Justice Abad. SolGen Jardeleza was eventually appointed as Supreme Court Associate Justice by President Aquino from among the candidates in the revised shortlist.

It was during the course of the processing by the JBC of the applications for the vacancy in the Supreme Court resulting from Associate Justice Abad's retirement, and apparently in furtherance of respondent's efforts to block the inclusion of SolGen Jardeleza in the shortlist of qualified nominees for the said vacancy, that respondent **falsely claimed** that several Supreme Court Associate Justices wished to do away with the JBC undertaking under Section 1, Rule 8 of JBC-009.[16] Said rule gives the Court *en banc* the opportunity to be part of the JBC selection process by submitting its recommendees for the Supreme Court vacancy to the JBC.

Section 1, Rule 8 of JBC-009 – then the prevailing JBC Rules – expressly stated that:

> Sec. 1. *Due weight and regard to the recommendees of the Supreme Court.* — In every case involving an appointment to a seat in the Supreme Court, **the Council shall give due weight and regard to the recommendees of the Supreme Court**. For this purpose, the Council

[16] JBC-009 was promulgated on October 18, 2000. Said rules had been superseded by **JBC No. 2016-01** (the Revised Rules of the Judicial and Bar Council), which took effect on October 24, 2016.

> shall submit to the Court a list of candidates for any vacancy in the Court with an executive summary of its evaluation and assessment of each of them, together with all relevant records concerning the candidates from whom the Court may base the selection of its recommendees. (Emphasis mine.)

In accordance with the above rule, the JBC would provide the Court *en banc* with the dossiers of the qualified candidates for the vacant positions in the Court. The Court *en banc* would then vote during an *en banc* session on the top five candidates whose names would be submitted by the Chief Justice for consideration by the JBC. This process was respected and enforced by all the previous Chief Justices since 2000 until respondent was appointed Chief Justice in 2012.

In this instance, however, respondent circulated a letter dated May 29, 2014 to all the Members of the Court *en banc*, which is quoted in full below:

> THE MEMBERS OF THE COURT
>
> Dear Colleagues,
>
> To accommodate **the request of several Justices** that voting no longer be conducted among the Members of the Court with respect to the candidates for Associate Justice (*vice* Justice Roberto A. Abad), please be informed that I have decided to favorably consider such request. I am open, however, to any input you might have regarding any particular candidate.
>
> Very truly yours,
>
> (Signed)
> MARIA LOURDES P.A. SERENO
> Chief Justice
> (Emphasis mine.)

The rest of the Court *en banc* initially relied in good faith on respondent's letter and no voting was held on the Court's recommendees to the JBC for the Supreme Court Associate Justice post vacated by Justice Abad. Subsequently, though, after the factual circumstances of the *Jardeleza case* were brought to their attention, the Supreme Court Associate Justices began asking one another who made the request to do away with the voting of recommendees for the Supreme Court vacancy, but no one admitted doing so. When directly confronted during an *en banc* session by the Supreme Court Associate Justices as to the identities of the "several Justices" referred to in her letter dated May 29, 2014, respondent was unable to name any of them.

Supreme Court Associate Justice Arturo D. Brion (Brion) related the very same events in his Concurring Opinion in the *Jardeleza case*,[17] thus:

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17 741 Phil. 460 (2014).

> I strongly believe, too, based on the circumstances and reasons discussed below, that **CJ Sereno manipulated the JBC processes to exclude Jardeleza as a nominee**. The manipulation was a purposive campaign to discredit and deal Jardeleza a mortal blow at the JBC level to remove him as a contender at the presidential level of the appointing process.
>
> [**Of particular note in this regard is this Court's own experience when it failed to vote for its recommendees for the position vacated by retired Associate Justice Roberto A. Abad, because of a letter dated May 29, 2014 from the Chief Justice representing to the Court that "several Justices" requested that the Court do away with the voting for Court recommendees, as provided in Section 1, Rule 8 of JBC-009. When subsequently confronted on who these Justices were, the Chief Justice failed to name anyone**. As a result, applicants who could have been recommended by the Court (Jardeleza, among them), missed their chance to be nominees.][18] (Emphases mine.)

Justice Brion likewise observed that:

> [The integrity objection] was apparently raised after a hidden campaign to exclude Jardeleza must have failed at the JBC, *i.e.*, after it became obvious that Jardeleza would get the required votes unless an overt objection was made. Note in this regard that ***even the Supreme Court appeared to have been manipulated when it was not given the chance to vote for its recommendees.*** **Apparently, Jardeleza would have made, if not topped, the list of Court recommendees** since the Members of the Court have seen him in action during the oral arguments, have read his pleadings, and collectively have a very high respect for the Solicitor General's handling of the Reproductive Health, the PDAF and the DAP cases, where he conducted a very creditable (although losing) presentation of the government's case.[19]

I wholly agree with Justice Brion that respondent wrote her letter dated May 29, 2014 to the Members of the Court in order to mislead us by her **false narration** in her letter and thereby keep us from taking part in the selection procedure of the JBC through the submission to the JBC of our list of recommendees for the Supreme Court vacancy, based on the existing JBC-009 Rules adopted by the JBC on October 18, 2000 during the incumbency of Chief Justice Hilario G. Davide, Jr., which list would have most likely included SolGen Jardeleza.

As a matter of record, the Court definitively ruled in the *Jardeleza case* that respondent and the JBC under its Chairperson, respondent, violated its own rules of procedure and the basic tenets of due process when they excluded SolGen Jardeleza from the shortlist of nominees for the vacant post of Supreme Court Associate Justice vice Associate Justice Abad. Verily, respondent's letter dated May 29, 2014 was just one of respondent's manipulative acts in order to block SolGen Jardeleza's nomination.

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[18] Id. at 547-548.

[19] Id. at 576-577.

(d) The JBC, during respondent's incumbency as Chairperson, clustered the nominees for simultaneous vacancies in collegiate courts into six separate shortlists in violation of the Constitution; laws, rules, and jurisprudence; and the qualified nominees' rights to due process and equal opportunity to be appointed

On May 5, 2015, Republic Act No. 10660[20] took effect, amending Section 3 of Presidential Decree No. 1606,[21] as amended, increasing the number of Sandiganbayan divisions from five to seven divisions of three Justices each, thereby, indirectly increasing the total number of Sandiganbayan Justices (including the Presiding Justice) from 15 to 21 Justices.

The JBC published the announcement of the opening for application of the six newly-created vacancies in the Sandiganbayan on July 20, 2015 in the Philippine Star and Philippine Daily Inquirer, worded as follows:

ANNOUNCEMENT

The Judicial and Bar Council (JBC) announces the opening/reopening, for application or recommendation, of the following positions

Position	Deadline for Submission of Applications or Recommendations (with conforme) and PDS	Deadline for Submission of Supporting Documents
A. Six (6) newly-created positions of Associate Justice of the Sandiganbayan	3 August 2015	18 August 2015

For the six simultaneous vacancies in the Sandiganbayan, the JBC, chaired by respondent, submitted the names of a total of 37 qualified nominees, divided into six separate shortlists of five to seven nominees each, and with each shortlist already bearing a specific numerical designation (*i.e.*, for the 16th, 17th, 18th, 19th, 20th, and 21st Sandiganbayan Associate Justices). The six shortlists were transmitted to President Aquino through six separate letters all dated October 26, 2015.

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20 An Act Strengthening Further the Functional and Structural Organization of the Sandiganbayan, Further Amending Presidential Decree No. 1606, as Amended, and Appropriating Funds Therefor

21 Revising Presidential Decree No. 1486 Creating a Special Court to be Known as "Sandiganbayan" and for Other Purposes

President Aquino disregarded the clusters and appointed two nominees shortlisted purportedly for the 21st Sandiganbayan Associate Justice, namely, Michael Frederick L. Musngi (Musngi) as the 16th Sandiganbayan Associate Justice and then Judge Econg as the 18th Sandiganbayan Associate Justice; while President Aquino appointed no one from those shortlisted for the 16th Sandiganbayan Associate Justice.[22] Consequently, the nominees shortlisted for the 16th Sandiganbayan Associate Justice filed the Petition for *Quo Warranto* under Rule 66 and *Certiorari* and Prohibition under Rule 65 in *Aguinaldo v. Aquino.*[23] (*Aguinaldo case*).

In the *Aguinaldo case*, the Court *en banc* unanimously found that President Aquino did not commit grave abuse of discretion in disregarding the clustering of the 37 qualified nominees for the six simultaneous vacancies for Sandiganbayan Associate Justice. In my *ponencia* in said case, I expressly declared that the clustering by the JBC was in violation of the Constitution; laws, rules, and jurisprudence; and the qualified nominees' rights to due process and equal opportunity to be appointed.

The clustering was unconstitutional because it impaired the President's constitutional power to appoint members of the Judiciary.

Section 9, Article VIII of the 1987 Constitution exclusively vests upon the President the power to appoint members of the Judiciary:

> Sec. 9. The Members of the Supreme Court and judges of lower courts shall be appointed by the President from a list of at least three nominees prepared by the Judicial and Bar Council for every vacancy. Such appointments need no confirmation.

The practice consistently observed by the JBC in previous years was for the JBC to submit to the President only one shortlist of all the qualified nominees for two or more simultaneous or closely successive vacancies in collegiate courts, *i.e.*, the Court of Tax Appeals, the Sandiganbayan, the Court of Appeals, and the Supreme Court. To meet the minimum requirement under the aforequoted constitutional provision, the JBC only needed to submit the names of at least three nominees for every vacancy, such that there should at least be 18 qualified nominees in one shortlist for six vacancies. This established practice was consistent with the President's exclusive power to appoint members of the Judiciary as the President was free to choose from all qualified nominees whom to appoint to the existing vacancies in a collegiate court.

Clustering of nominees to simultaneous vacancies in collegiate courts was a completely new practice adopted by the JBC only under respondent's

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22 Judge Philip A. Aguinaldo, Judge Reynaldo A. Alhambra, Judge Danilo S. Cruz, Judge Benjamin T. Pozon, and Judge Salvador V. Timbang, Jr.

23 G.R. No. 224302, Decision dated November 29, 2016 and Resolutions dated February 21, 2017 and August 8, 2017.

incumbency as Chairperson. The JBC did not offer any explanation in its shift in practice.

The clustering of nominees into six separate shortlists by the JBC, and the transmittal of said shortlists to the President through six separate letters, were intended to limit the President's power to appoint to only one nominee from each of the six shortlists. The President was not supposed to appoint a nominee from one shortlist to a position covered by another shortlist. This makes clustering an unconstitutional encroachment by the JBC of the President's constitutionally vested power of appointment.

The clustering of nominees by the JBC was also completely arbitrary. There was no legal, objective, and rational basis for the clustering of the 37 qualified nominees into six separate shortlists as the requirements and qualifications, as well as the power, duties, and responsibilities, are the same for all Sandiganbayan Associate Justices. If a nominee was found to be qualified for one vacancy, the said nominee was also qualified for all the other five vacancies for the same post of Sandiganbayan Associate Justice.

Moreover, the assignment by the JBC of numerical designations to the six vacant posts of Sandiganbayan Associate Justice was invalid for it had absolutely no legal basis. The JBC published the announcement of the opening of the "[s]ix (6) newly-created positions of Associate Justice of the Sandiganbayan" without any distinction. The judicial positions in collegiate courts are not assigned any numerical designations because the rank of each Justice in said courts changes as incumbent Justices resign or retire from service. Accordingly, the President appoints his choice nominee to the post of Sandiganbayan Associate Justice, but not to a specific rank (as will be discussed later, ranking in seniority is determined automatically by the order of issuance of commissions/appointments).

In fact, the assignment by the JBC of numerical designations to the vacancies was not only without legal basis, but was also in actual contravention of existing laws, rules, and jurisprudence on determining seniority of members of collegiate courts.

Presidential Decree No. 1606 provides:

> Sec. 1. *Sandiganbayan; composition; qualifications; tenure; removal and compensation.* – x x x
>
> x x x x
>
> The Presiding Justice shall be so designated in his commission and the other Justices shall have precedence according to the **dates of their respective commissions**, or, when the commissions of two or more of them shall bear the same date, according to the **order in which their commissions have been issued** by the President. (Emphases mine.)

The foregoing statutory provision solely vests upon the President the power to determine the seniority of the Sandiganbayan Associate Justices by the order of the issuance of their commissions/appointments, but the JBC arrogated this power unto itself by already assigning numerical designations to the six vacant posts of Sandiganbayan Associate Justice.

The assignment by the JBC of numerical designations to the six vacant posts of Sandiganbayan Associate Justice was likewise in violation of the internal rules of the Sandiganbayan. Under Rule II of the Revised Internal Rules of the Sandiganbayan:

> Sec. 1. *Composition of the Court and Rule on Precedence.* –
>
> x x x x
>
> (b) *Rule on Precedence.* – The Presiding Justice shall enjoy precedence over the other members of the Sandiganbayan in all official functions. The Associate Justices shall have precedence according to the **order of their appointments**. (Emphasis mine.)

The assignment by the JBC of numerical designations to the six vacant posts of Sandiganbayan Associate Justice was contrary to jurisprudence as well. In *Re: Seniority Among the Four (4) Most Recent Appointments to the Position of Associate Justices of the Court of Appeals,*[24] the Court settled how seniority among new appointees to the Court of Appeals is determined, thus:

> For purposes of appointments to the judiciary, therefore, the date the commission has been signed by the President (which is the date appearing on the face of such document) is the date of the appointment. Such date will determine the seniority of the members of the Court of Appeals in connection with Section 3, Chapter I of BP 129, as amended by RA 8246. In other words, **the earlier the date of the commission of an appointee, the more senior he/she is over the other subsequent appointees. It is only when the appointments of two or more appointees bear the same date that the order of issuance of the appointments by the President becomes material**. This provision of statutory law (Section 3, Chapter I of BP 129, as amended by RA 8246) controls over the provisions of the 2009 IRCA which gives premium to the order of appointments as transmitted to this Court. Rules implementing a particular law cannot override but must give way to the law they seek to implement. (Emphasis mine.)

The aforementioned ruling may also be applied to the Sandiganbayan, which is a collegiate court, just like the Court of Appeals.

Finally, the clustering violated the rights of the qualified nominees: (a) to due process, and (b) to fair and equal opportunity to be appointed to any of the six simultaneous vacancies for Sandiganbayan Associate Justice for which they applied due to the lack of objective criteria, standards, or

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[24] 646 Phil. 1, 11 (2010).

guidelines for the clustering or grouping of the nominees to a single position as determined by the JBC.

The applicants were denied due process of law since they were not properly notified that there would be clustering of qualified nominees and that they would only be considered for the one vacancy for which they were clustered and no longer for the other five vacancies. It was only at the end of the selection process that the JBC precipitously clustered the 37 qualified nominees into six separate shortlists for each of the six vacant posts of Sandiganbayan Associate Justice. Consistent with the JBC public announcement of opening of the vacancies for application, the nominees applied for any of the six new positions but the clustering confined the chance of a nominee to be appointed by the President to one specific position chosen by the JBC through the clustering method.

The clustering of nominees by the JBC further deprived qualified nominees of a fair and equal opportunity to be considered and appointed by the President for any of the six available vacancies. The lack of objective criteria, standards, or guidelines in determining which nominees are to be included in which cluster made clustering **vulnerable to manipulation to favor or prejudice a qualified nominee**. A favored nominee could be included in a cluster with no other strong contender to ensure his/her appointment; or conversely, a less favored nominee could be placed in a cluster with many strong contenders to minimize his/her chances of appointment.

Consequently, the Court upheld the appointment by President Aquino of Sandiganbayan Associate Justices Musngi and Econg, although they were clustered together in one shortlist, and the seniority of the six appointees in accordance with the order of issuance by the Office of the President of their commissions/appointments as reflected in the bar codes of said documents.

The majority of the Court *en banc* concurred in my *ponencia* in the *Aguinaldo case* with the following dispositive portion:

> **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**. x x x.[25]

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[25] Eventually, in the Resolution dated February 21, 2017, the Court granted the motion/prayer for intervention of the JBC, but denied for lack of merit its 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).

The incidents I have recounted above in detail reveal respondent's propensity to make false statements in order to manipulate and deceive her colleagues in the Court and the public as well. Respondent's underhanded means to achieve her objectives, often in disregard or at the expense of collegial courtesy and established Court practices and procedures, caused problems and complications in Court processes and issuances, which eventually, the Court *en banc* had to remedy or rectify.

Incidentally, respondent attached to her Motion for Inhibition against me portions of the transcript of my testimony during the hearings before the House of Representatives Committee on Justice. In her Motion, respondent attempted to refute the veracity of my statements in the hearing by referring to and attaching the respective Comments submitted by Atty. Maria Milagros N. Fernan-Cayosa (Fernan-Cayosa), Atty. Jose V. Mejia (Mejia), Justice Aurora Santiago Lagman (Lagman), and Atty. Annaliza Ty-Capacite in A.M. Nos. 17-11-12-SC and 17-11-17-SC. However, it is improper to cite said Comments because the factual matters and issues involved therein are the very subject of A.M. Nos. 17-11-12-SC and 17-11-17-SC that are still pending before the Court.

In fine, my statement, "*Hanggang kailan pa kami magtitiis?*"[26] is a plea for respondent to mend her ways and to put a stop to her habit of misleading and/or bypassing the Court *en banc*. It does not pertain to her removal from office. All I am interested in is to put a stop to respondent's repeated violation of the Constitution by arrogating unto herself matters that should be submitted to the Court *en banc* for deliberation and approval and to prevent further adverse consequences to public service.

I reiterate that my testimony, objectively given based on facts and fully supported by official documents, could not be said to have been motivated by prejudice or personal grudge, or to be indicative of bias or partiality. Thus, any allegation of my prejudice or partiality against respondent, amounting to a denial of respondent's due process, utterly lacks basis.

For the foregoing reasons, I **DENY** respondent's motion for my inhibition.

Respondent's road to the Supreme Court began with false entries in her PDS.

From respondent's application for the position of Supreme Court Associate Justice in 2010, then subsequently to her application for the position of Supreme Court Chief Justice in 2012, a pattern of lies and deceptions characterized respondent's conduct.

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[26] *Ad Cautelam* Respectful Motion For Inhibition (Of the Hon. Associate Justice Teresita J. Leonardo-De Castro), p. 17.

Together with her applications for the vacant post of Supreme Court Associate Justice in 2010 and for the vacant post of Supreme Court Chief Justice in 2012, respondent had to submit her sworn Personal Data Sheet (PDS). The JBC provides a specialized form of PDS to applicants to the Judiciary, identified as JBC Form No. 1. Respondent's 2010 PDS and 2012 PDS essentially contained the same entries. Even in filling out the said PDS, which is required to be **under oath**, respondent still demonstrated her penchant to deceive.

That respondent was a CHR Deputy Commissioner: In respondent's 2010 PDS and 2012 PDS, she indicated under Professional Experience that she held the position of "Deputy Commissioner" in the Commission on Human Rights (CHR) without specifying the period of her tenure. During the oral arguments, respondent practically admitted that **there was no actual position of "Deputy Commissioner" in the CHR** and it was merely her "functional title" in the predecessor office of the CHR, the defunct Presidential Committee on Human Rights. Her explanation is absurd as functions cannot be attributed to a **non-existent position in the CHR**.

Our exchanges concerning this matter during the oral argument are as follows:

> **JUSTICE DE CASTRO:**
>
> In your PDS, you mentioned that you're a Deputy Commissioner of the Commission on Human Rights. When was that period of time? Because your PDS did not mention the year when you were a Deputy Commissioner of the Commission on Human Rights. What was the period that you served in the CHR?
>
> **CHIEF JUSTICE SERENO:**
>
> ***It was a functional title.*** I don't have the exact details because you did not ask me to prepare for my PDS, allegations on the PDS. At least I didn't see that. So…
>
> **JUSTICE DE CASTRO:**
>
> So, it was not a Position Title because the…
>
> **CHIEF JUSTICE SERENO:**
>
> It was a functional… No, no, it was a functional…
>
> **JUSTICE DE CASTRO:**
>
> Excuse me. Let me finish. The PDS has a matrix and the information required of the one accomplishing the PDS stated that you should put there your Position Title. But, so, when you accomplished that form, of the PDS, you mentioned that you were a Deputy Commissioner of the Commission on Human Rights. So, the question is, is there such a position in the Commission on Human Rights?

CHIEF JUSTICE SERENO:

> If you are going to look at the way the PDS was trying to condense, the Commission on Human rights succeeded the Presidential Committee on Human Rights. **I was first hired with the Presidential Committee on Human Rights and given a title of Technical Consultant then a functional title of Deputy Commissioner** where I could vote *vice* Abelardo --- who was the Commissioner. Then, it morphed into the Commission on Human rights but the terms of reference that were still to be carried over into that CHR was still to carry that because I was there for a while. I was going to explain this eventually.[27] (Emphases mine.)

***That respondent was a lecturer at Murdoch University and UWA*:** Respondent further made spurious claims in her 2010 PDS and 2012 PDS when she declared that she was a lecturer at Murdoch University in 2001-2002 and at University of Western Australia (UWA) in 2003-2007, teaching International Business Law. A reading of her entries in both PDS gives the impression that she was actually a faculty member at the said universities, which are based in Perth, Western Australia, Australia. In actuality, however, respondent was a lecturer at The Esteban School, now Australian International School, based in Taguig City, Metro Manila, Philippines. The Esteban School partnered with UWA and offered UWA's MBA program in the Philippines.[28]

The deliberate omission of The Esteban School in respondent's 2010 PDS and 2012 PDS was just another audacious attempt to deceive, and respondent persisted in this lie when she refused to immediately acknowledge during the oral arguments that she taught at The Esteban School, to wit:

JUSTICE DE CASTRO:

> That's why I'm asking this question. And now I have another question. In your comment, you submitted some endorsement from private persons and two of them mentioned that you were a lecturer in Murdoch University, in the University of Western Australia and at the Hague Academy of International Law, that was attached to your comment in this case. Have you lectured in Murdoch? Have you been to Murdoch and the University of Western Australia?

CHIEF JUSTICE SERENO:

> **I have been a lecturer in the Manila program of both universities.** I have evidence to show that. Again, I object because this is not part of the petition. This is part of a global roaming event.

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27 TSN, April 10, 2018, pp. 161-162.

28 Australian Embassy, The Philippines, September 5, 2013, *MR090513- University of Western Australia, Esteban School Extend Partnership for Quality Postgraduate Education*, <http://philippines.embassy.gov.au/mnla/medrel091305.html> (visited on May 4, 2018.)

JUSTICE DE CASTRO:

You should not have submitted that to the Court. But that was part of your comment, that you were endorsed because of your qualification and one of, and among those qualifications are…

CHIEF JUSTICE SERENO:

The petition only talks about my SALN…

JUSTICE DE CASTRO:

…being lecturer of the Hague Academy of International Law, being a lecturer of the Murdoch University in Australia and lecturer in the University of Western Australia. Those were in your comment.

CHIEF JUSTICE SERENO:

All of those are true. But again, I object because this is not part of the petition.

JUSTICE DE CASTRO:

So, you're saying under oath that…

CHIEF JUSTICE SERENO:

All of those are true.

JUSTICE DE CASTRO:

…those are true?

CHIEF JUSTICE SERENO:

True. 100% true.

JUSTICE DE CASTRO:

100% true?

CHIEF JUSTICE SERENO:

100% true.

JUSTICE DE CASTRO:

So, you're saying you've been to Murdoch University?

CHIEF JUSTICE SERENO:

Manila program, yes.

mc

JUSTICE DE CASTRO:

In Australia?

CHIEF JUSTICE SERENO:

That's **an Australian program in Manila.**

JUSTICE DE CASTRO:

So, in the Philippines?

CHIEF JUSTICE SERENO:

Yes.

JUSTICE DE CASTRO:

But you did not say that in your PDS. So, have you been to the University of Western Australia in Australia?

CHIEF JUSTICE SERENO:

The Manila Extension Program, yes.

JUSTICE DE CASTRO:

So here in Manila?

CHIEF JUSTICE SERENO:

Yes.

JUSTICE DE CASTRO:

So it's the Esteban School, as you mentioned in your Answer?

CHIEF JUSTICE SERENO:

Yes.

JUSTICE DE CASTRO:

So, that Esteban School only has a partnership with those…

CHIEF JUSTICE SERENO:

So, what's wrong, Justice De Castro?

JUSTICE DE CASTRO:

…universities?

CHIEF JUSTICE SERENO:

It's an honor to be considered…

JUSTICE DE CASTRO:

> Oh, yes.
> No. I'm referring to your truthfulness in your PDS and the truthfulness of what you submitted...[29] (Emphases mine.)

Respondent's falsehoods in her sworn PDS when she applied to vacant posts in the Supreme Court foretold the deception she perpetrated regarding her SALNs to ensure her inclusion in the shortlist of nominees for the vacant post of Supreme Court Chief Justice.

The petition for quo warranto is granted as respondent's appointment is void from the beginning.

Respondent was included in the shortlist of qualified nominees for the vacant post of Supreme Court Chief Justice despite her failure to comply with the documentary requirements of the JBC for the said position, particularly, the submission of her SALNs for the years she worked for the government in the 10-year period prior to her application, because of her deceptive and misleading letter of July 23, 2012 to the JBC.

(a) The SALN requirement of the JBC for the Chief Justice post resulting from the impeachment of Chief Justice Corona

No less than the 1987 Constitution, under Article XI on Accountability of Public Officers, mandates that public officers and employees must file their SALNs:

> Sec. 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism, and lead modest lives.
>
> x x x x
>
> Sec. 17. A public officer or employee shall, upon assumption of office and as often as thereafter as may be required by law, submit a declaration under oath of his assets, liabilities, and net worth. In the case of the President, the Vice-President, the Members of the Cabinet, the Congress, the Supreme Court, the Constitutional Commissions and other constitutional offices, and officers of the armed forces with general or flag rank, the declaration shall be disclosed to the public in the manner provided by law.

To recall, the Senate, sitting as an Impeachment Court, found Chief Justice Renato C. Corona (Corona) guilty of the charge of failure to disclose

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29 TSN, April 10, 2018, pp. 165-168.

all his properties in his SALNs. The Senators who voted to convict Chief Justice Corona maintained that the absolute confidentiality clause in the Foreign Currency Deposit Act could not prevail over a public officer's duty to provide an accurate declaration of his net worth.

With Chief Justice Corona's removal from office, the JBC published on June 6, 2012 in the Philippine Daily Inquirer and the Philippine Star the announcement of "the opening, for application or recommendation, of" among others, the position of Supreme Court Chief Justice:

ANNOUNCEMENT

The Judicial and Bar Council (JBC) announces the opening, for application or recommendation, of the following positions[:]

Position	Qualifications	Deadline for Submission of Applications or Recommendations and Personal Data Sheet (PDS)	Deadline for Submission of Other Documentary Requirements
1.CHIEF JUSTICE OF SUPREME COURT	A member of the Supreme Court must a. be a natural-born citizen of the Philippines b. be at least forty (40) years of age but not seventy years old or more c. have been for fifteen years or more a judge of a lower court or engaged in the practice of law in the Philippines; and d. be of proven competence, integrity, probity, and independence (Secs. 7 (1 & 3) and 11, Art. VII, Constitution	**18 June 2012** (Monday)	**3 July 2012** (Tuesday)

x x x x

Candidates for the **Chief Justice** post must submit, in addition to the foregoing, the following documents:

(1) All previous **SALNs** (up to 31 December 2011) for those in government or SALN as of 31 December 2011 for those from the private sector; and (2) Waiver in favor of the JBC of the confidentiality of local and foreign currency bank accounts under the Bank Secrecy Law and Foreign Currency Deposits Act.

x x x x

Applicants with incomplete or out of date documentary requirements will not be interviewed or considered for nomination.

The impeachment trial of Chief Justice Corona and his conviction by the Senate sitting as Impeachment Court emphasized the importance of the SALN. As Senator Francis Joseph G. Escudero (Escudero) pointed out during the JBC *en banc* meeting on June 4, 2012, "the JBC should impose higher standards to aspirants for the position of Chief Justice."[30] Resultantly, the JBC required, in addition to the PDS and other usual requirements[31] for applications to vacancies in the Judiciary, that applicants for the post of Supreme Court Chief Justice submit "**[a]ll previous SALNs** for those in government or SALN as of 31 December 2011 for those from the private sector;" with the corresponding "[w]aiver in favor of the JBC of the confidentiality of local and foreign currency bank accounts under the Bank Secrecy Law and Foreign Currency Deposits Act." These twin requirements of SALNs and waiver of confidentiality of bank deposits would allow the JBC to verify the entries in the applicants' SALNs should there be any complaint against them. At the end of the Announcement, the JBC explicitly stated that "[a]pplicants with incomplete or out of date documentary requirements will not be interviewed or considered for nomination."

However, applicants for the vacant post of Supreme Court Chief Justice who had been in government service for decades had difficulty locating all their SALNs. For this reason, the JBC allowed, as substantial compliance, the submission by said applicants of their SALNs for at least the past 10 years, consistent with Section 8(C)(4) of Republic Act No. 6713 (the Code of Conduct and Ethical Standards for Public Officials and Employees), which provides:

> Sec. 8. Statements and Disclosure. – x x x
>
> x x x x
>
> (C) Accessibility of documents. – x x x
>
> x x x x
>
> (4) Any statement filed under this Act shall be available to the public for a period of **ten (10) years** after receipt of the statement. **After such period, the statement may be destroyed** unless needed in an on-going investigation. (Emphases mine.)

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30 Judicial and Bar Council Minutes 06-2012, June 4, 2012, p. 23.

31 Clearances from the NBI, Ombudsman, IBP, Police from place or residence, Office of the Bar Confidant, and employer; Transcript of School Records; Certificate of Admission to the Bar (with Bar rating); Income Tax Return for the past two (2) years; Proofs of age and Filipino Citizenship; Certificate of Good Standing or latest official receipt from the IBP; Certificate of Compliance with, or Exemption from, MCLE; Sworn Statements of Assets, Liabilities, and Networth for the past two (2) years (for LEB candidates); Certification as to the number of years in the teaching of law (for LEB candidates only); and Results of medical examination and sworn medical certificate with impressions on such results, both conducted/issued within 2 months prior to the filing of application.

Section 3(c), Rule VII of the Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees (Implementing Rules of Republic Act No. 6713), reiterates:

> Sec. 3. x x x
>
> x x x x
>
> (d) Any statement filed under the Code shall be available to the public, subject to the foregoing limitations, for a period of **ten (10) years** after receipt of the statement. **The statement may be destroyed after such period** unless needed in an on-going investigation. (Emphasis mine.)

Since official repositories of the SALNs are legally required to keep copies of filed SALNs for only 10 years, it was only reasonable for the JBC to expect that the applicants for the position of Chief Justice vacated by Chief Justice Corona in 2012 would be able to secure and submit copies of their SALNs at least for the same time period.

The above provisions of the law and the Rules could have been the basis of the JBC to allow substantial compliance with the SALN requirement to cover the 10-year period.

I agree with Senior Associate Justice Antonio T. Carpio that "since the government custodian is required to keep the SALNs for only 10 years, government employees cannot be required to keep their SALNs for more than 10 years. Thus, applicant for government positions, in particular, judicial positions, should not be required to submit SALNs more than 10 years prior to the application."

Counting the 10 years backwards, applicants to the vacant position of the Chief Justice in 2012 should be able to submit their SALNs as of **December 31, 2002 until December 31, 2011**.

Respondent's two PDS showed that she was a Professor at the University of the Philippines (UP) College of Law from 1986 to 2006, obtaining permanent status in 1994. Beginning 1994, respondent should have filed her SALNs yearly on or before April 30 of the immediately succeeding year. Upon her resignation from UP on June 1, 2006, she should have also filed her SALN as of May 31, 2006 on or before June 30, 2006. When respondent was appointed as Supreme Court Associate Justice on August 16, 2010, she should have submitted her SALN as of said date on or before September 15, 2010, and then yearly thereafter as of December 31, 2010 to December 31, 2011 to be filed on or before April 30 of 2011 and 2012, respectively.

To comply with the JBC requirement of submission of SALNs for the last 10 years (2002 to 2011), respondent should have submitted with her

application for the Supreme Court Chief Justice vacancy in 2012 the following SALNs:

SALNs as of	To be filed on or before	No. of SALNs
December 31, 2002 to December 31, 2005	April 30 of immediately succeeding year, *i.e.*, April 30 of 2003 to 2006	4 SALNs
May 31, 2006	June 30, 2006	1 SALN
August 16, 2010	September 15, 2010	1 SALN
December 31, 2010 to December 31, 2011	April 30 of 2011 to 2012	2 SALNs

Yet, respondent submitted to the JBC **only three SALNs**, *viz.*: (a) her SALN as of December 31, 2009, revised as of June 22, 2012; (b) her SALN as of December 31, 2010; and (c) her SALN as of December 31, 2011, all of which she filed as a Supreme Court Associate Justice.

(b) Respondent's failure to submit to the JBC her SALNs from 2002 to 2006 when she was a Professor at the UP College of Law and her deceptive letter dated July 23, 2012

During the JBC *en banc* meeting on June 18, 2012, it was agreed upon that the deadline for submission of applications/recommendations and PDS for the Supreme Court Chief Justice vacancy would be moved to July 2, 2012 (Monday) and the deadline for other documentary requirements would be on July 17, 2012 (Tuesday).[32] The announcement of the extensions of the deadlines for submission of requirements was published in the Philippine Daily Inquirer and Philippine Star on July 20, 2012.[33]

The root of respondent's deceptions lies in her letter dated July 23, 2012 to the JBC, in which she wrote:

> **JUDICIAL AND BAR COUNCIL**
> 2nd Floor Centennial Building
> Supreme Court, Padre Faura
> Ermita, Manila
>
> **Subject: Call of Atty. Richard Pascual on 20 July 2012**
>
> Dear Sirs and Mesdames:

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32 Judicial and Bar Council Minutes 07-2012, June 18, 2012, pp. 12, 14.

33 Judicial and Bar Council Minutes 08-2012, June 25, 2012, p. 2.

I write with respect to the follow-up made by your Atty. Richard Pascual last Friday, July 20, regarding the submission of my previous Statements of Assets, Liabilities and Net Worth (SALNs) from 1995 to 1999.

As I had noted in my Personal Data Sheet, after my resignation from government service in 2006, as a professor at the University of the Philippines, I became a full-time private practitioner. Hence, when I was nominated for the position of Associate Justice of the Supreme Court in 2010, my nomination was considered as that of a private practitioner, and not as a government employee. Thus, the requirements imposed on me in connection with the consideration of my name, were those imposed on nominees from the private sector, and my earlier-terminated government service, did not control nor dominate the kind of requirements imposed on me.

Considering that most of my government records in the academe are more than fifteen years old, it is reasonable to consider it infeasible to retrieve all of those files.

In any case, the University of the Philippines has cleared me of all academic/administrative responsibilities, money and property accountabilities and from administrative charges as of 01 June 2006. Since it is the ministerial duty of the Head of the Office to ensure that the SALNs of its personnel are properly filed and accomplished (CSC Resolution No. 060231 dated 01 February 2006 and CSC Memorandum Circular No. 10-2006 dated 17 April 2006), this clearance can be taken as an assurance that my previous government employer considered the SALN requirements to have been met. A copy of the Clearance dated 19 September 2011 issued by the University of the Philippines is hereby attached.

In the 05 June 2012 Announcement, the Judicial and Bar Council imposed the requirement of submitting all previous SALNs for those in the government. As I pointed out earlier, my service in the government is not continuous. The period of my private practice between my service in the University of the Philippines ending in 2006 and my appointment to the Supreme Court in 2010 presents a break in government service. Hence, in compliance with the documentary requirements for my candidacy as Chief Justice, I submitted only the SALNs from end of 2009 up to 31 December 2011, since I am considered to have been returned to public office and rendered government service anew from the time of my appointment as Associate Justice on 16 August 2010.

Considering that I have been previously cleared from all administrative responsibilities and accountabilities from my entire earlier truncated government service, may I kindly request that the requirements that I need to comply with, be similarly viewed as that from the private sector, before my appointment to the Government again in 2010 as Associate Justice of the Supreme Court.

Thank you for your kind understanding.[34]

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[34] Annex "11" to Respondent's Memorandum *Ad Cautelam*.

Respondent's letter contained several misrepresentations/lies, all with the collective intention of convincing the JBC that she need not submit her SALNs even for just the immediately preceding 10-year period.

First Observation: In her letter dated July 23, 2012 to the JBC, respondent alleged that then Atty. Richard O. Pascual[35] (Pascual), as Chief, Office of Recruitment, Selection and Nomination (ORSN) of the JBC, followed up on the submission of her SALNs for 1995 to 1999. However, it is doubtful that Atty. Pascual would require the submission of respondent's earlier SALNs when respondent was unable to submit even her more recent SALNs, specifically, her SALNs for 2002 to 2006, which years were more proximate to 2012 when she applied for the position of Chief Justice.

Second Observation: Respondent stated in the same letter dated July 23, 2012 to the JBC that "[c]onsidering that most of my government records in the academe are **more than fifteen years old**, it is reasonable to consider it infeasible to retrieve all of those files."

Considering that respondent referred to the SALNs of more than 15 years past from 2012, which she claimed to be irretrievable, she should have submitted her recent SALNs, that would be SALNs for 2002, 2003, 2004, 2005, and 2006, but she did not do so. She did not even make an attempt to secure the said SALNs from UP. This omission casts doubts as to the availability of all her SALNs for the said five years. In fact, it turned out that among the required SALNs, respondent only has on record in UP her 2002 SALN. Respondent did not submit to the JBC even this 2002 SALN. If she did, she could have been asked by the JBC to produce copies of her SALNs for the other abovementioned years from UP. In all probability, respondent wanted to avoid this by not submitting her readily available 2002 SALN.

Third Observation: In respondent's letter dated July 23, 2012 to the JBC, she gave the impression that she submitted all her SALNs to UP and that the clearance given to her by UP upon her resignation meant that she had duly complied with the SALN requirement.

Respondent attached to her letter dated July 23, 2012 to the JBC the Certificate of Clearance issued on September 19, 2011 in her favor by Angela D. Escoto (Escoto), Director, Human Resources Development Office of UP (UP-HRDO), which respondent urged the JBC to take "as an assurance that my previous government employer considered the SALN requirements to have been met." Said Certificate of Clearance reads in full:

> This is to certify that **Prof. MA. LOURDES A. SERENO**, Associate Professor 2 of the U.P. Law Complex, has been cleared of all academic/administrative responsibilities, money and property

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35 Now Acting Presiding Judge, Metropolitan Trial Court, Quezon City, Branch 37.

> accountabilities and from administrative charges in the University as of June 1, 2006.
>
> It is understood that this clearance is without prejudice to her liabilities for any accountabilities/charges reported to this office after the aforementioned date and subject to COA disallowance.
>
> This certification is issued on September 19, 2011 to Prof. Sereno in connection with her resignation on June 1, 2006.[36]

The Certificate of Clearance of the UP-HRDO cleared respondent, in general, of all "academic/administrative responsibilities, money and property accountabilities and from administrative charges in the University as of June 1, 2006." **There is no specific mention therein of respondent's SALNs or any indication that these were checked prior to the issuance of the Certificate of Clearance.** The University Clearance Form (Revised as of January 25, 2005),[37] which respondent must accomplish and submit when she resigned as UP Professor and on which the UP-HRDO most likely based its Certificate of Clearance, only required that the following university officials/offices sign thereon to clear respondent: (a) Unit Supply Officer; (b) Adm. Officer/Office Head; (c) Dean/Director; (d) Personnel Clearance; (e) Civil/Criminal/Adm. Charges by the Diliman Legal Office; (f) Office of the Vice Chancellor for Research and Development; (g) Supply & Property Mgt. Office; (h) Credit Union; (i) Office of Community Relations; (j) Housing Office; (k) University Library; (l) OSSS (Student Loan Board); (m) UP Health Service; (n) UP Provident Fund; (o) Business Concessions Office; (p) Cash Office; and (q) Accounting Office. There is no apparent university official/office among those listed in the University Clearance Form who/which would particularly review respondent's compliance with the SALN requirement and sign to clear her of the same.

Indeed, Director Escoto, in her letter dated March 6, 2018,[38] directly refuted respondent's avowal that she had duly met the SALN requirement as UP Professor, by stating that only respondent's SALNs for 1985, 1990, 1991, 1993, 1994, 1995, 1996, 1997, and 2002 were found in the records of the UP-HRDO. Respondent's SALNs for 2003 to 2006 were not on file.

Fourth Observation: In her letter dated July 23, 2012, respondent prodded the JBC to apply to her the requirements for those in the private sector, deliberately causing confusion as to the actual documentary requirements required of her in connection with the Supreme Court Chief Justice vacancy in 2012. Respondent was an applicant from the private sector only as regards to her application for the vacant post of Supreme Court Associate Justice in 2010, for which there was no SALN requirement. As for her application for the vacant post of Supreme Court Chief Justice in 2012, respondent was bound to comply with the express requirement that

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36 Annex "2" of Respondent's Memorandum *Ad Cautelam*.

37 <http://hrdo.upd.edu.ph/Form_Clearance.pdf> (visited on May 8, 2018).

38 Annex "O" of the Reply to the Petition for *Quo Warranto*.

applicants in government service should submit to the JBC all their SALNs, later reduced to their SALNs for the past 10 years as substantial compliance, despite the four-year gap in her government service within the said 10-year period.

Fifth Observation: Respondent is either unable or unwilling to submit her 2003 to 2006 SALNs. During the same time periods, respondent was working as part of the legal team representing the Republic of the Philippines in the investment arbitration cases then before international forums, *i.e.*, *Fraport AG Frankfurt Airport Services Worldwide v. Republic of the Philippines*[39] (*Fraport case*) and *Philippine International Air Transport Co. v. Republic of the Philippines*[40] (*PIATCO case*). In the PDS she submitted to the JBC in 2010 in connection with her application for the vacant post of Supreme Court Associate Justice, respondent herself declared that the *Fraport case* was pending from 2003 to 2007, while the *PIATCO case* was filed in 2003 and was still pending as of 2010. For her legal services in the two international investment arbitration cases, respondent received from the Office of the Solicitor General a total income of ₱30,269,975.49, broken down annually as follows:

Year	*Income from OSG*
2004	₱7,055,513.56
2005	₱11,532,226.00
2006	₱2,636,006.64
2007	₱4,673,866.36
2008	₱4,070,810.93
2009	₱301,552.00
TOTAL	₱30,269,975.49[41]

From January 1, 2004 to May 30, 2006, respondent was still a UP Professor with the duty to file her SALNs and declare therein the millions she had earned from the *Fraport case* and *PIATCO case*, but her SALNs covering said time periods were among those still missing and which she failed to submit to the JBC in connection with her application for the vacant post of Supreme Court Chief Justice in 2012.

(c) Respondent's defective or problematic SALNs

Respondent submitted to the JBC with her applications for the vacant post of Supreme Court Associate Justice in 2010 and for the vacant post of Supreme Court Chief Justice in 2012 a total of four SALNs, *viz.*: (1) SALN as of December 31, 2006; (2) SALN as of December 31, 2009, revised as of June 22, 2012; (3) SALN as of December 31, 2010; and (4) SALN as of

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39 ICSID Case No. ARB/03/25 before the International Centre for the Settlement of Investment Disputes (Washington, D.C.).

40 ICC Case No. 12610/TE/MW/AVH/JEM, before the International Chamber of Commerce-International Court of Arbitration (Paris, Singapore).

41 Respondent's Memorandum *Ad Cautelam*, pp. 7-8.

December 31, 2011, two of which appear defective or problematic upon closer review.

SALN as of December 31, 2006: Respondent submitted her SALN as of December 31, 2006 in connection with her application for the vacant post of Supreme Court Associate Justice in 2010.

In her letter to the JBC dated July 28, 2010, respondent wrote, "[y]esterday, I submitted my Statement of Assets and Liabilities[,]" noticeably not referring to the document as a "sworn" SALN.

An examination of the SALN[42] referred to above would reveal that printed on the top of page 1 thereof were the words "[a]s of 31 Dec. 2006"; yet on page 3, respondent filled out the *jurat* of the SALN as: "SUBSCRIBED AND SWORN TO before me this 27th day of July, 2010 x x x." The underlined portions were in respondent's handwriting. While respondent dated the *jurat*, she left the space for the date of execution of the SALN blank. Respondent signed the said SALN and dated the *jurat*, but the "Person Administering Oath" and "Duty & Unit Assignment" were also left blank, meaning that said SALN was not executed under oath.

It is also very evident that the SALN Form respondent used was not the 1994 SALN Form from the Civil Service Commission. It appears to be the SALN Form (Revised Form 24 Dec 04)[43] specific for the Armed Forces of the Philippines.

During the oral arguments, respondent alleged that the handwritten date of July 27, 2010 on the second page is the controlling date for the SALN and not the printed date of December 31, 2006 on the first page. Respondent testified during the oral arguments that:

> **CHIEF JUSTICE SERENO:**
>
> The JBC did not inquire from me my 2006 SALN. They requested me to give my Statement of Assets regardless of whether it's sworn or not as of the time of application. Now, the form there, the only form I used there was a downloadable form as of 2006 but if you can look at the signature portion, it is 2010. So, it is a metric tool that was used by the JBC and they explained it to me intimately that it had to do with the measurement of the banks, deposits and the income tax return. So, that SALN is not the SALN contemplated by law but it is another measurement tool of the JBC.
>
> x x x x

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42 See Annex "E" of the Petition for *Quo Warranto*.

43 Annex "43" of Respondent's Memorandum *Ad Cautelam*; <http://www.army.mil.ph/home/pdf_files/Promulgated_PA_Doctrine_Manuals/1.%20Pesronnel/PAM%201-15%20-%20OESPA.pdf> (visited on April 16, 2018).

CHIEF JUSTICE SERENO:

> It's not the SALN required by law. I had to find a form I could easily file because I was being asked to immediately sent it by fax. So, the only downloadable form was what was available in the website. I downloaded it, I filled it up, I sent it.[44]

Hence, by her own words, the supposed 2006 SALN on file of the JBC – being unsubscribed, accomplished using an unauthorized form, obviously haphazardly filled out by respondent because it was "not the SALN contemplated by law," and was purportedly a mere "metric tool" for the JBC – is a just piece of paper, which does not really serve as respondent's SALN for 2006 or even for 2010.

As mandated under Section 8(A) of Republic Act No. 6713, SALNs shall be filed (a) within 30 days after assumption of office; (b) on or before April 30, of every year thereafter; and (c) within thirty 30 days after separation from the service. In 2006, respondent was supposed to have filed her SALNs twice: (1) her SALN as of December 31, 2005 to be filed on or before April 30, 2006; and (2) her SALN as of May 31, 2006, her last day in government service given her resignation effective June 1, 2006, to be filed on or before June 30, 2006.

There is no proof or any indication on record that respondent had filed said SALNs in 2006. If she did file the said two SALNs in 2006, there would have been no reason to fabricate the unsworn 2006 SALN she filed in connection with her application for the Supreme Court Associate Justice vacancy. This reinforces the conclusion that she did not accomplish and file her SALNs in 2006 as required by law and the rules.

SALN as of December 31, 2009: Respondent's SALN as of December 31, 2009 was initially executed and subscribed to by her on September 16, 2010. Respondent subsequently revised said SALN on June 22, 2012.

It is surprising why respondent had to file her SALN as of December 31, 2009, when she was still in the private sector at the time. Respondent likewise indicated therein that her position as of December 31, 2009 was already "Associate Justice" and her office was "Supreme Court of the Philippines." Respondent was appointed Supreme Court Associate Justice only on August 16, 2010.

Apparently, respondent's SALN as of December 31, 2009, executed and subscribed to by her on September 16, 2010, was intended as her compliance with the requirement under Section 8(A) of Republic Act No. 6713 and Section 1(b)(1), Rule VII of the Implementing Rules of Republic Act No. 6713 that she file a SALN within 30 days after her assumption of

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44 TSN, April 10, 2018, pp. 34, 35.

office. However, respondent's SALN was executed and subscribed to a day late because the 30-day period from her assumption of office on August 16, 2010 ended on September 15, 2010.

More importantly, respondent overlooked that such a SALN should be reckoned as of her first day of service, *i.e.*, August 16, 2010, as provided under Section 1(b)(1) of the Implementing Rules of Republic Act No. 6713, and not as of December 31 of the immediately preceding year, 2009. Such a SALN, reckoned as of the date of assumption of office of the public official or employee, shall serve as the baseline for his/her assets, liabilities, and net worth in the succeeding years in government service. Respondent's SALN reckoned as of December 31, 2009, or eight months prior to her assumption of office on August 16, 2010, would be non-compliant and useless because she could have acquired assets and liabilities during the eight-month interim, which would not be reflected in the SALN that should have been filed as of the date she assumed her position.

Respondent revised her SALN as of December 31, 2009 on June 22, 2012, prior to filing her application of the Supreme Court Chief Justice vacancy, but she only adjusted the values of the real and personal properties she declared therein and she did not correct any of the above-mentioned substantial defects.

When questioned as to her defective SALN as of December 31, 2009 and her failure to comply with the law and implementing rules, respondent only offered an invalid excuse that she did not have enough time, given the pressure and workload of her new office, and I quote:

> **CHIEF JUSTICE SERENO**
>
> August 16... So I assumed office, I entered into the functions of my office, August, same day. How can I? We were preparing for the oral arguments, then following day was the Hacienda Luisita, I have to have bank certifications of all my bank records. I have to force my husband to compute our estimated tax liabilities, I have to make a run down of all the debts that are due me and I have not been paid. I have to, at the same time, find out if I owe anybody anything. An then if I have to find out that valuation of all my properties, how can you do that in a matter of three weeks, Justice De Castro? This is the most absurd, oppressive interpretation ever. What I am offering the government is a good database from which to assess whether I'm violating the SALN law. I have *end 2009*, I have *end 2010*, government can run after me if I have any ill-gotten wealth. In the first place, the SolGen has not made out any case that I have violated anything of any kind.[45]

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[45] TSN, April 10, 2018, p. 46.

(d) Did the failure of respondent to submit her SALNs escape the scrutiny of the JBC Execom?

On July 16, 2012, the JBC *en banc* agreed that they will strictly enforce the policy not to interview applicants who failed to comply with the documentary requirements within the period set, especially with respect to applicants for the Supreme Court Chief Justice post vacated by Chief Justice Corona, thus:

> Senator Escudero said that pursuant to what was agreed upon by the JBC with respect to lower court judges that if they do not submit their requirements on time, they would not be considered for interview and nomination.
>
> Justice Lagman read the portion of the minutes during the last meeting, particularly, page 6, lines 35-38, as follows:
>
> > *The Council likewise agreed to follow the policy, which was previously adopted, that the JBC would not interview applicants and considered for nomination by the Council En Banc if they fail to comply with all the requirements within a certain period.*
>
> Congressman Tupas commented that **considering that the position to be filled is Chief Justice of the Supreme Court, with more reason that the policy should be applied to the candidates**.
>
> Senator Escudero concurred with the manifestation of the Congressman.[46] (Emphasis mine.)

Thereafter, the JBC *en banc*, during its meeting on July 20, 2012, deliberated on the documentary requirements submitted by each applicant for the Supreme Court Chief Justice vacancy. Relevant portions of the Minutes of said Meeting are reproduced below:

> **III. Deliberation on Candidates with Incomplete Documentary Requirements**
>
> At the outset, the Executive Officer said that the Council was furnished with copies of the matrix of candidates regarding the submission of [documentary] requirements. She then mentioned that, as per instruction, this matter is in the agenda for the purpose of discussing whether those with lacking requirements would still be interviewed or would be given another deadline.
>
> Justice Peralta suggested that the Council examine the matrix per candidate, as follows:
>
> x x x x

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[46] Judicial and Bar Council Minutes 10-2012, July 16, 2012, pp. 10-11.

> Senator Escudero said that assuming that the Council agreed to give them until Monday, July 23, 2012 before the start of the interview, it seems that there might no longer be a chance for the JBC to meet and discuss the matter. He asked for clarification whether failure of the candidates to complete the requirements until the closing of office hours on Monday would result in the exclusion of their names from the list to be interviewed and to be considered for nomination even if the lacking requirement is just laboratory results or medical certificate
>
> x x x x
>
> 10. **Justice Maria Lourdes P. A. Sereno**
>
> The Executive Officer informed the Council that **she had not submitted her SALNs for a period of ten (10) years**, that is, from 1986 to 2006.
>
> Senator Escudero mentioned that Justice Sereno was his professor at U.P. and that they were required to submit SALNs during those years.
>
> x x x x
>
> Senator Escudero moved that the motion of Justice Lagman to extend the deadline on Monday be applied to all the candidates and that **the determination of whether a candidate has substantially complied with the requirements be delegated to the Execom**. He further moved that any candidate who would still fail to complete the requirements at the close of office hours on Monday, July 23, 2012 would be excluded from the list to be interviewed and considered for nomination; unless, they would be included if in the determination of the Execom he or she has substantially complied.[47] (Emphases mine.)

It would seem that after the said meeting, Atty. Pascual called respondent to follow-up on her SALNs as UP Professor. Instead of submitting additional SALNs, respondent submitted her letter dated July 23, 2012. The deadline for submission of documentary requirements for all applicants was at the close of office hours on July 23, 2012 (Monday), since interviews of the qualified candidates were already scheduled to start the following day, July 24, 2012 (Tuesday). The four regular members of the JBC, who also comprise the JBC Executive Committee (Execom), namely, Justice Regino C. Hermosisima, Jr., Justice Lagman, Atty. Mejia, and Atty. Fernan-Cayosa, were furnished copies of respondent's letter dated July 23, 2012 also on July 23, 2012. The *Ex Officio* Members of the JBC, namely, Associate Justice Diosdado M. Peralta,[48] then Undersecretary Musngi vice Secretary of Justice Leila M. De Lima,[49] Senator Escudero, and Congressman Niel C. Tupas were not furnished the said letter.

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47 Judicial and Bar Council Minutes 11-2012, July 20, 2012, pp. 8-12.

48 Supreme Court Associate Justice Peralta was the Acting Chairperson of the JBC as the five most senior Supreme Court Associate Justices were automatically nominated for the vacant position of Chief Justice.

49 Secretary De Lima was also a candidate for the position of Chief Justice.

Prior to the interviews scheduled on July 24, 2012, Atty. Pascual, as ORSN Chief, prepared and submitted to the JBC Execom a Report Re: Documentary Requirements and SALN of Candidates for the Position of Chief Justice of the Philippines,[50] which already included respondent in the list of candidates with complete requirements:

NAME OF APPLICANT	LACKING REQUIREMENTS
1. ABAD, ROBERTO A.	COMPLETE REQUIREMENTS
2. BAUTISTSTA, ANDRES D.	COMPLETE REQUIREMENTS
3. BRION, ARTURO D.	COMPLETE REQUIREMENTS
4. CAGAMPANG-DE CASTRO, SOLEDAD M.	COMPLETE REQUIREMENTS
5. CARPIO, ANTONIO T.	COMPLETE REQUIREMENTS
6. DE LIMA, LEILA M.	COMPLETE REQUIREMENTS
7. HERBOSA, TERESITA J.	COMPLETE REQUIREMENTS
8. JARDELEZA, FRANCIS H.	COMPLETE REQUIREMENTS
9. LEGARDA, MARIA CAROLINA T.	COMPLETE REQUIREMENTS
10. LEONARDO-DE CASTRO, TERESITA J.	COMPLETE REQUIREMENTS
11. MORALES, RAFAEL A.	COMPLETE REQUIREMENTS
12. PANGALANGAN, RAUL C.	COMPLETE REQUIREMENTS
13. SARMIENTO, RENE V.	COMPLETE REQUIREMENTS
14. SERENO MARIA LOURDES A.	**COMPLETE REQUIREMENTS** **Letter 7/23/12 – considering that her government records in the academe are more than 15 years old, it is reasonable to consider it infeasible to retrieve all those [files].**
15. VELASCO, PRESBITERO JR. J.	COMPLETE REQUIREMENTS
16. ZAMORA, RONALD B.	COMPLETE REQUIREMENTS
17. DIOKNO, JOSE MANUEL I.	• **SALN** **(LETTER DATED 7/21/12 REQUESTING FOR EXTENSION TO SUBMIT UNTIL JULY 27, 2012)**
18. **RODRIGUEZ, RUFUS B.**	NOTE: DID NOT ARRIVE FOR [PSYCHOLOGICAL] AND PSYCHIATRIC EVALUATION DTD JULY 23, 2012 • NOTARIZED PDS • TOR • ITR-2010 • NBI CLEARANCE • LAB RESULTS & SWORN MED CERT. • POLICE CLEARANCE • **SALN-ALL PREVIOUS** • WAIVER
19. SIAYNGCO, MANUEL DJ.	• LAB RESULTS (HEMATOLOGY) • MCLE CERT. OF COMPLIANCE
20. VALDEZ, AMADO D.	• MCLE CERT. OF COMPLIANCE
21. **VELASQUEZ, VICENTE R.**	• TOR • CERT. OF ADMISSION • ITR • CLEARANCES-NBI & OMB • PROOFS OF AGE AND

[50] Annex "38" of Respondent's Memorandum *Ad Cautelam*.

	CITIZENSHIP • LAB RESULTS & SWORN MED CERT. • POLICE CLEARANCE • **SALN AS OF DEC. 31, 2011**
22. VILLANUEVA, CESAR L.	• ITR • OBC CLEARANCE LAB RESULTS & SWORN MED CERT. (Emphases mine.)

Observe how the entry on respondent was presented in the table above: (a) The first line clearly stated "Complete Requirements," only to be followed by the note on respondent's letter dated July 23, 2012; and (b) the note, lifting the words from respondent's letter dated July 23, 2012, referred only to respondent's "government records in the academe" which were infeasible to retrieve. It is not readily apparent that respondent still lacked several SALNs and that the note actually pertained to respondent's SALNs. Yet, as for entries on other candidates, *i.e.*, Jose Manuel I. Diokno, Rufus B. Rodriguez (Rodriguez), and Vicente R. Velasquez (Velasquez), notice how clearly it was indicated that they still lacked SALNs.

During its undocumented meeting on July 24, 2012, the JBC Execom excluded from the interviews only two candidates, Rodriguez and Velasquez.

Respondent's Profile Matrix, again prepared and submitted by the ORSN, was used by the JBC *en banc* for respondent's interview on July 27, 2012 and in the *en banc* meetings on August 6, 10, and 13, 2012. The "Remarks" column of said Matrix contained, among other things, the following entries:

Name	**x**	**x**	**Remarks**
15. SERENO, MARIA LOURDES ARANAL	x	x	x x x x SALN 2009-2011

(Succeeding page of matrix)	x	x	Letter 7/23/2012 – Considering that her government records in the academe are more than 15 years old, it is reasonable to consider it infeasible to retrieve all those [files]. x x x x

Once more, it cannot be gathered from the afore-quoted entries that respondent still had missing SALNs. The note on respondent's letter dated July 23, 2017 made no direct reference to respondent's SALNs but only to her "government records in the academe." What's worse, the entry of "SALN 2009-2011" was on the first page and the note on respondent's letter was already printed on the next page. Thus, one would not easily derive that

the two entries were connected and concerned with respondent's lacking SALNs.

As of the JBC *en banc* meeting on July 20, 2012, it was expressly noted that respondent had not submitted her SALNs for the past 10 years. In fact, after said meeting, Atty. Pascual called respondent to follow-up on her submission of SALNs. However, with the mere submission by respondent of her letter dated July 23, 2012 to the JBC – wherein she deceptively claimed that since most of her "government records in the academe are more than fifteen years old," they are infeasible to retrieve – she was already deemed to have substantially complied with the requirements and was eligible to be interviewed.

The information as regards respondent in the Report dated July 24, 2012 and respondent's Personal Matrix from the ORSN was not accurately nor clearly presented. It could not be gleaned from a cursory reading of said documents that respondent still had incomplete SALNs. To the contrary, one could be easily misled into believing that respondent had already submitted complete documentary requirements. However, since the JBC Regular Members, who also constituted the JBC Execom, were actually furnished copies of respondent's letter dated July 23, 2012, then they had first-hand knowledge of respondent's failure to submit her SALNs as a UP Professor. JBC *Ex Officio* Members, meanwhile, who were furnished only respondent's Personal Matrix and not the respondent's letter of July 23, 2012 would not have been sufficiently informed of respondent's lack of SALNs.

Ultimately, the JBC *en banc* finalized the shortlist of candidates for the vacant post of Supreme Court Chief Justice and transmitted the same to President Aquino through a letter dated August 13, 2012. The shortlisted candidates were:

1. Carpio, Antonio T.	- 7 votes
2. Abad, Roberto A.	- 6 votes
3. Brion, Arturo D.	- 6 votes
4. Jardeleza, Francis H.	- 6 votes
5. Sereno, Maria Lourdes P. A.	- 6 votes
6. Zamora, Ronaldo B.	- 6 votes
7. Leonardo-De Castro, Teresita J.	- 5 votes
8. Villanueva, Cesar L.	- 5 votes

From said shortlist, President Aquino appointed respondent Chief Justice on August 16, 2012.

Going over the events recounted above, there appears to be circumstances which ought to be looked into why respondent was allowed to be shortlisted despite non-compliance with the JBC requirements for applicants in government service to submit their SALNs for the past 10 years. This is precisely the subject of an administrative matter (A.M. No. 17-11-12-SC) pending before the Court, which is different and separate from

the issue of respondent's personal liability for her non-compliance with the SALN requirements under the Constitution, laws, and implementing rules .

Respondent's pattern of deception continued in the misleading of the public on the real nature of her leave of absence from the Court.

Only very recently, respondent and her spokespersons created confusion as to the nature of respondent's leave of absence from the Court in the midst of the investigation by the House of Representatives Committee on Justice of the impeachment complaint against respondent. During the *en banc* session on February 27, 2018, respondent and 13 Supreme Court Associate Justices were present. After consultation with the two most senior Associate Justices, respondent herself announced, with the unanimous approval of all the other Justices then present that she would go on an indefinite leave beginning March 1, 2018. Yet, immediately after said *en banc* session, respondent's spokespersons publicly claimed that respondent was merely availing earlier her two-week wellness leave originally scheduled for March 12 to 26, 2018,[51] which she moved to March 1, 2018, giving the impression that respondent was merely taking a regular wellness leave of absence.

The above misleading pronouncements by respondent's spokespersons to different media outfits prompted the 13 Supreme Court Associate Justices present during the *en banc* session on February 27, 2018 to issue a statement on March 1, 2018, unequivocally describing the nature and terms of respondent's leave of absence and expressing the regret of the Court *en banc* as to the confusion that the public announcements made by respondent's spokespersons may have caused, to the detriment of the Supreme Court and the Judiciary. The statement dated March 1, 2018 of the Court *en banc* which was signed by the 13 Associate Justices present, is recited in full hereunder:

> After extended deliberations last Tuesday February 27, 2018, thirteen (13) of the Justices present arrived at a consensus that the Chief Justice should take an indefinite leave. Several reasons were mentioned by the various justices. After consulting with the two most senior justices, the Chief Justice herself announced that she was taking an indefinite leave, with the amendment that she start the leave on Thursday, March 1, 2018. The Chief Justice did not request the rescheduling of her wellness leave.
>
> **The Court *En Banc* regrets the confusion that the announcements and media releases of the spokespersons of the Chief Justice have caused, which seriously damaged the integrity of the Judiciary in general and the Supreme Court in particular**. In the

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51 *Sereno to go on leave*, February 27, 2018 < http://news.abs-cbn.com/news/02/27/18/sereno-to-go-on-leave> (visited April 13, 2018); *Sereno to take 'wellness leave' amid impeach hearings — spokesman*, February 27, 2018 < http://www.gmanetwork.com/news/news/nation/644775/sereno-takes-indefinite-wellness-leave-amid-impeach-hearings-report/story/> (visited April 13, 2018).

> ordinary course of events, **the Court expected the Chief Justice to cause the announcement only of what was really agreed upon without any modification or embellishment.** This matter shall be dealt with in a separate proceeding.
>
> In view of the foregoing, the Court *En Banc* considers Chief Justice Maria Lourdes P. A. Sereno to be on an indefinite leave starting March 1, 2018. Senior Associate Justice Antonio T. Carpio shall be the Acting Chief Justice.
>
> The Clerk of Court and the Office of the Court Administrator will be informed and ordered to inform all courts and offices accordingly. (Emphasis mine.)

The Court has repeatedly held in numerous administrative cases that court employees, from the highest magistrate to the lowliest clerk, are held to a higher standard than most other civil servants, and that every employee of the Judiciary should be an example of integrity, uprightness, and honesty. From her applications for the vacant post of Supreme Court Associate Justice in 2010 and her subsequent application for the vacant post of Supreme Court Chief Justice in 2012, to her almost six-year stint as Supreme Court Chief Justice, respondent continuously demonstrated her proclivity to lie, mislead, bend the rules, and exploit the exemptions, in disregard of constitutional, statutory, and regulatory parameters; ethical conduct; and collegial courtesy. The evidence on record shows that respondent was unable to submit her SALNs for 2002 to 2006 to the JBC as required for applicants for the Supreme Court Chief Justice vacancy in 2012 and she deliberately deceived and misled the JBC so as to secure her inclusion in the shortlist of candidates for the vacancy in the said position, despite her non-compliance with the SALN requirement mandated by the Constitution, the law, and implementing rules.

Considering the foregoing, respondent's appointment as Chief Justice of the Supreme Court, secured through her lies and deception in the entries in her sworn PDS and regarding her non-compliance with the abovementioned SALN requirement of the JBC, is **void *ab initio***, and for such reason, I vote to **GRANT** the Petition for *Quo Warranto*.

Teresita Leonardo de Castro

TERESITA J. LEONARDO-DE CASTRO
Associate Justice