



Republic of the Philippines
Supreme Court
Manila

EN BANC

RE: MEMORANDUM DATED A.M. No. 17-07-05-SC
JULY 10, 2017 FROM
ASSOCIATE JUSTICE TERESITA
J. LEONARDO-DE CASTRO

X-----X
RE: LETTER OF RESIGNATION
OF ATTY. BRENDA JAY
ANGELES MENDOZA, PHILJA
CHIEF OF OFFICE FOR THE
PHILIPPINE MEDIATION
CENTER

X-----X
A.M. No. 18-02-13-SC

Present:

CARPIO, A.C.J.,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
MARTIRES,
TIJAM,
REYES, JR., and
GISMUNDO, JJ.

Promulgated:

July 3, 2018

X-----X

RESOLUTION

LEONEN, J.:

This Resolution partially resolves the points raised in the July 10, 2017 Memorandum of Associate Justice Teresita J. Leonardo-De Castro (Associate Justice Leonardo-De Castro) concerning: (1) the extent of the

power of appointment of the Court *En Banc*; and (2) the appointment of Atty. Brenda Jay A. Mendoza (Atty. Mendoza) to the position of the Philippine Judicial Academy (PHILJA) Chief of Office for the Philippine Mediation Center.

Associate Justice Leonardo-De Castro submitted to the Court *En Banc* a Memorandum¹ dated July 10, 2017, on the following subjects:

- I. (A) Filling Up of Long Vacant Key Positions in the Supreme Court

(B) Appointment of Incumbent PHILJA Chief of Office for the Philippine Mediation Center not in Accordance with Court Resolution
- II. Power of Court *En Banc* to Appoint Court Officials and Personnel
- III. The Grant by the Chief Justice of Foreign Travel Allowance to Members of her Staff Without Court Resolution.²

In her Memorandum, Associate Justice Leonardo-De Castro pointed to the following key positions within this Court which had not yet been filled and which she noted were, thus, prejudicial to the best interest of the service:

1. Deputy Clerk of Court and Chief Attorney (Salary Grade 29): vacant since October 30, 2013; and
2. Two (2) positions of Assistant Court Administrator, Office of the Court Administrator (Salary Grade 30): vacant since January 10, 2013.³

She noted that the notice of vacancy for the Deputy Clerk of Court and Chief Attorney position was posted on June 15, 2016. Applications to the post were transmitted to the Office of the Chief Justice on July 18, 2016. No action had been taken on the applications.

Moreover, she called the attention of this Court to the vacancy for one (1) Assistant Court Administrator, which was posted on October 24, 2016 and for which applications were transmitted to the Office of the Chief Justice on December 13, 2016. Now retired Associate Justice Jose P. Perez had requested several times that the filling-up of the vacancy be put in this Court's agenda, as he and Associate Justice Arturo D. Brion were set to compulsorily retire in December 2016. However, his requests were not

¹ *Rollo*, pp. 1–5, Memorandum of Associate Justice Teresita J. Leonardo-De Castro dated July 10, 2017.

² *Id.* at 1.

³ *Id.*

granted. The vacancy in the other Assistant Court Administrator position had not been posted.

Further, Associate Justice Leonardo-De Castro presented to this Court that the appointment of the incumbent PHILJA Chief of Office for the Philippine Mediation Center, Atty. Mendoza, is not in accordance with Administrative Order No. 33-2008, which requires appointment by this Court upon the recommendation of PHILJA.

She pointed out that unlike the previous appointments to the position, Atty. Mendoza was not appointed by the Court *En Banc*, upon the recommendation of the PHILJA Board of Trustees in a board resolution. Instead, Atty. Mendoza was appointed by virtue of Memorandum Order No. 26-2016 dated June 28, 2016, signed only by the Chief Justice and the two (2) most senior Associate Justices.

It was the position of Associate Justice Leonardo-De Castro that since the Constitution vests in this Court the power of appointment of all officials and employees of the judiciary,⁴ this power can only be exercised by the Court *En Banc*, unless duly delegated by a court resolution.

She proposed that the Resolution dated April 22, 2003 in A.M. No. 99-12-08-SC (Revised), which was cited as the basis for Memorandum Order No. 26-2016, should be clarified as to the scope of the authority to appoint that is delegated to the Chief Justice and the Chairpersons of the Divisions.

A.M. No. 99-12-08-SC (Revised) states, among others, that the “[a]ppointment and revocation or renewal of appointments of regular (including coterminous), temporary, casual, or contractual personnel in the Supreme Court”⁵ shall be referred to the Chairpersons of the Divisions. Associate Justice Leonardo-De Castro was of the view that the “personnel” referred to in A.M. No. 99-12-08-SC (Revised) should exclude high-ranking officials of the highly technical and/or policy-determining third-level positions below the Chief Justice and Associate Justices. She pointed to A.M. No. 05-9-29-SC, which enumerates the third-level positions as those with salary grades 26 and higher, as a guide for which positions should continue to be appointed by the Court *En Banc*.

Associate Justice Leonardo-De Castro took the position that pursuant to *Manalang v. Quitariano*,⁶ “personnel” was “used generally to refer to the subordinate officials or clerical employees of an office or enterprise, not to

⁴ CONST. art. VIII, sec. 5(6).

⁵ A. M. No. 99-12-08-SC Revised (2003), sec. II (a).

⁶ 94 Phil. 903 (1954) [Per J. Concepcion, En Banc].

ℓ

the managers, directors or heads thereof.”⁷ Nonetheless, under A.M. No. 99-12-08-SC (Revised), appointments to third-level positions have been delegated to the Chief Justice and the two (2) Senior Associate Justices.

In relation to the matters taken up in this Resolution, our colleague requested that this Court take the following measures:

It is respectfully recommended that the Court assert its Constitutional authority and forthwith take the following actions/measures:

- (1) Order the posting of the long vacant positions of the Deputy Clerk of Court, Chief Attorney, and the two positions of Assistant Court Administrators, for immediate appointment by the Court *en banc* and adopt guidelines to require the expeditious posting and filling-up of vacant positions to serve the best interest of the service;
- (2) To review the appointment of Atty. Mendoza as Chief of the Philippine Mediation Center;
- (3) To identify the positions, particularly from those among the third level positions, whose appointment shall be retained by the Court *en banc*; . . .⁸

On August 15, 2017, Chief Justice Maria Lourdes P. A. Sereno (Chief Justice Sereno)⁹ submitted a letter,¹⁰ in which she addressed the issue of the appointment of the PHILJA Chief of Office for the Philippine Mediation Center, while her full response to the Memorandum dated July 10, 2017 was still being finalized. In her letter, she stated that she acted on the matters raised in the Memorandum dated July 10, 2016 pursuant to the authority accorded by the Court *En Banc* to the Chief Justice, and as one (1) of the three (3) most senior Justices of this Court.

Chief Justice Sereno pointed out that the appointment of Atty. Mendoza was approved by the collective act of the three (3) Chairpersons of the Divisions, upon the recommendation of PHILJA. She stated that the appointment was no longer submitted to the Court *En Banc* as A.M. No. 99-12-08-SC (Revised) delegated to the Chairpersons of the Divisions the power to appoint personnel, including the PHILJA Chief of Office for the Philippine Mediation Office. It was her position that the delegation in Section II(a) of A.M. No. 99-12-08-SC (Revised) does not exclude “high ranking officials or the highly technical and/or policy[-]determining third[-]level positions below that of the Chief Justice and Associate Justices.”¹¹

⁷ Id. at 910.

⁸ *Rollo*, p. 5.

⁹ Subject to the May 11, 2018 Decision and June 19, 2018 Resolution in *Republic of the Philippines v. Sereno*, G.R. No. 237428.

¹⁰ Titled “Re: A.M. No. 17-07-05-SC Memorandum of Justice Teresita J. Leonardo-De Castro dated 10 July 2017.”

¹¹ Letter of Chief Justice Maria Lourdes P. A. Sereno to the Court *En Banc*, August 15, 2017.

Moreover, the distinction proposed by Associate Justice Leonardo-De Castro is unjustified in light of the intent and purpose of A.M. No. 99-12-08-SC (Revised), which is to relieve the Court *En Banc* from the additional burden of resolving administrative matters at the expense of its deliberations on judicial cases.

Further, Chief Justice Sereno referred to the Supreme Court Human Resource Manual, approved by the Court *En Banc* through A.M. No. 00-6-1-SC dated January 31, 2012, which expressly provides that third-level positions in the career service—including Court Attorney V and Chiefs of Office—shall be appointed by the Chief Justice with the concurrence of the Chairpersons of the Divisions pursuant to A.M. No. 99-12-08-SC.¹² She also noted that Atty. Eden T. Candelaria (Atty. Candelaria), the Deputy Clerk of Court and Chief Administrative Officer of this Court, took the position in her Memorandum *Re: Appointment of PHILJA Chief of Office for PMC* dated April 20, 2016, that this position and other third-level positions which are highly technical and/or policy-determining shall be appointed by the “Chairmen of the Divisions.”

Chief Justice Sereno pointed out that the definition of “personnel” in *Manalang v. Quitoriano* is inapplicable, since A.M. No. 99-12-08 (Revised) was issued at a later date. Nevertheless, even if the definition in the case were to be applied, it was her position that the PHILJA Chief of Office of the Philippine Mediation Center is not a “manager,” “director,” or “head” of PHILJA as to be excluded from the scope of “personnel.”

In her view, under Republic Act No. 8557 and A.M. No. 01-1-04-SC-PHILJA, PHILJA is directed, headed, and/or managed by its Board of Trustees, and by the Offices of the Chancellor, Vice-Chancellor, and Executive Secretary. Pursuant to Administrative Order No. 33-2008, the Philippine Mediation Center is under the operational control and supervision of PHILJA. Thus, the Philippine Mediation Center is under the control of PHILJA, and not the other way around.

The Chief Justice took the position that the PHILJA Chief of Office for the Philippine Mediation Center is only appointed to one (1) of several sub-offices within PHILJA, the other heads of which are appointed by the Chairpersons of the Divisions pursuant to A.M. No. 99-12-08-SC (Revised). Thus, the PHILJA Chief of Office for the Philippine Mediation Center is a subordinate official, which is within the definition of “personnel” in *Manalang v. Quitoriano*.

Chief Justice Sereno further pointed out that the PHILJA Chief of Office for the Philippine Mediation Center does not solely “head,”

¹² Supreme Court Human Resource Manual, p. II-6.



“manage,” or “direct” the Philippine Mediation Center. Under Administrative Order No. 33-2008, the powers and authority of the Philippine Mediation Center are vested in and exercised by the Executive Committee. This committee is headed by the PHILJA Chancellor as Chairperson, while the Chief of Office is merely an *ex officio* member.


She also took the view that the delegation of appointing power in A.M. No. 99-12-08-SC (Revised) was reiterated by the Court *En Banc* in its Resolution dated August 10, 2010 in A.M. No. 10-4-13-SC. She pointed out that the term “personnel” in the context of the judiciary encompasses all officials and employees aside from Justices and judges:

“**Judicial personnel**” refer to the incumbent Justices and judges of the courts; and “**Non-judicial personnel**” refer to officials and employees who are performing adjudication support functions (otherwise called judicial support personnel), as well as administrative and financial management functions; including clerks of courts, sheriffs, legal personnel, process servers, accountants, administrative officers, and all other personnel in the Judiciary who are not Justices or judges.¹³ (Emphasis in the original)

Further, Administrative Circular No. 37-2001A dated August 21, 2001, which is used by the Office of Administrative Services in its daily operations, states that appointments to positions higher than Assistant Chief of Office may be made by the Chief Justice with the concurrence of the Chairpersons of Divisions.

According to Chief Justice Sereno, it was only when then Judge Geraldine Faith A. Econg (Justice Econg), now Associate Justice of the Sandiganbayan, was appointed as the PHILJA Chief of Office for the Philippine Mediation Center that this position was filled by the Court *En Banc*. Prior to Justice Econg, this position was appointed by the Chairpersons of the Divisions. In a letter dated August 8, 2008, PHILJA, through then Chancellor Ameurfina A. Melencio-Herrera (Chancellor Melencio-Herrera) and Vice Chancellor Justice Justo P. Torres, Jr. (Justice Torres), recommended the appointment of retired Deputy Court Administrator Atty. Bernardo T. Ponferrada (Atty. Ponferrada). This appointment was approved on August 21, 2008 by now retired Chief Justice Reynato S. Puno (Chief Justice Puno) as Chairperson of the First Division, and concurred in by Senior Associate Justice Leonardo A. Quisumbing (Associate Justice Quisumbing), Chairperson of the Second Division, and Associate Justice Consuelo Ynares-Santiago (Associate Justice Ynares-Santiago), Chairperson of the Third Division. Thus, Justice Econg’s appointment did not revoke the delegated appointing power in A.M. No. 99-12-08-SC (Revised).

¹³ A.M. No. 10-4-13-SC (2010), Third “Whereas” Clause.



However, Chief Justice Sereno did not address whether the Court *En Banc*, in appointing Justice Econg, had already adopted through practice an interpretation of the provisions of this Court's administrative orders.

Chief Justice Sereno presented that Atty. Mendoza's appointment was upon the recommendation of PHILJA, as embodied in its letter dated June 20, 2016. The letter, signed by PHILJA Chancellor Justice Adolfo S. Azcuna (Chancellor Azcuna), explained that a screening panel was constituted by the PHILJA Management Committee, which evaluated the candidates to the vacancy and recommended Atty. Mendoza. Chief Justice Sereno stated that Chancellor Azcuna and Vice Chancellor Justice Romeo S. Callejo, Sr. (Vice Chancellor Callejo) requested to be formally heard by the Court *En Banc* so that they may explain their recommendation of Atty. Mendoza.

In the view of the Chief Justice, a board resolution from the PHILJA Board of Trustees is not a prerequisite for Atty. Mendoza's appointment. As the PHILJA Chief of Office for the Philippine Mediation Center is only an *ex officio* member of the Executive Committee of the Philippine Mediation Center, it is not necessary that the appointee be nominated by the Board of Trustees, since the requirement only applies to the four (4) regular members.¹⁴ Thus, Atty. Mendoza's appointment as the PHILJA Chief of Office for the Philippine Mediation Center complied with Administrative Order No. 33-2008.

On August 25, 2017, Associate Justice Leonardo-De Castro responded¹⁵ to the letter of the Chief Justice dated August 15, 2017. She noted that certain facts were not disclosed which were crucial to the resolution of the matter of Atty. Mendoza's appointment.

In her letter, Associate Justice Leonardo-De Castro was of the view that Atty. Ponferrada's appointment as the first PHILJA Chief of Office for the Philippine Mediation Center was approved by the Court *En Banc* in a June 3, 2008 Resolution in A.M. No. 08-2-5-SC-PHILJA, upon the recommendation of the PHILJA Board of Trustees in its Board Resolution No. 08-18 dated May 15, 2008. Thus, both Atty. Ponferrada and Justice Econg's appointments were made by the Court *En Banc* pursuant to a board resolution of the PHILJA Board of Trustees. Only Atty. Mendoza's appointment was made without a PHILJA Board of Trustees Resolution or an approval of the Court *En Banc*.

¹⁴ A.M. No. 08-2-5-SC-PHILJA, sec. 2(A).

¹⁵ Titled "Re: Response to the Letter dated 15 August 2017 of the Chief Justice in A.M. No. 17-07-05-SC."

Further, it was her position that the August 8, 2008 letter, in which Atty. Ponferrada's appointment was approved by the Chairpersons of the Divisions, showed that Atty. Ponferrada was already heading the Philippine Mediation Center Office at that time, by virtue of A.M. No. 08-2-5-SC-PHILJA. The approval by the Chairpersons of the Division merely confirmed the earlier appointment and adjusted Atty. Ponferrada's term of office so that his two (2)-year term under A.M. No. 08-2-5-SC-PHILJA would coincide with his full-time service as Chief of Office.

Moreover, Associate Justice Leonardo-De Castro pointed out that the position of the PHILJA Chief of Office for the Philippine Mediation Center is significant, since this position carries the rank of Associate Justice of the Court of Appeals and a salary grade of 30.

As the power of appointment in the judiciary is vested in this Court by the Constitution, Associate Justice Leonardo-De Castro emphasized that the delegation of this power to the three (3) Chairpersons of the Divisions must be clear and unequivocal. An overbroad construction of the term "personnel" in A.M. No. 99-12-08-SC (Revised) to include all officials and employees aside from Justices and judges would unduly limit the appointing power of the Court *En Banc*. This would mean that no appointment of any court official or personnel would require *En Banc* approval, notwithstanding that certain positions, such as the Court Administrator, Deputy Court Administrators, Assistant Court Administrators, the PHILJA Chancellor and Vice Chancellor, the two (2) regular PHILJA Chiefs of Office for the Philippine Mediation Center prior to Atty. Mendoza, and other court officials, such as the Executive Clerk of Court, are appointed by the Court *En Banc*.

Associate Justice Leonardo-De Castro took the position that the appointment of the PHILJA Chief of Office for the Philippine Mediation Center is not covered by the delegated authority in A.M. No. 99-12-08-SC (Revised) for the following reasons:

First, the applicable appointment process is covered by a specific provision in the Court *En Banc*'s Resolution in A.M. No. 08-2-5-SC-PHILJA, namely, that the appointment must be made by this Court upon recommendation by PHILJA, through the Board of Trustees. *Second*, this appointing process is prescribed in a 2008 Resolution, long after the delegated authority was issued in 2003. *Third*, this Court's intent to retain its appointing power is evident in the appointments of Atty. Ponferrada and Justice Econg as the PHILJA Chiefs of Office for the Philippine Mediation Center. *Fourth*, this appointing process is the status quo maintained in the August 10, 2010 Resolution in A.M. No. 10-4-13-SC. *Fifth*, the rank and salary grade of the PHILJA Chief of Office for the Philippine Mediation Center are comparable to that of the PHILJA Vice Chancellor, who is

appointed by the Court *En Banc*, upon recommendation of the PHILJA Board of Trustees. *Sixth*, Atty. Candelaria's "ambivalent memorandum" likewise cited Administrative Order No. 33-2008, which states that "[t]he Philippine Mediation Center Office shall have a PHILJA Chief of Office for PMC who shall be appointed by the Court, upon recommendation of PHILJA."

Associate Justice Leonardo-De Castro proposed to recall and revoke the appointment of Atty. Mendoza as the PHILJA Chief of Office for the Philippine Mediation Center to open the vacancy for more interested applicants. Moreover, she called for the setting of clear guidelines in the appointment of ranking court officials and for the identification of positions which must be appointed by the Court *En Banc*.

On September 5, 2017, Chief Justice Sereno submitted her response to Associate Justice Leonardo-De Castro's August 25, 2017 letter on Atty. Mendoza's appointment.

In her letter, Chief Justice Sereno was of the position that the Resolution dated June 3, 2008 in A.M. No. 08-2-5-SC-PHILJA only approved the membership of the Philippine Mediation Center Office Executive Committee, and did not appoint Atty. Ponferrada as the PHILJA Chief of Office for the Philippine Mediation Center. A contrary interpretation would mean that the Resolution dated June 3, 2008 also appointed Justice Melencio-Herrera as the PHILJA Chancellor, Justice Torres as the PHILJA Vice Chancellor, Court Administrator Zenaida Elepaño as Court Administrator, and Prof. Alfredo F. Tadiar as Chairperson of the PHILJA Alternative Dispute Resolution Department. To Chief Justice Sereno, the only document on the appointment of Atty. Ponferrada as the PHILJA Chief of Office for the Philippine Mediation Center was the letter dated August 8, 2008.

Moreover, the August 8, 2008 letter was not a mere confirmation of a previous appointment, but must be understood in light of the history of the Philippine Mediation Center. Prior to its creation, the Mediation Management and Education Division of the Judicial Reforms Office undertook the management of mediation training and other activities.¹⁶ On October 16, 2001, Atty. Ponferrada was appointed by the Court *En Banc* as a PHILJA Professor II "with additional functions as Head of the Judicial Reforms Office"¹⁷ from August 16, 2001 to August 16, 2003, pursuant to the Resolution in A.M. No. 01-10-5-SC-PHILJA. He was reappointed to the same position in 2003¹⁸ and 2006.¹⁹

¹⁶ A.M. No. 01-1-04-SC-PHILJA (2004).

¹⁷ Letter of Vice Chancellor Justo P. Torres, Jr. to Chief Justice Reynato S. Puno, August 8, 2008.

¹⁸ A.M. No. 03-9-07-SC (2003).

¹⁹ A.M. No. 06-6-08-SC-PHILJA (2006).

When the Philippine Mediation Center was created, the functions and personnel of the Judicial Reforms Office were transferred to it. Chief Justice Sereno explained that Atty. Ponferrada's appointment as a PHILJA Professor II with "additional functions as Head of the Judicial Reforms Office"²⁰ was still in effect, but was now under the Philippine Mediation Center. Atty. Ponferrada was later appointed Full-time Professor II with administrative duties as Head of the Philippine Mediation Center.²¹ Thus, to Chief Justice Sereno, the statement in the August 8, 2008 letter that Atty. Ponferrada headed the Philippine Mediation Office referred to his administrative duties during his appointment as Full-time Professor II, and not to any appointment as the PHILJA Chief of Office for the Philippine Mediation Center.

Chief Justice Sereno reiterated that a board resolution from the PHILJA Board of Trustees was unnecessary to appoint the PHILJA Chief of Office for the Philippine Mediation Center once the recommendation of PHILJA has been secured. Atty. Ponferrada's appointment was not accompanied by a PHILJA Board Resolution. The cited Board Resolution No. 08-18 dated May 15, 2008 referred to the approval of the revised roster of the PHILJA Corps of Professors, including Atty. Ponferrada as Full-time Professor II with administrative duties.

Finally, Chief Justice Sereno was of the view that the Court *En Banc* in A.M. No. 99-12-08-SC (Revised) delegated the authority to appoint personnel to the Chairpersons of the Divisions without imposing any distinction based on salary grades or judicial rank. For her, there is no basis for excluding third-level positions, such as those enumerated in A.M. No. 05-9-29-SC, from the delegated appointing power. That certain positions of comparable rank and salary grade continue to be appointed by the Court *En Banc* is irrelevant. She pointed out that A.M. No. 99-12-08-SC (Revised) likewise acknowledges that the Chief Justice may exercise discretion in determining which matters to refer to the Court *En Banc* for its action or resolution.

Associate Justice Leonardo-De Castro issued a letter dated September 25, 2017 in reply to the letter dated September 5, 2017. She observed that under the September 16, 2003 Resolution in A.M. No. 03-9-07-SC, Atty. Ponferrada's appointment as a full-time PHILJA Professor and additional position as head of the Judicial Reform Office—which later became the Philippine Mediation Center Office—was by virtue of a Court *En Banc* Resolution. His appointment as the PHILJA Chief of Office for the Philippine Mediation Center was formalized in the June 3, 2008 Resolution. It was Associate Justice Leonardo-De Castro's position that when the August

²⁰ Letter of Vice Chancellor Justo P. Torres, Jr. to Chief Justice Reynato S. Puno, August 8, 2008.

²¹ A.M. No. 08-6-4-SC-PHILJA (2008).

8, 2008 letter was signed by the Division Chairpersons, Atty. Ponferrada was still the head of the Philippine Mediation Center, and was already discharging the functions of that position.

Further, Associate Justice Leonardo-De Castro pointed out that the Chief Justice signed Memorandum Order No. 20-2015, in which Justice Econg was designated as Acting Philippine Mediation Center Office Head until a permanent appointment is recommended by the PHILJA Board of Trustees and made by the Court *En Banc*.

The letters dated September 5, 2017 and September 25, 2017 also addressed the issue of request approvals for foreign travel on official business of this Court's certain officials and personnel. However, this issue shall be separately resolved.

Separately, in A.M. No. 17-08-05-SC,²² PHILJA Chancellor Azcuna submitted a Compliance, Manifestation and Request²³ dated September 28, 2017. In this Compliance, Manifestation and Request, Chancellor Azcuna stated that he submitted the following documents to the Honorable Court:

2. On September 19, 2017, PHILJA Chancellor submitted to this Honorable Court the following documents, thereby complying with the Resolution mentioned:
 - (a) PHILJA's screening process for the five (5) applicants of the vacant PHILJA Chief of Office for Philippine Mediation Center (PMC) position conducted by the PHILJA Panel;
 - (b) Results of the PHILJA screening process; and
 - (c) Letter of PHILJA Chancellor addressed to Supreme Court Chief Justice and PHILJA Board of Trustees Chair, Maria Lourdes P. A. Sereno, transmitting the PHILJA Panel's recommendation of Atty. Brenda Jay Angeles-Mendoza as PHILJA Chief of Office for Philippine Mediation Center (PMC), on the basis of the results of the PHILJA screening process.²⁴

Chancellor Azcuna further requested that PHILJA, through its Chancellor and/or Vice-Chancellor and other officials, as well as Atty. Mendoza, be allowed to present their positions on the issue of Atty. Mendoza's appointment as the PHILJA Chief of Office for the Philippine Mediation Center. Attached to the Compliance, Manifestation and Request was a letter dated September 27, 2017²⁵ from Atty. Mendoza to PHILJA, in

²² Titled "Re: Letter-Request dated August 8, 2017 of Atty. Lorenzo G. Gadon for Certified True Copies of Certain Documents in connection with the Filing of an Impeachment Complaint."

²³ *Rollo*, pp. 18-19.

²⁴ *Id.* at 18.

²⁵ *Id.* at 20.

which she requested for an opportunity to be heard by this Court regarding her appointment.

Notably, the Compliance, Manifestation and Request serves as an admission that there are no minutes of a board meeting or board resolution issued by the PHILJA Board of Trustees containing the recommendation for Atty. Mendoza's appointment as the PHILJA Chief of Office for the Philippine Mediation Center. It appears no such minutes or board resolution could be submitted to this Court. Neither does it appear that the PHILJA Board of Trustees took action on the recommendation for appointment. Instead, the documents submitted by Chancellor Azcuna show that a PHILJA screening panel conducted the screening process for the five (5) applicants to the position. It was the PHILJA Chancellor, who transmitted the recommendation to the Chief Justice. Neither the PHILJA Board of Trustees convened nor the matter of the appointment to the PHILJA Chief of Office for the Philippine Mediation Center put in its agenda, even if its Chair was the Chief Justice.

On Atty. Mendoza's request to be heard regarding her appointment, it must be emphasized that "there is no vested right in public office, [or] an absolute right to hold office."²⁶ Moreover, any proper recourse would not be addressed to PHILJA, but to this Court as an intervention. Such an intervention by the appointee may be unnecessary in this case, as this is an administrative matter to review the acts of the Chief Justice in the appointment of the PHILJA Chief of Office for the Philippine Mediation Center. This matter does not involve any review of the qualifications or eligibility of Atty. Mendoza for the position.

Nevertheless, to give the parties the opportunity to be heard on this matter, on October 10, 2017, this Court issued a Resolution²⁷ requiring PHILJA and Atty. Mendoza to submit their respective memoranda "on the process of selection of the PHILJA Chief of Office for the Philippine Mediation Center, and on . . . the validity of the appointment of the current occupant of the office within a non-extendible period of seven (7) calendar days" from receipt.

On October 18, 2017, PHILJA Chancellor Azcuna submitted a Respectful Manifestation,²⁸ stating that he would be on leave from October 17 to 26, 2017, and that Vice Chancellor Callejo, having been designated as Acting Chancellor, would submit the memorandum of PHILJA.

²⁶ *Civil Service Commission v. Javier*, 570 Phil. 89, 113–114 (2008) [Per J. Austria-Martinez, En Banc].

²⁷ *Rollo*, p. 21.

²⁸ *Id.* at 28.

On October 19, 2017, Acting Chancellor Callejo filed an Urgent Motion for Extension,²⁹ praying for an extension of three (3) working days, or until October 25, 2017, within which to file the memorandum of PHILJA.

On October 20, 2017, Atty. Mendoza filed her Memorandum,³⁰ where she stated that she informally learned of the vacancy in the position of the PHILJA Chief of Office for the Philippine Mediation Center from its then occupant, now a Sandiganbayan Associate Justice, Justice Econg in January 2016, during a Philippine Mediation Center event. Sometime in March 2016, an Announcement was issued, stating that applications for the position of the PHILJA Chief of Office for the Philippine Mediation Center may then be filed and received by the Secretariat of the Selection and Promotion Board.³¹ The Announcement was signed by Clerk of Court for the *En Banc* Atty. Felipa G. Borlongan-Anama (Atty. Anama).³²

On March 15, 2016, Atty. Mendoza submitted her Expression of Interest with an attached curriculum vitae³³ to the Secretariat of the Selection and Promotion Board. She was interviewed for the position on May 16, 2016 by a three (3)-member panel composed of Chancellor Azcuna, Vice-Chancellor Callejo, and the PHILJA Chief of Office for Academic Affairs Delilah Vidallon-Magtolis.³⁴ She then received a letter dated June 9, 2016 from Atty. Elmer DG. Eleria (Atty. Eleria), the PHILJA Chief of Office for Administration, stating that PHILJA considered her application and that should she still be interested in pursuing her application, to signify her intent by signing the attached reply.³⁵ She submitted the signed reply in a letter dated June 18, 2016, in which she also stated that she was under an intermittent consulting contract with the Asian Development Bank until December 31, 2016 and had teaching loads with the De La Salle University College of Law and University of the Philippines College of Engineering.³⁶

Sometime after June 28, 2016, she was informed that she was appointed as the PHILJA Chief of Office for the Philippine Mediation Center through a phone call from Atty. Eleria. She also obtained a copy of Memorandum Order No. 26-2016, stating her appointment. She took her oath of office on October 3, 2016. Her Memorandum further detailed her major accomplishments as the PHILJA Chief of Office for the Philippine Mediation Center and her qualifications for this position.³⁷

²⁹ Id. at 29–31.

³⁰ Id. 36–167.

³¹ Id. at 36.

³² Id. at 47.

³³ Id. at 48–56.

³⁴ Id. at 38–39.

³⁵ Id. at 67–68.

³⁶ Id. at 69–70.

³⁷ Id. at 40–42.

In her Memorandum, Atty. Mendoza stated that she did not seek or receive from any member of the judiciary any endorsement of her application for the PHILJA Chief of Office for the Philippine Mediation Center to directly or indirectly influence the selection and appointment process. She pointed out that Memorandum Order No. 26-2016 was approved by the Chief Justice and the Chairpersons of the Second and Third Divisions of this Court. In her view, she was entitled to presume that the selection and appointment process of PHILJA was legal and proper, and she participated in this process in good faith and with full compliance with all the published requirements for the position. She submitted that any resolution on any perceived gaps or losses in the existing guidelines of this Court be applied prospectively, and should not affect her continued and faithful discharge of her service.³⁸ She prayed that this Court confirm and ratify her appointment as the PHILJA Chief of Office for the Philippine Mediation Center.³⁹

On October 27, 2017, Vice Chancellor Callejo submitted his Comment,⁴⁰ where he stated that “[PHILJA] ha[d] not followed a specific procedure for the selection of the Chief of Office of the Philippine Mediation Center Office.”⁴¹

On August 1, 2001, Atty. Ponferrada was recommended by then Chancellor Melencio-Herrera to be appointed as a PHILJA Professor II on a full-time basis, and to head the Judicial Reform Office. The PHILJA Board of Trustees approved his appointment in its BOT Resolution No. 01-19 dated September 18, 2001.⁴² The Court *En Banc* approved BOT Resolution No. 01-19 on October 16, 2001. Since then, and until 2008, his appointment as a PHILJA Professor II and Acting Chief of the Judicial Reform Office had been renewed by this Court every two (2) years.⁴³

In the meantime, on February 12, 2008, this Court issued Administrative Order No. 33-2008, defining the organizational plans and functions of the Philippine Mediation Center Office. Atty. Ponferrada performed the duties, functions, and responsibilities of the PHILJA Chief of Office for the Philippine Mediation Center in an acting capacity, in addition to his existing positions. He was among the persons recommended to the PHILJA Board of Trustees by then Chancellor Melencio-Herrera to be members of the Executive Committee of the Philippine Mediation Center Office. He was designated as “ex officio member” of the Executive Committee. In its June 3, 2008 Resolution, this Court approved, among others, the membership of the Executive Committee, including Atty.

³⁸ Id. at 42–43.

³⁹ Id. at 45.

⁴⁰ Id. at 171–200.

⁴¹ Id. at 176.

⁴² Id.

⁴³ Id. at 177.

Ponferrada. On August 8, 2008, then Vice Chancellor Torres wrote a letter to then Chief Justice Puno, recommending that Atty. Ponferrada be appointed as a full-time PHILJA Chief of Office for the Philippine Mediation Center. Former Chief Justice Puno, former Associate Justice Quisumbing, and former Associate Justice Ynares-Santiago, the respective Chairpersons of this Court's First, Second, and Third Divisions, approved this recommendation on August 21, 2008. On July 1, 2008, Atty. Ponferrada assumed office as the PHILJA Chief of Office for the Philippine Mediation Center.⁴⁴

When Atty. Ponferrada died on June 25, 2009, Chancellor Azcuna recommended to Chief Justice Puno that retired Justice Marina L. Buzon (Justice Buzon), then the Executive Secretary of the PHILJA Board of Trustees, be designated as the Acting PHILJA Chief of Office for the Philippine Mediation Center, until a new Chief of Office was appointed. On June 26, 2009,⁴⁵ Justice Buzon was designated as the Acting PHILJA Chief of Office for the Philippine Mediation Center.

Thereafter, on May 8, 2015, Chief Justice Sereno issued Memorandum Order No. 20-2015, designating Justice Econg as the Acting PHILJA Chief of Office for the Philippine Mediation Center until a permanent appointment would be issued by the Court *En Banc* as recommended by the PHILJA Board of Trustees. On May 25, 2015, the PHILJA Board of Trustees held a special 93rd meeting, in which BOT Resolution No. 11-15 was issued recommending Justice Econg to be appointed as the PHILJA Chief of Office for the Philippine Mediation Center. This BOT Resolution was approved by the Court *En Banc* in its Resolution dated July 7, 2015 in A.M. No. 15-07-01.⁴⁶

When the PHILJA Board of Trustees was informed that Justice Econg was promoted to the Sandiganbayan, it directed Chancellor Azcuna to request that the Chief Justice open the vacancy for the PHILJA Chief of Office for the Philippine Mediation Center. Chancellor Azcuna's request dated February 29, 2016 was approved by Chief Justice Sereno.⁴⁷

According to Acting Chancellor Callejo, the PHILJA Management Committee held a conference,⁴⁸ in which they approved Resolution No. 01-2016, creating a screening committee to screen the applicants for the

⁴⁴ Id. at 177–179.

⁴⁵ Although the Comment stated that Chief Justice Puno approved Chancellor Azcuna's request on "June 29, 2001," this Court, in its June 15, 2010 Resolution in A.M. No. 10-5-5-SC-PHILJA, stated that Justice Buzon was designated as acting PHILJA Chief of Office for the Philippine Mediation Center on June 26, 2009.

⁴⁶ *Rollo*, pp. 180–181.

⁴⁷ Id. at 181.

⁴⁸ Chaired by Chancellor Azcuna, and attended by Vice Chancellor Callejo, PHILJA Chief of the Academic Affairs Office Justice Delilah Vidallon-Magtolis, PHILJA Board of Trustees Executive Secretary Justice Buzon, and other members.

PHILJA Chief of Office for the Philippine Mediation Center, and to prepare and submit its report and recommendation to the PHILJA Board of Trustees.

When the screening process concluded, the screening panel issued its recommendation of Atty. Mendoza in a letter-report addressed to Chief Justice Sereno as Chief Justice of this Court and Chair of the PHILJA Board of Trustees, through Clerk of Court of the *En Banc* Atty. Anama.⁴⁹ Atty. Mendoza was thereafter appointed the PHILJA Chief of Office for the Philippine Mediation Center by virtue of Memorandum Order No. 26-2016 dated June 28, 2016.⁵⁰

In Acting Chancellor Callejo's view, letter-report from Chancellor Azcuna to Chief Justice Sereno was fully compliant with Section 2(B) of Administrative Order No. 33-2008. He stated that PHILJA may only recommend the PHILJA Chief of Office for the Philippine Mediation Center to this Court through the Chair and Members of the PHILJA Board of Trustees and/or Chancellor Azcuna and/or the other executive officials of PHILJA. For him, if it were this Court's intent that only the PHILJA Board of Trustees can solely and exclusively recommend the PHILJA Chief of Office for the Philippine Mediation Center, it should have specifically named the PHILJA Board of Trustees in Section 2(B) of Administrative Order No. 33-2008. He pointed out that under Section 11(A) of Administrative Order No. 33-2008, the regular members of the Executive Committee of the Philippine Mediation Center Office are recommended by PHILJA, nominated by the PHILJA Board of Trustees,⁵¹ and appointed by this Court:

Section 2. Organizational Structure

The Philippine Mediation Center Office shall be composed of:

- A. Executive Committee — The powers and authority of the PMC Office shall be vested in and exercised by an Executive Committee composed of the PHILJA Chancellor as Chairperson and eight members composed of four regular members who shall be recommended by PHILJA, nominated by the PHILJA Board of Trustees and appointed by the Supreme Court; and four ex officio members, namely, the Court Administrator, the Vice Chancellor, the PHILJA Chief of Office for PMC, and the Chair of the PHILJA ADR Department, all of whom are entitled to vote. . . .⁵²

Further, Acting Chancellor Callejo agreed with the Chief Justice's position that pursuant to the Court *En Banc's* Resolution in A.M. No. 99-12-08-SC (Revised), this Court's power of appointment has been delegated to

⁴⁹ *Rollo*, pp. 182–184.

⁵⁰ *Id.* at 206.

⁵¹ *Id.* at 185–187.

⁵² A.M. No. 08-2-5-SC-PHILJA (2008), sec. 2(A).



the Chairpersons of the Divisions. He invoked the Supreme Court Human Resource Manual, which states that level five positions, including Court Attorney V to Chiefs of Office, classified as highly confidential and policy determining pursuant to A.M. No. 05-9-79-SC, shall be made by the Chairpersons of the Divisions. He noted that the Chairpersons of the Divisions approved Memorandum Order No. 37-2015 dated October 15, 2015, appointing Atty. Renelie B. Mayuga as Judicial Reform Program Administrator of the Program Management Office; Memorandum Order No. 12-04-16 dated January 11, 2016, appointing Atty. Anna-Li R. Papa-Gombio as Deputy Clerk of Court, Executive Officer, Office of the Clerk of Court of the Court *En Banc*; and Memorandum Order No. 10-66-16 dated July 4, 2016, appointing Atty. Basilia T. Ringol as Deputy Clerk of Court and Chief of the Judicial Records Office. He prayed that Associate Justice Leonardo-De Castro's July 10, 2017 Memorandum be dismissed.⁵³

On November 3, 2017, Acting Chancellor Callejo submitted an Urgent Motion to Admit Amended and Supplemental Comment,⁵⁴ with attached Amended and Supplemental Comment.⁵⁵ In his Amended and Supplemental Comment, he stated that Atty. Ponferrada was appointed as the PHILJA Chief of Office for the Philippine Mediation Center on August 21, 2008 not by this Court, but by the Chairpersons of the Divisions.⁵⁶ He contended that A.M. No. 99-12-08-SC and the Supreme Court Human Resource Manual had not been revoked, expressly or impliedly, by the Court *En Banc*, despite the *En Banc* appointments of Assistant Court Administrator Jenny Lind R. Aldecoa-Delorino, Deputy Court Administrator Thelma C. Bahia, the PHILJA Chancellor, and the PHILJA Vice-Chancellor.⁵⁷ Any repeal or revocation by implication of an issuance or resolution of the Court *En Banc* may only take place when there is patent intent to do so. The appointment of Justice Econg as the PHILJA Chief of Office for the Philippine Mediation Center did not reveal a clear intent to revoke A.M. No. 99-12-08-SC and the Supreme Court Human Resource Manual.⁵⁸ Acting Chancellor Callejo was of the view that this Court should revisit its conflicting Resolutions and formulate controlling guidelines to guide the personnel of the Judiciary, the Bar, and other stakeholders. In his Amended and Supplemental Comment, he prayed that Atty. Mendoza's appointment as the PHILJA Chief of Office for the Philippine Mediation Center be affirmed and confirmed.⁵⁹

On November 6, 2017, Chief Justice Sereno issued a letter in which, among others, she responded to Associate Justice Leonardo-De Castro's letter dated September 25, 2017. She stated her strong opposition against the recall of Atty. Mendoza's appointment as the PHILJA Chief of Office for

⁵³ *Rollo*, pp. 198–200.

⁵⁴ *Id.* at 208–209.

⁵⁵ *Id.* at 209–255.

⁵⁶ *Id.* at 219–220 and 248.

⁵⁷ *Id.* at 247 and 250.

⁵⁸ *Id.* at 251–252.

⁵⁹ *Id.* at 254–255.

the Philippine Mediation Center, pointing out that there were procedural deficiencies and administrative consequences in this recall.

First, Chief Justice Sereno was of the position that a *quo warranto* proceeding is required before an incumbent official is removed due to an allegedly illegal appointment. Following this Court's ruling in *Topacio v. Ong*,⁶⁰ collateral attacks on the title of a public officer are prohibited. She stated that the present matter is only meant to clarify the scope of the delegated powers of the Chairpersons of the Divisions, and cannot be used to collaterally attack Atty. Mendoza's right to her position, especially when her appointment was made in good faith by the Chairpersons of the Divisions. She submitted that any resolution in any ambiguity of the scope of the delegated appointing power cannot be applied retroactively to Atty. Mendoza.

Second, she was of the view that the supposed absence of a PHILJA Board of Trustees resolution recommending Atty. Mendoza did not mean that her appointment was not approved by the Trustees. She stated that the PHILJA Board of Trustees was informed of Atty. Mendoza's appointment during the 99th PHILJA Board of Trustees meeting held on July 28, 2016, in which the Board noted the approval of the appointment by the Chairpersons of the Divisions. During the 100th PHILJA Board of Trustees meeting on September 22, 2016, PHILJA Chancellor Azcuna again informed the Board of Atty. Mendoza's appointment. The PHILJA Board of Trustees acted on Atty. Mendoza's recommendations. To Chief Justice Sereno, these approvals of Atty. Mendoza's recommendations indicated an implied ratification of the recommendation made by PHILJA Chancellor Azcuna "on behalf of PHILJA" and the appointment made by the Chairpersons of the Divisions, as the PHILJA Board of Trustees, had also not repudiated Atty. Mendoza's appointment.

Third, Chief Justice Sereno pointed out the administrative consequences should this Court's clarification on the delegated appointing power be made to apply retroactively. Such a retroactive effect would put into question not only Atty. Mendoza's appointment, but also of those who have been appointed by the Chairpersons of the Divisions in the exercise of their delegated authority in good faith. She noted that since the Civil Service Commission had approved some of these appointments in accordance with Section 9(h) of Presidential Decree No. 807, otherwise known as the Civil Service Decree of the Philippines, on the basis of the Supreme Court Merit Selection and Promotion Plan, these appointments were considered completed. These appointees cannot be removed except for cause, and certain administrative procedures must be followed before their appointments may be recalled.

⁶⁰ 595 Phil. 491 (2008) [Per J. Carpio-Morales, En Banc].



She further recommended that the proposed clarification on the authority to appoint court personnel with salary grades 29 and higher be reflected in an amended Supreme Court Merit Selection and Promotion Plan, which must be submitted to the Civil Service Commission for its approval. An agency merit selection plan is the basis for the review and evaluation of all appointments to the civil service by the Civil Service Commission and is binding upon the head of the agency, its employees, and the Civil Service Commission.

Fourth, Chief Justice Sereno proffered that instead of declaring the position of the PHILJA Chief of Office for the Philippine Mediation Center vacant, this Court instead referred the supposed absence of endorsement to the PHILJA Board of Trustees to allow it to formally act upon the matter. To her view, this would be more equitable considering the PHILJA Board of Trustees' implied ratification, and would be less disruptive given that Atty. Mendoza had already begun work on Philippine Judicial Academy projects.

Finally, Chief Justice Sereno noted that Atty. Mendoza's appointment is only for a fixed term of two (2) years and would end in June 2018. It was her position that given this limited tenure, it would be reasonable if this Court respect her appointment and await the end of her term.

On February 20, 2018, Atty. Mendoza issued a letter addressed to this Court, through Chief Justice Sereno, tendering her resignation as the PHILJA Chief of Office for the Philippine Mediation Center, effective February 26, 2018. In her letter, she explained that she was "in serious discussion with an international organization for a pioneering work on environment mediation that require[d] [her] availability" within the month.⁶¹ Her resignation had the recommending approval of PHILJA Chancellor Azcuna.

This matter invokes the administrative powers of the Supreme Court *En Banc*. It does not call for the exercise of this Court's adjudicative powers. Thus, the purpose of this Resolution is to resolve pending questions as to the interpretation of this Court's power as contained in the Constitution, relevant laws, and this Court's administrative orders. Resolutions of this nature may also suggest not only clarifications but also changes in policy when necessary.

Being a collegial body, the Court *En Banc* should welcome queries and suggestions on administrative matters raised by its members either by themselves or through reflecting committees that have been assigned to them. By design, the Constitution crafted a body composed of fifteen (15) Justices in order that in all matters dealt with by the highest judicial body,

⁶¹ Letter of Atty. Breanda Jay A. Mendoza to this Court, February 20, 2018.

most, if not all, possible perspectives can be taken into account. Thus, the judiciary is collectively led by the Supreme Court. None of its members, including its presiding officer, should be immune or impervious from accountability towards this body.

The issues to be resolved in this administrative matter are:

First, the identification of the positions, particularly from those among the third-level positions, in which appointment shall be retained by the Court *En Banc*; and

Second, a review of the appointment of Atty. Brenda Jay A. Mendoza as the Philippine Judicial Academy Chief of Office for the Philippine Mediation Center.

I

The 1987 Constitution vests the power of appointment within the judiciary in the Supreme Court. Article VIII, Section 5(6) states:

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

.....

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

The “Supreme Court” in which this appointing power is conferred is the Court *En Banc*:

This is in contrast to the President’s power to appoint which is a self-executing power vested by the Constitution itself and thus not subject to legislative limitations or conditions. The power to appoint conferred directly by the Constitution on the Supreme Court *en banc* and on the Constitutional Commissions is also self-executing and not subject to legislative limitations or conditions.

.....

Fifth, the 1935, 1973, and 1987 Constitutions make a clear distinction whenever granting the power to appoint lower-ranked officers to members of a collegial body or to the head of that collegial body. Thus, the 1935 Constitution speaks of vesting the power to appoint “**in the courts**, or in the heads of departments.” Similarly, the 1973 Constitution speaks of “**members of the Cabinet**, courts, heads of agencies, commissions, and boards.”

Also, the 1987 Constitution speaks of vesting the power to appoint “**in the courts**, or in the heads of departments, agencies, commissions, or

boards.” This is consistent with Section 5(6), Article VIII of the 1987 Constitution which states that the “Supreme Court shall . . . [a]ppoint all officials and employees of the Judiciary in accordance with the Civil Service Law,” making the Supreme Court *En Banc* the appointing power. In sharp contrast, when the 1987 Constitution speaks of the power to appoint lower-ranked officers in the Executive branch, it vests the power “**in the heads** of departments, agencies, commissions, or boards.”⁶² (Emphasis in the original, citations omitted)

This Court’s nature as a collegial body requires that the appointing power be exercised by the Court *En Banc*, consistent with Article VIII, Section 1 of the Constitution:

Section 1. The judicial power shall be vested in *one Supreme Court* and in such lower courts as may be established by law. . . . (Emphasis supplied)

A collegial body or court is one in which each member has approximately equal power and authority. Moreover, its members act on the basis of consensus or majority rule. In *Payumo v. Sandiganbayan*,⁶³ the Sandiganbayan, which is another collegial court, was described as such:

The Sandiganbayan is a special court of the same level as the Court of Appeals (CA), and possessing all the inherent powers of a court of justice, with functions of a trial court. *It is a collegial court. Collegial is defined as relating to a collegium or group of colleagues. In turn, a collegium is “an executive body with each member having approximately equal power and authority.” The members of the graft court act on the basis of consensus or majority rule. . . .*⁶⁴ (Citations omitted, emphasis supplied)

Since this Court is a collegial court, each Justice has equal power and authority, and all Justices must act on the basis of consensus or majority rule. Even if this Court has a Chief Justice and does much of its work in divisions, it still remains that this Court must exercise its powers as one (1) body:

There is only one Supreme Court from whose decisions all other courts are required to take their bearings. While most of the Court’s work is performed by its three divisions, the Court remains one court — single, unitary, complete and supreme. Flowing from this is the fact that, while individual justices may dissent or only partially concur, when the Court states what the law is, it speaks with only one voice. Any doctrine or principle of law laid down by the Court may be modified or reversed only by the Court *en banc*.⁶⁵ (Citation omitted)

⁶² *Rufino v. Endriga*, 528 Phil. 498–500 (2006) [Per J. Carpio, En Banc].

⁶³ 669 Phil. 545–570 (2011) [Per J. Mendoza, Third Division].

⁶⁴ *Id.* at 561–562.

⁶⁵ *Complaint of Mr. Aurelio Indencia Arrienda Against Justices Reynato S. Puno, et al.*, 499 Phil. 1, 15 (2005) [Per J. Corona, En Banc].

The only exception is when the Court *En Banc* itself delegates the exercise of some of its powers.

“The three powers of government—executive, legislative, and judicial—have been generally viewed as non-delegable.”⁶⁶ Nonetheless, the delegation of these powers has been found necessary owing to the complexity of modern governments.⁶⁷ This Court, which is conferred with not only the power of judicial review, but also the role of administrator over all courts and their personnel,⁶⁸ has found it necessary to delegate some matters to dispense justice effectively and efficiently.

Being the source of authority, every act in relation to a delegated power may, however, be reviewed by the delegating authority. This is to ensure that the act of the delegate does not go beyond its intended scope.

This Court has resolved to delegate the disposition of certain matters to its three (3) divisions, to their chairpersons, or to the Chief Justice alone.

Under Administrative Circular No. 37-2001A dated August 21, 2001,⁶⁹ the Chief Justice, with the concurrence of the Chairs of Divisions, may select the appointees for Assistant Chief of Office and higher positions:

IV. BASIC POLICIES

....

15. The selection of appointees to the positions of Assistant Chief of Office, SC Senior Chief Staff Officer and other higher positions shall be made by the Chief Justice with the concurrence of the Chairmen of Divisions pursuant to A.M. No. 99-12-08-SC.

Thereafter, this Court issued its Resolution dated April 22, 2003 in A.M. No. 99-12-08-SC, titled “Referral of Administrative Matters and Cases to the Divisions of the Court, The Chief Justice, and to the Chairmen of the Divisions for Appropriate Action or Resolution” [“A.M. No. 99-12-08-SC (Revised)]:

⁶⁶ *Quezon City PTCA Federation, Inc. v. Department of Education*, G.R. No. 188720, February 23, 2016 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/february2016/188720.pdf>> 8 [Per J. Leonen, En Banc].

⁶⁷ Id.

⁶⁸ Pursuant to CONST., art. VIII, sec. 6, which states:
Section 6. The Supreme Court shall have administrative supervision over all courts and the personnel thereof.

⁶⁹ Adm. Circ. No. 37-2001A (2001), Establishing the Supreme Court Merit Selection and Promotion Plan.

WHEREAS, a considerable number of administrative matters or cases are still referred to the Court *En Banc* for disposition, determination, or resolution;

WHEREAS, to relieve the Court *En Banc* from the additional burden which such matters or cases impose, and for it to have more time for judicial cases which require lengthy careful deliberations, administrative matters or cases shall be assigned to the Divisions of the Court, to the Chairmen of the Divisions, or to the Chief Justice alone[.]

Among the matters which were referred to the Chairpersons of the Divisions for their action or resolution is the appointment power of this Court:

II. To **REFER** to the Chairmen of the Divisions for their appropriate action or resolution, for and in behalf of the Court *En Banc*, administrative matters relating to, or in connection with,

- (a) Appointment and revocation or renewal of appointments of regular (including coterminous), temporary, casual, or contractual personnel in the Supreme Court, Court of Appeals, Sandiganbayan, Court of Tax Appeals, the Lower Courts (including the Sharia'h courts), the Philippine Judicial Academy (PHILJA), and the Judicial and Bar Council (JBC); officers and members of existing committees; and consultants[.]⁷⁰ (Emphasis in the original)

However, the extent of the appointments of “regular (including coterminous), temporary, casual, or contractual personnel” which should be referred to the Chairpersons of the Divisions is not defined in A.M. No. 99-12-08-SC (Revised).

On August 10, 2010, this Court issued A.M. No. 10-4-13-SC,⁷¹ expanding the matters delegated under A.M. No. 99-12-08-SC (Revised). Among others, the then existing rules and procedures on the appointment of personnel were maintained:

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

.....

- 2) Appointment of personnel[.]⁷² (Emphasis supplied)

⁷⁰ A.M. No. 99-12-08-SC Revised (2003), sec. II.

⁷¹ Titled “Providing for the Further Delegation of Approving Thresholds and Authorities to the Heads of Decentralized Units.”

⁷² A.M. No. 10-4-13-SC, sec. III (2).

Adopted in 2012, the Supreme Court Human Resource Manual⁷³ states the procedure of appointment of positions within this Court.⁷⁴ The selection of appointees in career service differs according to the level of the position.⁷⁵

First level career positions “include clerical, trades, crafts, and custodial service positions involving non-professional or sub-professional work in a non-supervisory capacity requiring less than four (4) years of collegiate studies.”⁷⁶ Second-level positions are “professional, technical, and scientific positions involving professional, technical, or scientific work in a supervisory or non-supervisory capacity up to Division Chief level, requiring at least four (4) years of collegiate studies.”⁷⁷ The screening and recommendation of appointees to vacancies in the first and second levels are made by the Supreme Court Selection and Promotion Board. The recommendations are given to the Chief Justice who, with the concurrence of the Chairpersons of the Divisions, selects the candidate deemed most qualified to be appointed.⁷⁸

Third-level positions are “positions from Court Attorney V to Chiefs of Offices which have been classified by the Court as highly technical and/or policy determining pursuant to AM No. 05-9-29-SC, dated September 27, 2005.”⁷⁹ Under the Supreme Court Human Resource Manual, these positions are filled in by the Chief Justice, with the concurrence of the Chairpersons of the Divisions:

8. The selection of appointees to third-level positions which have been classified by the Court as highly technical and/or policy[-]determining pursuant to AM No. 05-9-29-SC dated September 27, 2005 shall be made by the Chief Justice with the concurrence of the Chairmen of the Divisions pursuant to AM No. 99-12-08-SC.⁸⁰

Under A.M. No. 05-9-29-SC,⁸¹ third-level positions in this Court with salary grade 26 and above, excluding the Chief Justice, the Associate Justices, and the Regular Members of the Judicial and Bar Council are classified as “highly technical or policy-determining.” These positions

⁷³ Approved by the Court *En Banc* in A.M. No. 00-6-1-SC (2012), Re: Human Resource Manual [Formerly referred to as Personnel Manual].

⁷⁴ Chapter Two, “Personnel Policies and Procedures.”

⁷⁵ The classification is based on the Civil Service Commission Omnibus Rules Implementing Book V, EO 292 and Other Pertinent Civil Service Laws. *See* Supreme Court Human Resource Manual, p. II-1.

⁷⁶ Supreme Court Human Resource Manual, p. II-2.

⁷⁷ *Id.*

⁷⁸ *Id.* at II - 6.

⁷⁹ *Id.* at II - 2.

⁸⁰ *Id.* at II - 6.

⁸¹ A.M. No. 05-9-29-SC (2005), “In the Matter of Classifying as Highly Technical and/or Policy Determining the Third Level Positions Below that of Chief Justice and Associate Justices in the Supreme Court, Including Those in the Philippine Judicial Academy and the Judicial and Bar Council, and for Other Purposes.”

range from the PHILJA Chancellor and Court Administrator, both with salary grade 31, to Court Attorney V and PHILJA Attorney V, both with salary grade 26:

Salary Grade	Position Title
31	PHILJA Chancellor
	Court Administrator
30	PHILJA Vice-Chancellor
	Deputy Court Administrator
	Clerk of Court
	Assistant Clerk of Court
	Division Clerk of Court
	Assistant Court Administrator
	PHILJA Assistant Chancellor
	PHILJA Professor II
29	Assistant Division Clerk of Court
	Deputy Clerk of Court and Bar Confidant
	Deputy Clerk of Court and Chief Administrative Officer
	Deputy Clerk of Court and Chief Attorney
	Deputy Clerk of Court and Chief, Judicial Records Office
	Deputy Clerk of Court and Chief, Management Information System Office
	Deputy Clerk of Court and Reporter
	Supreme Court Executive Officer
	Supreme Court Chief, Fiscal Management and Budget Office
	Judicial Reform Program Administrator, Program Management Office
	Mandatory Continuing Legal Office Executive Officer
	PHILJA Professor I
PHILJA Executive Secretary	
28	Mandatory Continuing Legal Office Assistant Executive Officer
	Judicial and Bar Council Executive Officer (Office of Recruitment, Selection and Nomination) (Office of Policy and Development Research)
	Judicial and Bar Council Chief of Office (Office of Administrative & Financial Services)
	Supreme Court Assistant Chief of Office
	Supreme Court Senior Chief Staff Officer
	Deputy Judicial Reform Program Administrator, Program Management Office
	Office of the Court Administrator Chief of Office
	Judicial Supervisor

Salary Grade	Position Title
27	Office of the Court Administrator Chief of Office
	Chief Judicial Reform Officer, Program Management Office
	Court Attorney VI
26	Supreme Court Supervising Medical Officer
	Court Attorney V
	PHILJA Attorney V

Third-level positions with salary grade 26 or higher created after A.M. No. 05-9-29-SC shall likewise be deemed highly technical or policy-determining positions.

Notably, the purpose for which A.M. No. 05-9-29-SC classified the third-level positions in this Court—including those in the Office of the Court Administrator, PHILJA, Judicial and Bar Council, and Mandatory Continuing Legal Office—as highly technical or policy-determining is to strengthen the Judiciary’s independence from the Civil Service. Should these positions not be classified as highly technical or policy-determining, they may be classified instead as managerial or executive, which would require civil service eligibility prescribed by the Civil Service Commission:

WHEREAS, in her Memorandum dated 17 August 2005, Atty. Eden T. Candelaria, Deputy Clerk of Court and Chief Administrative Officer, reported on the results of the meeting of the Constitutional Fiscal Autonomy Group (CFAG) - Study Group held on 10 August 2005, and informed the Chief Justice that *managerial or executive positions in the CFAG Agencies shall require the eligibility prescribed for the same positions within the bureaucracy, which is the Career [Service] Executive Eligibility (CSEE) conferred by the Civil Service Commission or the Career Executive Service Eligibility (CESE) conferred by the Career Executive Service Board; that highly technical or policy-determining positions do not require CSEE or CESE; and that each CFAG member has the discretion to classify which of its third[-]level positions are managerial or executive or highly technical or policy-determining;*

WHEREAS, Atty. Candelaria further stated that the third[-]level positions in the Supreme Court, except the position of Director III, which is now vacant in view of the resignation of its holder effective 31 August 2005, are either highly technical or policy-determining in character, with titles that are unique to the Judiciary and with qualification standards already established either by the Constitution such as those for the Chief Justice, Associate Justices and the Regular Members of the Judicial and Bar Council (JBC), by statutes, by resolutions of the Court, or by authority of the Chief Justice as duly recognized and accepted by the CSC;

WHEREAS, *it would serve the best interest of the service and further promote the autonomy and strengthen the independence of the Judiciary if all third[-]level positions below the Chief Justice, Associate Justices, and Regular Members of the Judicial and Bar Council (JBC) in*

the Supreme Court (SC), including those in the Office of the Court Administrator (OCA), Philippine Judicial Academy (PHILJA), JBC, and Mandatory Continuing Legal Office (MCLEO), which are unique to the Judiciary, *be classified as primarily highly technical or policy-determining and that the qualification standards already established for such positions, except as indicated below, be maintained[.]*⁸² (Emphasis supplied)

Despite the procedure in the Supreme Court Human Resource Manual, there are third-level positions, classified as highly technical or policy-determining pursuant to A.M. No. 05-9-29-SC, which have been and continue to be appointed by the Court *En Banc*. Pursuant to Section 3 of Presidential Decree No. 828, as amended by Presidential Decree No. 842, the Court *En Banc* appoints the Court Administrator and Deputy Court Administrators:

Section 3. Qualifications, appointment and tenure. — The Court Administrator and the Deputy Court Administrators shall have the same qualifications as Justices of the Court of Appeals. *They shall be appointed by the Supreme Court* and shall serve until they reach the age of sixty-five (65) years or become incapacitated to discharge the duties of their office, but may be removed or relieved for just cause by a vote of not less than eight (8) Justices of the Supreme Court; provided that a member of the Judiciary appointed to any of the positions, shall not be deemed thereby to have lost the rank, seniority, precedence, benefits, and other privileges appertaining to his judicial position, and his service in the Judiciary, to all intents and purposes, shall be considered as continuous and uninterrupted. (Emphasis supplied)

For example, in a Resolution dated April 16, 2013 in A.M. No. 13-04-07-SC,⁸³ the Court *En Banc* appointed then Assistant Court Administrator Thelma C. Bahia as Deputy Court Administrator. Likewise, as observed by Associate Justice Leonardo-De Castro, the Court *En Banc* appoints the Assistant Court Administrators by established practice.⁸⁴

Republic Act No. 8557, which established PHILJA, similarly mandates that the PHILJA Chancellor, Vice-Chancellor, Executive Secretary, and the Corps of Professorial Lecturers be appointed by this Court:

Section 6. The Executive Officials of the Academy shall be composed of a Chancellor, a Vice-Chancellor and an Executive Secretary, *to be appointed by the Supreme Court* for a term of two (2) years and without prejudice to subsequent reappointments. . . .

⁸² A.M. No. 05-9-29-SC (2005).

⁸³ A.M. No. 13-04-07-SC (2013), Re: Applicants for the Position of Deputy Court Administrator [Vice Hon. Antonio M. Eugenio, Jr.].

⁸⁴ *Rollo*, p.3, Memorandum dated July 10, 2017 of Associate Justice Teresita J. Leonardo-De Castro. See e.g., Resolution dated January 12, 2010 in A.M. No. 09-12-3-SC (Re: Applicants for the Position of Assistant Court Administrator), issued by the Court *En Banc*.

Section 7. The Academy shall be staffed by a Corps of Professorial Lecturers. A Lecturer shall be nominated by any member of the Board of Trustees. Upon a majority vote of the Board, *the nomination shall be submitted to the Supreme Court for approval and formal appointment* for a term of two (2) years without prejudice to subsequent reappointments.⁸⁵ (Emphasis supplied)

As no distinction was made in Republic Act No. 8557, and consistent with this Court's collegial nature, these PHILJA appointments must be made by the Court *En Banc*.⁸⁶

The Resolution dated September 29, 2005 in A.M. No. 05-9-29-SC was issued after A.M. No. 99-12-08-SC (Revised). However, A.M. No. 05-9-29-SC itself does not state that it modifies, amends, or supplements A.M. No. 99-12-08-SC (Revised). A.M. No. 05-9-29-SC does not contain any express grant to the Chairpersons of the Division the power to appoint all personnel enumerated in it. Moreover, as shown above, some positions listed in A.M. No. 05-9-29-SC continue to be appointed by the Court *En Banc*. Thus, A.M. No. 05-9-29-SC cannot serve as a clear and unequivocal source of the delegated power of appointment of all third-level personnel to the Chairpersons of the Divisions.

It is Associate Justice Alfredo Benjamin S. Caguioa's view that the Supreme Court Human Resource Manual should have governed the appointments of personnel in the Judiciary since its adoption on January 31, 2012.⁸⁷ However, it has been shown that the rules of appointment set down in the Supreme Court Human Resource Manual, particularly in relation to third-level positions deemed highly technical or policy-determining under A.M. No. 05-9-29-SC, have been inconsistently applied, or contradict this Court's own practices. The ambiguity that has been created undermines the very purpose for which the Supreme Court Human Resource Manual was issued.

Any ambiguity or vagueness in the delegation of powers must be resolved in favor of non-delegation. To do otherwise is to permit an abdication of the "duty to be performed by the delegate through the instrumentality of his own judgment and not through the intervening mind of another."⁸⁸ This is demonstrated by the requirement for a valid delegation of

⁸⁵ Rep. Act No. 8557 (1998), sec. 6 and 7.

⁸⁶ For example, the renewal of Justice Marina L. Buzon's appointment as PHILJA Executive Secretary was approved by the Court *En Banc* in its February 14, 2012 Resolution in A.M. No. 08-6-1-SC-PHILJA (Re: Appointment of Justice Marina L. Buzon As PHILJA's Executive Secretary and Justice Delilah Vidallon-Magtolis As Head of PHILJA's Academic Affairs Office [Renewal Of Appointments]).

⁸⁷ Draft Separate Opinion of Associate Justice Caguioa, p. 6 (Re-circulated June 19, 2018).

⁸⁸ *Gerochi v. Department of Energy*, 554 Phil. 563, 584 (2007) [Per J. Nachura, En Banc].

legislative power that both the completeness and sufficient standard tests must be passed.⁸⁹

Here, the delegation of the power of appointment by this Court to the Chairpersons of the Divisions in A.M. No. 99-12-08-SC (Revised), while seemingly broad as to encompass all appointments of personnel in the judiciary, is contradicted by this Court's Resolutions and practices, both prior to and following its adoption. Several third-level positions within the Judiciary, such as the Court Administrator, Deputy Court Administrators, and Assistant Court Administrators, as well as third-level PHILJA officials, continue to be appointed by the Court *En Banc*, and not by the Chairpersons of the Divisions.

The extent of the delegation of the appointive power to the Chairpersons of the Divisions should be determined by the Court *En Banc* because of the contradictions between the text of A.M. No. 99-12-08-SC (Revised) and this Court's own practices. Its resolution should not be left to the discretion of those to whom the power has been delegated, including the Chief Justice and the Chairpersons of the Divisions. At the very least, the Court *En Banc* should be given the opportunity to correct or resolve the ambiguity in A.M. No. 99-12-08-SC (Revised).

To ensure consistency in the extent of the delegation of the appointing power, all positions with salary grades 29 and higher, and those with judicial rank, in this Court, Court of Appeals, Sandiganbayan, Court of Tax Appeals, the Lower Courts including the Sharia'h courts, PHILJA, and the Judicial and Bar Council, shall be filled only by the Court *En Banc*, subject to any other requirement in law or Court Resolution. This shall be without prejudice to any exceptions or qualifications that may hereafter be made by the Court *En Banc* for the delegation of its appointing power to the Chairpersons of the Divisions.

II

The Philippine Mediation Center was created by this Court by virtue of A.M. No. 01-10-5-SC-PHILJA,⁹⁰ with the following functions:

1.1 Establish, in coordination with the Office of the Court Administrator (OCA), units of the Philippine Mediation Center (PMC) in courthouses, and in such other places as may be necessary: Each unit, manned by Mediators and Supervisors, shall render mediation services to parties in court-referred, court-related mediation cases;

⁸⁹ Id.

⁹⁰ A.M. No. 01-10-5-SC-PHILJA (2001), Re: Various Resolutions of the Board of Trustees of the PHILJA Approved During its Meetings on 18 September 2001 and 10 October 2001.

- 1.2 Recruit, screen, train and recommend Mediators for accreditation to this Court,
- 1.3 Require prospective Mediators to undergo four-week internship programs;
- 1.4 Provide training in mediation to judges, court personnel, educators, trainers, lawyers, and officials and personnel of quasi-judicial agencies;
- 1.5 Oversee and evaluate the performance of Mediators and Supervisors who are assigned cases by the courts,
- 1.6 Prepare a Code of Ethical Standards for Mediators for approval by the PHILJA Board of Trustees and this Court;
- 1.7 Implement the procedures in the assignment by the PMC Units of court-referred, court-related mediation cases to particular Mediators;
- 1.8 Propose to the Supreme Court (a) Guidelines on Mediation and (b) Compensation Guidelines for Mediators and Supervisors; and.
- 1.9 Perform other related functions.

The Philippine Mediation Center is under the direction and management of PHILJA.

Under Section 5 of Republic Act No. 8557, apart from the PHILJA Chancellor, Vice-Chancellor, and Executive Secretary, who serve as Executive Officials, PHILJA has a governing body known as the Board of Trustees:

Section 5. The Academy shall have a Governing Board to be known as the Board of Trustees, composed of the Chief Justice of the Supreme Court as *ex-officio* Chairman, the Senior Associate Justice of the Supreme Court as *ex-officio* Vice Chairman; the Chancellor of the Academy, the Presiding Justices of the Court of Appeals and the Sandiganbayan, the Court Administrator, the President of the Philippine Judges Association; and the President of the Philippine Association of Law Schools, as *ex-officio* members; and a Judge of a first level court, as appointive member, who shall have served as such for at least five (5) years and has taught in a reputable law school for the same number of years.

The appointive member shall be appointed by the Supreme Court and shall serve for a term of one (1) calendar year, and may be reappointed for another term.

The *ex-officio* members of the Board of Trustees shall serve as such for the duration of their incumbency in their respective offices.

All members shall serve without compensation but shall be entitled to reasonable honoraria/allowance for the performance of their duties.



Among its other functions, the PHILJA Board of Trustees nominates the members of the Corps of Professorial Lecturers for this Court's approval and formal appointment.⁹¹

On February 12, 2008, this Court issued Administrative Order No. 33-2008, adopted in A.M. No. 08-2-5-SC-PHILJA,⁹² which formally organized the Philippine Mediation Center Office and the Mediation Center Units. The Philippine Mediation Center Office is responsible for "the expansion, development, implementation, monitoring and sustainability"⁹³ of this Court's Alternative Dispute Resolution mechanisms. Its powers and authority are vested in and exercised by an Executive Committee:

Section 2. Organizational Structure

The Philippine Mediation Center Office shall be composed of:

- A. Executive Committee — The powers and authority of the PMC Office shall be vested in and exercised by an Executive Committee composed of the PHILJA Chancellor as Chairperson and eight members composed of four regular members who shall be recommended by PHILJA, nominated by the PHILJA Board of Trustees and appointed by the Supreme Court; and four *ex officio* members, namely, the Court Administrator, the Vice Chancellor, the PHILJA Chief of Office for PMC, and the Chair of the PHILJA ADR Department, all of whom are entitled to vote. . . .⁹⁴

One (1) of the *ex officio* members of the Executive Committee is the PHILJA Chief of Office for the Philippine Mediation Center. The qualifications and term of the Chief of Office are stated in Section 2(B) of Administrative Order No. 33-2008:

- B. PHILJA Chief of Office for PMC — The Philippine Mediation Center Office shall have a PHILJA Chief of Office for PMC who shall be appointed by the Court, upon recommendation of PHILJA, for a term of two years without prejudice to subsequent reappointment.

He must be a member of the Philippine Bar for at least 10 years and must have extensive experience in ADR of not less than five years. He shall receive the same compensation and benefits as an Associate Justice of the Court of Appeals.

⁹¹ Rep. Act No. 8557 (1998), sec. 7.

⁹² A.M. No. 08-2-5-SC-PHILJA (2008), Re: Resolution No. 08-02 re: Approval of the ADR and JURIS DMC Committees Resolution No. 03-07-A; Proposed Organization, Powers and Functions of the Philippine Mediation Center Office (PMCO) and Mediation Center Units, Including Its Organizational Chart and Staffing Pattern. *See rollo*, p. 262.

⁹³ Adm. O. No. 33-2008 (2008), sec. 1.

⁹⁴ Adm. O. No. 33-2008 (2008), sec. 2(a).

For purposes of retirement privileges, seniority, and other benefits, service of the PHILJA Chief of Office for PMC shall be considered as service in the Judiciary, except as may otherwise be provided by law.

Under Administrative Order No. 33-2008, all four (4) regular members of the Executive Committee and the PHILJA Chief of Office for the Philippine Mediation Center must be recommended by PHILJA and appointed by this Court.

The first regular PHILJA Chief of Office for the Philippine Mediation Center, retired Deputy Court Administrator Atty. Ponferrada, was appointed further by this Court's Resolution dated June 3, 2008 in A.M. No. 08-2-5-SC-PHILJA, issued by the Court *En Banc*:

A.M. No. 08-2-5-SC-PhilJA.- Re: Resolution No. 08-02 re: Approval of the ADR and JURIS DMC Committees Resolution No 03-07-A; Proposed Organization, Powers and Functions of the Philippine Mediation Center Office (PMCO) and Mediation Center Units, Including Its Organizational Chart and Staffing Pattern. The Court Resolved, upon the recommendation of the PhilJA Board of Trustees, to **APPROVE** the

(a) Membership of the Executive Committee (EXECOM) of the Philippine Mediation Center Office (PMCO) effective April 15, 2008, as follows:

....

Ex-officio Members:

....

3. DCA (Ret.) Bernardo T. Ponferrada
PhilJA Chief of Office for PMC . . .⁹⁵

The composition of the Executive Committee of the Philippine Mediation Center was based on the recommendations of the PHILJA Board of Trustees in its Resolution No. 08-18 dated May 15, 2008.⁹⁶

In a letter dated August 8, 2008, PHILJA, through then PHILJA Vice Chancellor Torres and with the conformity of then PHILJA Chancellor Melencio-Herrera, recommended Atty. Ponferrada's appointment to the PHILJA Chief of Office for the Philippine Mediation Center as fulltime, effective July 1, 2008. The letter acknowledged that as of 2008, Atty. Ponferrada was already the head of the Philippine Mediation Center Office:

⁹⁵ *Rollo*, p. 262.

⁹⁶ *Id.* at 261.

l

After his retirement as Deputy Court Administrator, DCA Bernardo T. Ponferrada joined the Academy. He was appointed as full-time PHILJA Professor II with additional functions as Head of the Judicial Reforms Office (JRO) for a term of two (2) years effective 16 August 2001, without prejudice to subsequent re-appointments, pursuant to Section 7 of Republic Act No. 8557. *Since then, he headed the JRO and thereafter in 2008, the [Philippine Mediation Center Office].* (Emphasis supplied)

The recommendation in the letter dated August 8, 2008 was approved by the now retired Chief Justice Puno as Chairperson of the First Division, Senior Associate Quisumbing as Chairperson of the Second Division, and Associate Justice Ynares-Santiago as Chairperson of the Third Division.

Chief Justice Sereno contends that the Resolution dated June 3, 2008 in A.M. No. 08-2-5-SC-PHILJA did not serve as Atty. Ponferrada's appointment as the PHILJA Chief of Office of the Philippine Mediation Center Office, since the Resolution only approved his membership in its Executive Committee, but not his appointment as its Chief.

However, Atty. Ponferrada would not have been appointed to the Executive Committee if he were not the PHILJA Chief of Office of the Philippine Mediation Center Office, since his being appointed as such was a requirement for membership in the Executive Committee. If he were not the PHILJA Chief of Office of the Philippine Mediation Center Office when the Resolution dated June 3, 2008 was issued, then this Court's approval of his membership in the Executive Committee would have been invalid.

Nevertheless, the vagueness in what constitutes as the prerequisites for a valid appointment as the PHILJA Chief of Office of the Philippine Mediation Center Office, if any, should have prompted a referral of the matter to the Court *En Banc*.

On May 8, 2015, Chief Justice Sereno issued Memorandum Order No. 20-2015, designating officers in PHILJA in an acting capacity until permanent appointments could be made. In this Memorandum Order, the Chief Justice took the position that the PHILJA Chief of Office of the Philippine Mediation Center Office should be appointed by the Court *En Banc*, upon the recommendation of the PHILJA Board of Trustees. The full Memorandum Order reads:

MEMORANDUM ORDER NO. 20-2015

In the exigency of the service, and so as not to disrupt the day-to-day operations of the Philippine Judicial Academy (PHILJA), the following are designated in an acting capacity effective 10 May 2015 until permanent appointments are recommended by *the PHILJA Board of Trustees and made by the Supreme Court En Banc*:



1. **Justice Marina L. Buzon** - *Vice Chancellor and Finance Office Head*
2. **Justice Delilah Vidallon-Magtolis** - Executive Secretary
3. **Atty. Elmer DG Eleria** - *Head of the Academic Affairs Office and concurrent Head of the Administrative Office*
4. **Judge Geraldine Faith A. Econg** - PMCO Head

May 8, 2015.

signed
MARIA LOURDES P. A. SERENO
 Chief Justice

(Emphasis supplied)

Then Judge Econg was subsequently appointed the PHILJA Chief of Office of the Philippine Mediation Center Office by the Court *En Banc* in A.M. No. 15-07-01-SC-PHILJA. She was recommended to the post by the PHILJA Board of Trustees in its Resolution No. 15-11 dated May 25, 2015:

A.M. No. 15-07-01-SC-PHILJA (Re: Appointment of Judge Geraldine Faith A. Econg as the Chief of Office for the Philippine Mediation Center for a Period of Two [2] Years). — The Court Resolved to

- (a) **NOTE** the Letter dated June 26, 2015 of Chancellor Adolfo S. Azcuna, PHILJA, transmitting, among others, PHILJA BOT Resolution No. 15-11 dated May 25, 2015; and
- (b) **NOTE** and **APPROVE** the aforesaid PHILJA BOT Resolution No. 15-11, recommending the appointment of Judge Geraldine Faith A. Econg as the Chief of Office for the Philippine Mediation Center for a period of two (2) years.⁹⁷

After then Judge Econg was appointed as Associate Justice of the Sandiganbayan on January 25, 2016,⁹⁸ the position of the PHILJA Chief of Office for the Philippine Mediation Center became vacant.

In contrast with the appointments of Atty. Ponferrada and Justice Econg, Atty. Mendoza was appointed not by the Court *En Banc*, but by the

⁹⁷ Id. at 2.

⁹⁸ *Aquino appoints 6 new anti-graft court justices*, RAPPLER, January 25, 2016 <<https://www.rappler.com/nation/120212-aquino-appoints-sandiganbayan-justices>> (last accessed on September 4, 2017).

Chief Justice, with the concurrence of the Chairpersons of the Divisions of this Court. Further, her recommendation to the position of the PHILJA Chief of Office for the Philippine Mediation Center was not made by the PHILJA Board of Trustees in a Resolution, but further to a screening panel constituted by PHILJA.

In a letter dated June 20, 2016, PHILJA, through PHILJA Chancellor Azcuna, recommended Atty. Mendoza as the PHILJA Chief of Office for the Philippine Mediation Center, to replace Justice Econg. The letter explained that the PHILJA Management Committee created a screening panel, composed of PHILJA Chancellor Azcuna, PHILJA Vice-Chancellor Callejo, and PHILJA Chief of Office for Academic Affairs Justice Delilah Vidallon-Magtolis, to evaluate the applicants for the vacancy. The screening panel found that among the applicants, Atty. Mendoza garnered the most points in the evaluation.

PHILJA, however, did not explain in its letter why its Board of Trustees was unable to act on the appointment of one (1) of its most significant offices.

On June 28, 2016, through Memorandum Order No. 26-2016,⁹⁹ Atty. Mendoza was appointed as the PHILJA Chief of Office for the Philippine Mediation Center. Memorandum Order No. 26-2016 stated that the appointment was made following the recommendation submitted by PHILJA and pursuant to A.M. No. 99-12-08-SC:

**APPOINTING THE
PHILIPPINE JUDICIAL ACADEMY (PHILJA)
CHIEF OF OFFICE FOR THE PHILIPPINE MEDIATION
CENTER**

....

WHEREAS, *the Philippine Judicial Academy has submitted its recommended applicant to the position*, for a term of two (2) years, without prejudice to subsequent reappointment.

NOW, THEREFORE, the undersigned, *for and in behalf of the Supreme Court, by virtue of and pursuant to the power and authority vested in the revised Resolution in A.M. No. 99-12-08-SC*, do hereby appoint **ATTY. BRENDA JAY A. MENDOZA as PHILJA Chief of Office for the Philippine Mediation Center.**¹⁰⁰ (Emphasis supplied; boldface in the original)

⁹⁹ Memorandum Order No. 26-2016 (2016), Appointing the Philippine Judicial Academy (PHILJA) Chief of Office for the Philippine Mediation Center.

¹⁰⁰ *Rollo*, p. 71.

The Memorandum Order was signed by Chief Justice Sereno, Senior Associate Justice Antonio T. Carpio, and Associate Justice Presbitero J. Velasco, Jr. as Chairpersons of the First, Second, and Third Divisions, respectively.

Previously, in a Memorandum dated April 20, 2016,¹⁰¹ the Office of Administrative Services, through Deputy Clerk of Court and Chief Administrative Officer Atty. Candelaria, submitted to Chief Justice Sereno the applications for the vacancy in the position of Chief of Office. The memorandum cited as justification A.M. No. 99-12-08-SC in relation to A.M. No. 05-9-29-SC:

Respectfully submitted for consideration are the applications for the position of PHILJA Chief of Office for PMC (Item No. RO5-8-1998) in the Philippine Mediation Center Office, Philippine Judicial Academy. *The selection of appointees to Third[-]Level positions which have been classified by the Court as highly technical and/or policy[-]determining pursuant to A.M. No. 05-9-29-SC dated September 27, 2005 shall be made by the Chief Justice with the concurrence of the Chairmen of the Divisions pursuant to A.M. No. 99-12-08-SC. . . .* (Emphasis supplied)

This justification is the same as the procedure in the Supreme Court Human Resource Manual. However, A.M. No. 05-9-29-SC cannot be relied upon as a basis for the extent of the delegated appointing power, there being no clear and unequivocal adoption by this Court of the classification of positions in it for the purposes of A.M. No. 99-12-08-SC (Revised). Moreover, the Supreme Court Office of Administrative Services cannot make any binding interpretation of the *En Banc* Resolutions of this Court, including those concerning administrative matters. Only this Court, acting *En Banc*, may do so.

At the very least, considering that contrary interpretations may arise over this Court's previous practice of appointing the PHILJA Chief of Office for the Philippine Mediation Center, any changes to the appointing process should have been referred to the Court *En Banc* for consultation. The power of appointment in the judiciary being vested by the Constitution in the Court *En Banc*, any delegation or diminution thereof must be resolved by the Court *En Banc*.

The PHILJA Chief of Office for the Philippine Mediation Center receives the same compensation and benefits as an Associate Justice of the Court of Appeals.¹⁰² Due to this position having judicial rank, which bears a salary grade of 30, and consistent with the prior Resolutions of this Court, the PHILJA Chief of Office for the Philippine Mediation Center is deemed

¹⁰¹ Titled "Re: Appointment of PHILJA Chief of Office for PMC."

¹⁰² Adm. O. No. 33-2008 (2008), sec. 2(B). *See rollo*, p. 2.

included as among the positions which shall be appointed by the Court *En Banc*.

Finally, in contrast with the appointments of Atty. Ponferrada and Justice Econg, PHILJA's recommendation for Atty. Mendoza's appointment was not made in a Board Resolution of the PHILJA Board of Trustees. Instead, PHILJA, through PHILJA Chancellor Azcuna, issued a letter recommending Atty. Mendoza.

Under Administrative Order No. 33-2008, the appointment of the PHILJA Chief of Office for the Philippine Mediation Center shall be made "by the Court, upon recommendation of PHILJA."¹⁰³ Prior to the appointment of Atty. Mendoza, it is evident that this Court's practice is to have the Court *En Banc* issue the appointment following the recommendation made by the PHILJA Board of Trustees, as evidenced by a Board Resolution. Parenthetically, this was also the position of the Chief Justice in 2015.¹⁰⁴

In line with this Court's prior Resolutions and further to its interpretation that the "recommendation of PHILJA" means the recommendation of the PHILJA Board of Trustees, there must be a Resolution issued by the PHILJA Board of Trustees, stating its recommendation for the position of the PHILJA Chief of Office for the Philippine Mediation Center. This is regardless of any other methods employed by PHILJA to evaluate its personnel recommendations to this Court.

Contrary to the view of Associate Justice Caguioa, an "implied ratification"¹⁰⁵ of PHILJA Chancellor Azcuna's recommendation by the PHILJA Board of Trustees cannot be a substitute for the "recommendation of PHILJA" as expressly required under Administrative Order No. 33-2008. It is PHILJA, acting through its governing body, the PHILJA Board of Trustees, which must make the recommendation. In the past, the PHILJA Board of Trustees made its recommendations for the appointments of Atty. Ponferrada and Justice Econg, as evidenced in Board Resolutions duly transmitted to the Court *En Banc* for its approval. The inconsistency of the PHILJA Board of Trustees' own practice with regard to Atty. Mendoza's appointment has not been explained.

To emphasize, the mere existence of any inconsistency in the rule of appointments of officials and employees of the Judiciary, including the PHILJA Chief of Office for the Philippine Mediation Center, should have

¹⁰³ Id.

¹⁰⁴ Memorandum Order No. 20-2015 (2015).

¹⁰⁵ Draft Separate Opinion of Associate Justice Caguioa, p. 4 (Re-circulated June 19, 2018).

prompted a request for clarification from the Court *En Banc* because it is only the Court *En Banc*, and not one or some of its Members, which is vested with the power of appointments in the Judiciary under the Constitution. PHILJA acting alone has no power to decide the form of the recommendation it must make to this Court.

Nothing in this Resolution should be interpreted in any manner as a judgment on the qualifications or eligibility of Atty. Mendoza. The issue in this administrative matter only pertains to the procedure for her appointment, not her competence or qualifications. Concededly, Chief Justice Sereno, Senior Associate Justice Carpio, and Associate Justice Velasco all signed Memorandum Order No. 26-2016, appointing Atty. Mendoza in accordance with A.M. No. 99-12-08-SC (Revised) and the Supreme Court Human Resource Manual. Also, it appears that Atty. Mendoza ranked first in the selection process conducted by a screening panel convened by the PHILJA Management Committee, a standing committee of PHILJA.

This Court acknowledges Atty. Mendoza's February 20, 2018 letter, in which her resignation was requested to be effective on February 26, 2018, a day before this Court was set to deliberate on this matter. With regrets, the Court *En Banc* accepts Atty. Mendoza's resignation. Thus, the issue of the ratification of her appointment is moot and academic. None of the incidents in this case should work to prejudice any of her future applications to the same position or to any other judicial position. The official who is the next most senior in rank shall be the officer-in-charge of the Philippine Mediation Center Office until the appointment of the new PHILJA Chief of Office of the Philippine Mediation Center.


WHEREFORE, in view of the foregoing, the PHILJA Board of Trustees is **INSTRUCTED** to commence with its selection process for its recommendations to the position of the PHILJA Chief of Office of the Philippine Mediation Center. The Philippine Judicial Academy shall present its recommendations within sixty (60) days from receipt of this resolution.

The official who is the next most senior in rank shall be the officer-in-charge of the Philippine Mediation Center Office until the appointment of the new PHILJA Chief of Office of the Philippine Mediation Center.


The rules on the appointment of personnel to the Judiciary, as clarified in this Resolution, are amended. The delegation to the Chief Justice and the Chairpersons of the Divisions in A.M. No. 99-12-08-SC (Revised) of the power of appointment and revocation or renewal of appointments of personnel in this Court, Court of Appeals, Sandiganbayan, Court of Tax Appeals, the Lower Courts including the Sharia'h courts, the Philippine Judicial Academy, and the Judicial and Bar Council shall not be deemed to

include personnel with salary grades 29 and higher, and those with judicial rank.

SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

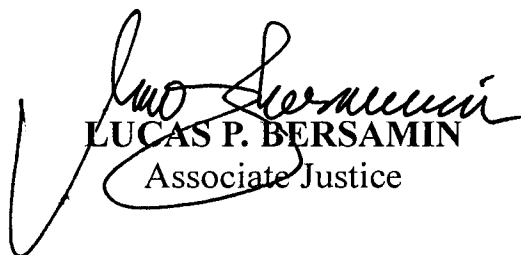
WE CONCUR:


I join the separate opinion of J. Velasco

ANTONIO T. CARPIO
Acting Chief Justice

(Please see separate opinion)
PRESBITERO J. VELASCO, JR.
Associate Justice

Please see separate Concurring Opinion:
Teresito Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

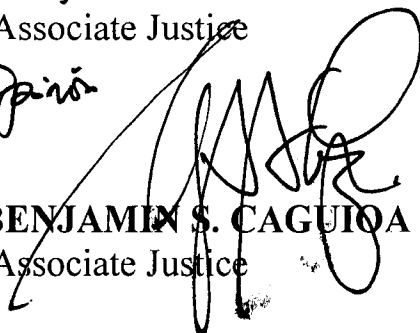

DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice

W. Kent
ESTELA M. PERLAS-BERNABE
Associate Justice

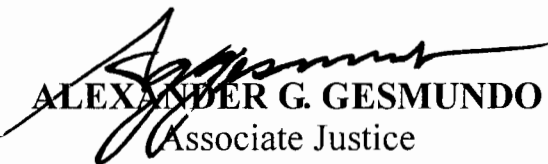

FRANCIS H. JARDELEZA
Associate Justice

See Separate Opinion

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



SAMUEL R. MARTIRES
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice


ANDRES B. REYES, JR.
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

CERTIFIED TRUE COPY


EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court