

EN BANC

[A.M. No. 10-4-22-SC, September 28, 2010]

**RE: SENIORITY AMONG THE FOUR (4) MOST RECENT
APPOINTMENTS TO THE POSITION OF ASSOCIATE JUSTICES OF
THE COURT OF APPEALS.**

R E S O L U T I O N**CORONA, C.J.:**

On March 10, 2010, the Office of the President transmitted to the Supreme Court the appointments of Court Appeals (CA) Associate Justices Myra G. Fernandez, Eduardo B. Peralta, Jr., Ramon Paul L. Hernando and Nina G. Antonio-Valenzuela. Their respective appointment papers were attached to the transmittal letter which read:

HON. REYNATO S. PUNO**Chief Justice**

Supreme Court of the Philippines

Manila

Re: **Appointments to the Judiciary**

Sir:

I am pleased to transmit the appointment papers of the following:

	Appointees	Positions
xxx	x x x	x x x
5	Hon. Nina G. Antonio-Valenzuela	Associate Justice, CA
6	Hon. Myra G. Fernandez	Associate Justice, CA
7	Hon. Eduardo B. Peralta, Jr.	Associate Justice, CA
8	Hon. Ramon Paul L. Hernando	Associate Justice, CA
xxx	x x x	x x x

March 10, 2010.

Very truly yours,

(Sgd.)
LEANDRO R. MENDOZA

The respective appointment papers of Justices Fernandez, Peralta, Jr., Hernando and Antonio-Valenzuela bore the following dates and bar code numbers:

Name of Associate Justice	Date of Appointment	Bar Code No.
Justice Fernandez	February 16, 2010	55466
Justice Peralta, Jr.	February 16, 2010	55467
Justice Hernando	February 16, 2010	55468
Justice Antonio-Valenzuela	February 24, 2010	55465

All four newly appointed CA Justices took their oath before then Associate Justice, now Chief Justice, Renato C. Corona on March 10, 2010.

After some initial confusion, the four Justices were finally listed in the roster of the CA Justices in the following order of seniority: Justice Fernandez (as most senior), Justice Peralta, Jr., Justice Hernando and Justice Antonio-Valenzuela (as most junior). The ranking was based in a letter dated March 25, 2010 submitted by the members of the CA Committee on Rules to CA Presiding Justice Andres B. Reyes, Jr.

According to the CA Committee on Rules, there appears to be a conflict between certain provisions of the 2009 Internal Rules of the Court of Appeals (2009 IRCA). In particular, Section 1, Rule I thereof provides:

RULE I
THE COURT, ITS ORGANIZATION AND OFFICIALS

Section 1. *Composition of the Court of Appeals.* -- Unless otherwise provided by law, the Court of Appeals is composed of a Presiding Justice and sixty-eight (68) Associate Justices. It sits *en banc*, or in twenty-three (23) Divisions of three (3) Justices each. The members of the Court are classified into three groups according to the order of their seniority. **The date and sequence of the appointment of the Justices determine their seniority courtwide.**

When a senior member is designated to act as Chairperson of a Division, he/she shall be designated as an "Acting Chairperson". In like manner, a junior member designated to act as senior member of a Division shall be an "Acting Senior Member". (Emphasis supplied)

On the other hand, Section 1, Rule II thereof states:

RULE II
RULE ON PRECEDENCE AND PROTOCOL

Section 1. *Concept.* -- The Presiding Justice enjoys precedence over all the other members of the Court in all official functions. **The Associate Justices shall have precedence according to the order of their appointments as officially transmitted to the Supreme Court.** (Emphasis supplied)

The CA Committee on Rules opined:

As between the foregoing provisions, it may be conceded that Section 1, Rule II should prevail over Section 1, Rule I pursuant to the basic rule of statutory construction that gives premium to a specific provision over a general one. However, reckoned alongside the circumstances surrounding the appointment of the above-named Associate Justices, it is our considered view that any conflict between or confusion engendered by the above-quoted provisions should be resolved in accordance with Republic Act No. 8246, entitled "*An Act Creating Additional Divisions in the Court of Appeals, Increasing the Number of Court of Appeals Justices from Fifty-One (51) to Sixty-Nine (69), Amending for the Purpose Batas Pambansa Bilang 129, As Amended, Otherwise Known as the Judiciary Reorganization Act of 1990, Appropriating Funds Therefor, and for Other Purposes.*" Section of said law categorically states:

"Section 1. Section 3, Chapter 1 of Batas Pambansa Blg. 129, as amended, is hereby further amended to read as follows:

‘Sec. 3. *Organization.* -- There is hereby created a Court of Appeals which shall consist of a Presiding Justice and sixty-eight (68) Associate Justices who shall be appointed by the President of the Philippines. The Presiding Justice shall be so designated in his appointment, and *the Associate Justices shall have precedence according to the dates of their respective appointments, or when the appointments of two or more of them shall bear the same date, according to the order in which their appointments were issued by the President.*”

[1]

Evident from the foregoing provision is a clear legislative intent to determine the order of precedence seniority of this Court's Justices "according to the dates of their respective appointments." In addition to the general rule of construction that applicable legal provisions should, as far as practicable, always be harmonized with each other, the spirit and intent behind Republic Act No. 8246 should be given precedence if only because it is the enabling law to which the IRCA should conform. Moreover, given its clarity, it also goes without saying that Section 1 of the law should be applied according to its literal tenor, without

equivocation and further need of extended ratiocination from the Committee.

Applying Section 1, Rule I and Section I, Rule II of the IRCA vis-a-vis Section 1 of Republic Act No. 8246, the order of precedence/seniority among Justices Fernandez, Peralta, Jr. and Hernando should be determined according to the chronological order indicated in the March 10, 2010 letter of transmittal from Hon. Executive secretary Leandro R. Mendoza and the barcodes accompanying their respective appointment papers. On the other hand, having been appointed on February 16, 2010, it logically follows that said Justices collectively have precedence/seniority over Justice Valenzuela who, despite the placement of her name in said transmittal letter before the names of the other three new justices of the Court of Appeals and the lower bar code number accompanying her appointment, was appointed only on February 24, 2010.

x x x x x x x x x

While obviously intended to authenticate the appointment papers under consideration, the mechanically-stamped barcode cannot prevail over the date of appointment indicated in the President's own handwriting. Having been personally signed and dated by the President who is the appointing authority, the practical and legal import of said appointment papers of the Justices concerned should be upheld over that of the March 10, 2010 transmittal letter from the Executive Secretary. **It should, however, be pointed out that the foregoing interpretation of the Rule on precedence and seniority should only apply to the above named Associate Justices, in view of the peculiar circumstances which attended the issuance/transmission of their appointment papers.**

[2]

Justice Antonio-Valenzuela disagreed with the interpretation of the CA Committee on Rules, insisting that she is the most senior among the four newly appointed CA Associate Justices pursuant to Section 1, Rule 2 of the 2009 IRCA which provides that seniority of the Associate Justices shall be determined "according to the order of their appointments as transmitted to the Supreme Court." She argued that "the final act in the process of appointing a member of the Judiciary is the transmittal of the appointment to the Supreme Court." She also took "serious exception" to the statement of the CA Committee on Rules that "the foregoing interpretation of the Rule on precedence and seniority should only apply to the above named Associate Justices, in view of the peculiar circumstances which attended the issuance/transmission of their appointment papers." According to her, there was nothing novel or peculiar about the circumstances attending the issuance and transmission of the four newly appointed members of the CA.

The matter was referred to the CA *en banc* for appropriate action. After deliberation, the CA *en banc* adopted the opinion of the CA Rules Committee. This was approved by this Court in a resolution dated July 20, 2010.

Justice Antonio-Valenzuela now seeks reconsideration of this Court's resolution dated July 20, 2010. She insists that all four CA Associate Justices whose seniority is

involved in this matter "were appointed on March 10, 2010, the day that their appointments were transmitted by the Office of the President" to this Court.

We disagree.

An appointment to a public office is the unequivocal act, of one who has the authority, of designating or selecting an individual to discharge and perform the duties and functions of an office or trust.^[3] Where the power of appointment is absolute and the appointee has been determined upon, no further consent or approval is necessary and the formal evidence of the appointment, the commission, may issue at once.^[4] The appointment is deemed complete once the last act required of the appointing authority has been complied with.^[5]

In *Valencia v. Peralta*,^[6] the Court ruled that a written memorial that can render title to public office indubitable is required. This written memorial is known as the commission. For purposes of completion of the appointment process, the appointment is complete when the commission is signed by the executive, and sealed if necessary, and is ready to be delivered or transmitted to the appointee.^[7] Thus, transmittal of the commission is an act which is done after the appointment has already been completed. It is not required to complete the appointment but only to facilitate the effectivity of the appointment by the appointee's receipt and acceptance thereof.

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

In view of the foregoing, the CA *en banc* acted correctly when it adopted the view of the CA Rules Committee insofar as the reckoning of the seniority of CA Justices Fernandez, Peralta, Jr., Hernando and Antonio-Valenzuela is concerned but erred when it declared that the CA Rules Committee's interpretation applies only to the case of the four aforementioned Justices.

WHEREFORE, the motion for reconsideration of CA Justice Antonio-Valenzuela is hereby **DENIED with finality**.

SO ORDERED.

Carpio, Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza, and Sereno, JJ.