

## EN BANC

**[ Adm. Matter No. 02-1-07-SC, January 21, 2002 ]**

**RE: REQUEST OF ACCUSED THROUGH COUNSEL FOR CREATION  
OF A SPECIAL DIVISION TO TRY THE PLUNDER CASE (SB CRIM.  
CASE NO. 26558 AND RELATED CASES)**

### R E S O L U T I O N

**BELLOSILLO, J.:**

This Court through its Oversight Committee received on 11 January 2002 Resolution No. 01-2002 of the Sandiganbayan (*En Banc*) captioned *Re: Request for the Creation of a Special Division to Try the Plunder Case* (SB Crim. Case No. 26558 and related cases affecting the accused). The Resolution was promulgated on 8 and 11 January 2002 in response to the *Request for Re-Raffle* of the defense counsel and the *Opposition to Request for Re-Raffle* of the Special Prosecution Panel.

Resolution No. 01-2002 recommends that "the cases against former President Joseph Ejercito Estrada and those accused with him be referred to a special division created by constitutional authority of the Supreme Court composed of three justices with two alternates in case of temporary absence of any of the three to be chosen from among the present composition of this Court who will be able to participate therein until the termination of said cases."

In its *Request for Re-Raffle*, the Defense alleges that it is made "for (a) better administration of justice" in view of the "shifting and uncertain nature of (the) composition (of the Third Division)" to which the "Plunder Case" was originally assigned, citing as bases therefor the compulsory retirement of Associate Justice Ricardo M. Ilarde on 27 November 2001, and the indefinite leave of absence of Associate Justice Anacleto D. Badoy, Jr., pursuant to our Resolution of 11 December 2001, thereby leaving a void in the composition of the regular Third Division. Only Associate Justice Teresita J. Leonardo-De Castro remains as permanent member thereof. Associate Justices Narciso S. Nario, Sr., and Nicodemo T. Ferrer who were earlier designated to sit in the Third Division as special members or so-called "warm bodies" are by the nature of their designations temporary therein.

On 9 January 2002 the Special Prosecution Panel filed an *Opposition to Request for Re-Raffle* arguing that there was no assurance that the other divisions would have a complete set of members since "[c]hanges in membership in any one of the divisions will surely occur every now and then occasioned by death, resignation, optional or mandatory retirement, promotion or other causes x x x x"

This Court is informed that on the basis of the letter-request for re-raffle and the opposition thereto, the Acting Presiding Justice of the Sandiganbayan immediately called the parties through counsel to a conference on the same date to give their comment and/or suggestion on how to resolve the issue at hand.