

SC CIRCULAR NO. 2-89, February 07, 1989

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TO :

COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI' A DISTRICT COURTS AND SHARI'A CIRCUIT COURTS, ALL MEMBERS OF THE GOVERNMENT PROSECUTION SERVICE, AND ALL MEMBERS OF THE INTEGRATED BAR OF THE PHILIPPINES.

SUBJECT: Guidelines and Rules in the referral to the Court en banc of cases assigned to a Division.

- The Supreme Court sits either en. bane or in Divisions of three, five or seven Members (Sec. 4[1], Article VIII, 1987 Constitution). At present the Court has three Divisions of five Members each.
- A decision or resolution of a Division of the Court, when concurred in by a majority of its Members who actually took part in the deliberations on the issues in a case and voted thereon, and in no case without the concurrence of at least three of such Members, is a decision or resolution of the Supreme Court (Section 4[3], Article VIII, 1987 Constitution).
- The Court en banc is not an Appellate Court to which decisions or resolutions of a Division may be appealed.
- At any time after a Division takes cognizance of a case and before a judgment or resolution therein rendered becomes final and executory, the Division may refer the case en consulta to the Court en banc which, after consideration of the reasons of the Division for such referral, may return the case to the Division or accept the case for decision or resolution.
 - 4a. Paragraph [f] of the Resolution of this Court of 23 February 1984 in Bar Matter No. 209 [formerly item 6, en banc Resolution dated 29 September 1977], enumerating the cases considered as en banc cases, states:

"f. Cases assigned to a division including motions for reconsideration which in the opinion of at least three (3) members merit the attention of the Court en banc and are acceptable by a majority vote of the actual membership of the Court en banc."
- A resolution of the Division denying a party's motion for referral to the Court en banc of any Division ease. shall be. final and not appealable to the Court en banc.
- When a decision or resolution is referred by a Division to the Court en banc, the latter may. in the absence of sufficiently important reasons, decline to take cognizance of the same, in which case, the dedsion or resolution shall be returned to the referring Division.
- No motion for reconsideration of the action of the Court en banc declining to take cognizance of a referral by a Division, shall be entertained.

- This Circular shall take effect on March 1, 1989.

The Court further Resolved to DIRECT the Clerk of Court to have this Resolution published in a newspaper of general circulation and circularized among all lower courts and the Integrated Bar of the Philippines.

February 7, 1989.

(Sgd.) MARCELO B. FERNAN

Chief Justice

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