

ASIAN DEVELOPMENT BANK ADMINISTRATIVE TRIBUNAL

**Decision No. 81
(17 August 2007)**

**Michael M.H. Lim (No. 2)
v.
Asian Development Bank**

**Florentino P. Feliciano, President
Khaja Samdani
Yuji Iwasawa**

1. This is an Application admittedly for the “clarification and review” of the Administrative Tribunal’s Decision No. 76 of 2 August 2006. The article of the Statute pressed into service is article XI. There is, however, no mention either of clarification or of review in the said article. It consists of two paragraphs. The first contains the conditions which must exist to allow the revision of a judgment already delivered by the Tribunal to which finality attaches under Article IX of the Statute. Paragraph 2 thereof states the duties of the Applicant which he/she must discharge before the Application may be considered competent.

2. To be fair to the Applicant we are considering this Application as one for revision. There are three requirements of a revision petition under Article XI of the Statute, viz.,

- a) Discovery of a new fact
- b) Which at the time of the delivery of the judgment was unknown both to the Tribunal and the party
- c) Which by its nature might have had a decisive influence on the judgment

3. Paragraph 2 of the Article XI says that the Applicant must show that all the said conditions have been complied with. It is also necessary that the Applicant must approach the Tribunal within six months of the acquisition of knowledge of such facts.

4. The conditions are obviously stringent. Since Article XI impinges upon the intent of Article IX, Article XI has to be construed very strictly. We find that none of the requirements have been met.

5. The general impression that one gets from the Application under consideration is that it is argumentative. The Applicant is questioning the decision of the Tribunal rather than pointing out any newly discovered facts which might influence the decision. Not only have no newly discovered facts been brought on the record but no date regarding the acquisition of such knowledge has been mentioned so that we might decide as to whether the Application has been filed within the prescribed time. On the merits of the case, it would be extremely inappropriate for the Tribunal to enter into an argument with the Applicant on matters already decided.

DECISION

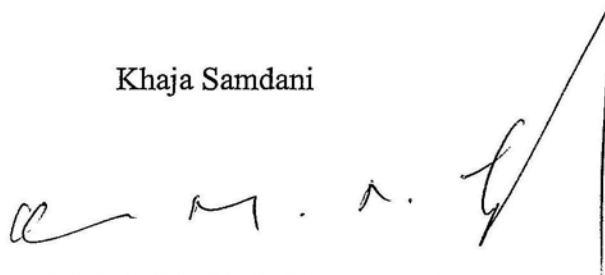
For these reasons, the Tribunal unanimously decides to dismiss the Application. The Respondent's request for compensation is denied.

Florentino P. Feliciano



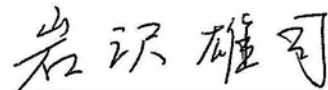
President

Khaja Samdani



Member

Yuji Iwasawa



Member

Simeon V. Marcelo



Executive Secretary

At Manila, 17 August 2007.