



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

**JOSE T. TENGCO III and G.R. No. 236620
ANTHONY KIERULF,**

Petitioners,

- versus -

PEOPLE OF THE PHILIPPINES,

Respondent.

X-----X

BARBARA MAY L. GARCIA, G.R. No. 236802

Petitioner,

- versus -

PEOPLE OF THE PHILIPPINES,

Respondent.

X-----X

HERLEY JESUITAS, G.R. No. 237156

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Petitioner, Present:GESMUNDO, C.J., Chairperson
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

- versus -

PEOPLE OF THE PHILIPPINES,

Promulgated:

Respondent.

FEB 01 2023

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DECISION

ZALAMEDA, J.:

The cases before this Court consist of three¹ (3) Petitions for Review on *Certiorari* under Rule 45 filed by Jose T. Tengco, III (Tengco) and Anthony Kierulf (Kierulf) in G.R. No. 236620, by Barbara May L. Garcia (Garcia) in G.R. No. 236802, and by Herley Jesuitas (Jesuitas) (collectively, petitioners) in G.R. No. 237156. All petitions assail the same Decision² dated 10 July 2017 and the Resolution³ dated 05 January 2018 of the Court of Appeals (CA) in G.R. SP No. 149445.

The CA annulled and set aside the Orders dated 16 May 2016⁴ and 23 November 2016⁵ of Branch 139 of the Regional Trial Court (RTC) of Makati City in Criminal Case No. 08-1083. On 16 May 2016, the RTC granted the motions to dismiss the criminal case for violation of Section 28 of Republic Act No. (RA) 8799,⁶ or the Securities Regulation Code, against petitioners and Oudine Santos (Santos), Nicoline Mendoza (Mendoza), and Maria

¹ A fourth petition, filed by Nicoline A. Mendoza in G.R. No. 237265, was dismissed in a Resolution dated 25 June 2018 for failure of petitioner to sufficiently show that the CA committed any reversible error in the challenged decision and resolution as to warrant the exercise of this Court's discretionary appellate jurisdiction; *rollo*, pp. 164-165 (G.R. No. 232765); Entry of Judgment was made on 11 October 2018.

² *Rollo*, pp. 44-58 (G.R. No. 236620); *Rollo*, pp. 32-47 (G.R. No. 236802); *Rollo*, pp. 283-296 (G.R. No. 237156); Penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Leoncia R. Dimagiba and Henri Jean Paul B. Inting (now a Member of this Court).

³ *Rollo*, pp. 60-62 (G.R. No. 236620); *Rollo*, pp. 32-47 (G.R. No. 236802); *Rollo*, pp. 283-296 (G.R. No. 237156); Penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Celia C. Librea-Leagogo and Henri Jean Paul B. Inting (now a Member of this Court).

⁴ *Rollo*, pp. 99-100 (G.R. No. 236620); *Rollo*, pp. 135-136 (G.R. No. 236802); *Rollo*, pp. 174-175 (G.R. No. 237156); Penned by Presiding Judge Benjamin T. Pozon.

⁵ *Rollo*, p. 101 (G.R. No. 236620); *Rollo*, p. 149 (G.R. No. 236802); *Rollo*, p. 200 (G.R. No. 237156); Penned by Presiding Judge Benjamin T. Pozon.

⁶ Entitled "THE SECURITIES AND REGULATION CODE," approved on 19 July 2000.

Pamela Morris (Morris). On 23 November 2016, the RTC denied the prosecution's motion for reconsideration for lack of merit.⁷

Antecedents

The CA summarized the facts as follows:

Caravaggio Holdings, Inc. was incorporated on February 21, 2001. A month later, or on March 12, 2001, it changed its name to Philippine International Planning Center Corporation (PIPCC, for brevity). Per its Articles of Incorporation, PIPCC was authorized to act as a research arm of foreign clients. It was not registered to engage in the solicitation and sale of securities. Corollarily, PIPCC's officers, agents and officers [sic] were not licensed to solicit, offer, or sell securities to the public.

On July 17, 2007, PIPCC Chairman and President Michael H.K. Liew disappeared along with approximately US\$250 Million worth of investments in the corporation.

Thereafter, the SEC Enforcement and Investor Protection Department (SEC-EIPD) received thirty-one (31) verified complaints [from people] claiming that they were investors of PIPCC. The complaints uniformly alleged that PIPCC, through its agents and/or brokers, which included [petitioners, Santos, Mendoza, and Morris], enticed the investors-complainants to place money in US Dollars or Euros in PIPCC with a promise of higher income potential, that is, ranging from 12% to 18% interest, at a relatively lower risk compared with traditional investments in banks and other financial institutions. The PIPCC also claimed that as the Philippine branch/office of the Performance Investments Products Corporation British Virgin Islands, it was engaged in offshore foreign currency exchange trading. The officers and agents of PIPCC further made it appear that they had secured the proper licenses from the SEC to engage in the solicitation, offer, and sale of securities.

The investors-complainants further alleged that they made several investments in US Dollars or Euros from 2001 to 2007 with PIPCC through [petitioners, Santos, Mendoza, and Morris] as agents/brokers. Among the investments and the respective brokers/agents thereof are as follows:

DATE	BROKER/ AGENT	INVESTOR	AMOUNT INVESTED
December 2005	[Morris]	Virginia S. Barbers	US\$40,000 US\$60,000 US\$200,000
July 21, 2006	[Garcia]	Charlemagne and Charlyn C. Lim	US\$60,000
July 10, 2006	[Garcia]	Carmen T. Sumawang	US\$40,000

⁷ Rollo, p. (G.R. No. 236620); Rollo, p. 149 (G.R. No. 236802); Rollo, p. 200 (G.R. No. 237156).



January 9, 2001	[Morris]	Alejandro Montinola Recto	P510,000
March 19, 2003	[Morris]	Alejandro Montinola Recto	US\$30,000
September 26, 2006	[Morris]	Adrienne Mae Joson	US\$40,000
March 2005	[Mendoza]	Marcia E. Rodriguez	US\$40,000
April 2005	[Mendoza]	Marcia E. Rodriguez	US\$20,000
September 2005	[Tengco]	Carolina Y. Villacorta-Katigbak	€40,000
Not provided	[Jesuitas]	Therese Christy Vesagas-Laxa	Not provided
August 11, 2003	Nicole Ortega and [Kierulf]	Mercedes M. Gallent	US\$20,000
November 3, 2003	Nicole Ortega and [Kierulf]	Mercedes M. Gallent	US\$30,000
June 2007	[Santos]	Luis Mercedes P. Lorenzo	US\$500,000
October 9, 2006	[Santos]	Ricky Albino P. Sy	US\$40,000

The SEC-EIPD conducted an investigation and called for a preliminary conference with the officers/directors of PIPCC. It found that the PIPCC was not licensed to solicit, offer, or sell securities to the public. Despite this, PIPCC, through its directors, officers, brokers, and agents, which included [petitioners, Santos, Mendoza, and Morris] still sold securities to complainants-investors.

On the basis of its investigation, the SEC-EIPD found probable cause against [petitioners, Santos, Mendoza, and Morris] for violation of Section 28 of the Securities Regulation Code which proscribes the engagement of any person in the business of buying or selling securities in the Philippines as a broker or dealer, unless registered as such with the Commission. Consequently, the SEC, through the SEC-EIPD, filed a complaint-affidavit dated November 27, 2007 with the Department of Justice (DOJ) against [petitioners, Santos, Mendoza, and Morris] as agents/brokers of PIPCC, along with its Chairman/President Michael H.K. Liew, General Manager/Board of Directors Member Cristina Gonzales Tuason, Board of Directors Member Ma. Christina Jurado, Agent Eugene Go, and other agents, namely: Michael Melchor Nubla, Luis "Jimbo" Aragon, and Mayenne Carmona.

The DOJ immediately formed a panel of prosecutors which conducted a preliminary investigation of the complaint wherein it found probable cause that [petitioners, Santos, Mendoza, and Morris] committed the crime charged against them.

In an Information dated June 19, 2008 before the [RTC], [petitioners, Santos, Mendoza, and Morris] and their seven (7) other co-accused were charged with violation of Section 28 of the Securities Regulation Code committed as follows:

That on or about March 2001 to July 2007, in the

City of Makati and within the jurisdiction of this Honorable Court, the above-named accused, acting as agents for and in behalf of the Philippine International Planning Center ("PIPC Corp.") and/or Performance Investment Product Corporation-British Virgin Islands ("PIPC-BVI") did, then and there, sell and/or offer for sale security investments to the general public, without being registered with the Securities and Exchange Commission ("SEC") as such agents in violation of Section 28 of the Securities Regulation Code, to the damage and prejudice of the Government.

CONTRARY TO LAW.

During the arraignments conducted from September 2008 to February 2009, [petitioners, Santos, Mendoza, and Morris], with the assistance of their respective counsels, all pleaded *not guilty*. x x x Trial on the merits ensued thereafter.

During the hearing on April 16, 2015, the court *a quo*, through public respondent Judge Benjamin T. Pozon, directed the SEC to issue a certification and confirm whether or not subpoenas were served/issued upon any of accused before the complaint was filed before the DOJ; whether or not the SEC invited or summoned any of the accused to any hearing before this case was filed before the DOJ; whether or not the SEC served any notices [sic] to the accused that they were under investigation before the filing of the complaint with the DOJ; whether or not the SEC arrived at the finding of probable cause before the complaint was filed with the DOJ; and whether or not the finding of probable cause, if it exists, was served upon any of the accused before the complaint was filed before the DOJ.

In a Manifestation/Compliance dated May 6, 2015, the SEC certified that it conducted an investigation wherein it issued notices of conferences to the officers and/or directors of PIPCC. It was only after it found probable cause in the course of its investigation that it filed the instant complaint with the DOJ.

On August 7, 2015, or seven (7) years after her arraignment on October 8, 2008, x x x Garcia filed a *Motion to Dismiss for Lack of Jurisdiction* in the light of the SEC's admission that it failed to conduct its own preliminary investigation. Citing 53.1 of the Securities Regulation Code and the cases of *Baviera vs. Paglinawan* and *Securities and Exchange Commission vs. Interport Resources Corporation, et al.*, x x x Garcia alleged that a criminal complaint for violation of the Securities Regulation Code must be filed with the SEC, which must then determine the presence of probable cause. It is only after a finding of probable cause that the case may be referred to the DOJ. Here, the SEC's failure to conduct a preliminary investigation before filing the instant case with the DOJ is a fatal procedural lapse that violated x x x Garcia's right to due process of laws and thus warranted the dismissal of the criminal charge against her.

Thereafter, x x x Jesuitas, Kierulf, Tengco, Santos, Mendoza, and Morris likewise filed their respective motions to dismiss, alleging similar

grounds as those alleged in x x x Garcia's motion to dismiss, that is, the failure of the SEC to notify [them] of the investigation it conducted which violated their rights to due process warranting the dismissal of the case against them for lack of jurisdiction.⁸

Ruling of the RTC

In an Order⁹ dated 16 May 2016, the RTC granted petitioners' motions to dismiss the case. It declared that the case was dismissible on the ground of lack of jurisdiction and for denial of the petitioners' right to due process.

WHEREFORE, premises considered, the instant Motions to Dismiss are hereby GRANTED.

The case against [Garcia, Jesuitas, Santos, Kierulf, Tengco, Mendoza and Morris is] hereby DISMISSED.

Furnish copies of this Order to the parties, their respective counsels and to Senior Assistant City Prosecutor Benjamin S. Vermug, Jr.

SO ORDERED.¹⁰

The Special Prosecutors filed a motion for reconsideration,¹¹ which the RTC denied for lack of merit in an Order¹² dated 23 November 2016.

Ruling of the CA

The Office of the Solicitor General (OSG) filed a Petition for *Certiorari*¹³ under Rule 65 to question the RTC's dismissal. The CA declared that the pivotal issue to be resolved is whether there was grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the RTC judge when it dismissed the case on violation of their rights to due process. The alleged violation happened when the SEC failed to conduct its own preliminary investigation before it endorsed the case to the DOJ for preliminary investigation and prosecution.

⁸ *Rollo*, pp. 45-49 (G.R. No. 236620); *Rollo*, pp. 4-38 (G.R. No. 236802); *Rollo*, pp. 285-289 (G.R. No. 237156).

⁹ *Rollo*, pp. 99-100 (G.R. No. 236620); *Rollo*, pp. 135-136 (G.R. No. 236802); *Rollo*, pp. 174-175 (G.R. No. 237156).

¹⁰ *Rollo*, p. 100 (G.R. No. 236620); *Rollo*, p. 136 (G.R. No. 236802); *Rollo*, p. 175 (G.R. No. 237156).

¹¹ *Rollo*, pp. 344-356 (G.R. No. 236620); *Rollo*, pp. 137-148 (G.R. No. 236802); *Rollo*, pp. 299-306 (G.R. No. 237156).

¹² *Rollo*, p. 101 (G.R. No. 236620); *Rollo*, p. 149 (G.R. No. 236802); *Rollo*, p. 200 (G.R. No. 237156).

¹³ *Rollo*, pp. 63-94 (G.R. No. 236620); *Rollo*, pp. 150-181 (G.R. No. 236802); *Rollo*, pp. 201-233 (G.R. No. 237156).

The CA granted the OSG's petition, thus:

WHEREFORE, premises considered, the instant petition for certiorari is hereby GRANTED. The Orders dated May 16, 2016 and November 23, 2016 are ANNULLED and SET ASIDE. Accordingly, Criminal Case No. 08-1083 for Violation of Section 28 of RA No. 8799, otherwise known as the Securities Regulation Code, filed against [petitioners, Santos, Mendoza, and Morris] is REINSTATED. The case is REMANDED to the [RTC] for further proceedings.

SO ORDERED.¹⁴

For the CA, petitioners were not deprived of due process because they fully participated in the preliminary investigation where they were afforded the opportunity to refute the charges against them before the DOJ. Moreover, even if there was an irregularity during the preliminary investigation, it does not affect the jurisdiction of the court over the case. Neither does it constitute a ground for quashing the Information. Irregularity in the preliminary investigation may be remedied by suspension of the trial and ordering the SEC to conduct its investigation anew.

Petitioners' separate motions for reconsideration were denied by the CA in its 05 January 2018 Resolution.¹⁵ They then filed their respective petitions for *certiorari* under Rule 45 before this Court. We later granted the Office of the Solicitor General's (OSG) Omnibus Motion,¹⁶ which prayed, among others, for the consolidation of the separate petitions for review by petitioners and Mendoza. We considered the OSG's Comment to G.R. No. 236802 and dispensed with the filing of a Comment in G.R. Nos. 236620 and 237156.

Petitioners' Arguments

Tengco and Kierulf, in G.R. No. 236620, raise the following grounds to warrant the Petition:

The Court of Appeals gravely erred, and decided contrary to law and the rulings of this Honorable Court, when it overturned the Orders of Judge Pozon, which dismissed Criminal Case No. 08-1083 as to Petitioners.

¹⁴ *Rollo*, p. 58 (G.R. No. 236620); *Rollo*, p. 47 (G.R. No. 236802); *Rollo*, p. 296 (G.R. No. 237156); *Id.* at (G.R. No. 236620).

¹⁵ *Rollo*, pp. 59-62 (G.R. No. 236620); *Rollo*, pp. 48-51 (G.R. No. 236802); *Rollo*, pp. 311-314 (G.R. No. 237156).

¹⁶ *Rollo*, pp. 384-392 (G.R. No. 236620); *Rollo*, pp. 396-401 (G.R. No. 236802); *Rollo*, pp. 324-329 (G.R. No. 237156).

- I. Judge Pozon correctly dismissed Criminal Case No. 08-1093 as to Petitioners for lack of jurisdiction, pursuant to this Honorable Court's rulings in *Baviera vs. Paglinawan*, *SEC vs. Interport and Pua vs. Citibank, N.A.*
- II. The SEC did not substantially comply with the required procedure under Section 53.1 of the Securities Regulation Code. Rather, the SEC's violation of Petitioner's rights to due process invalidated the proceedings as to them.
- III. Judge Pozon correctly took cognizance of the defense of lack of jurisdiction, which may be raised at any stage of the case.
- IV. Considering that the SEC's fatal procedural lapse violated Petitioners' rights to due process and invalidated the proceedings as to them, Judge Pozon did not commit grave abuse of discretion in dismissing Criminal Case No. 08-1083 as to them.¹⁷

On the other hand, Garcia, in G.R. No. 236802, allege these issues:

A. The Court of Appeals erred when it allowed and granted Respondent's Petition for Certiorari. The Trial Court Orders were final judgments that could have been assailed only by appeal. Respondent pursued the wrong remedy. Certiorari cannot substitute for a lost appeal. The Trial Court Orders have long attained finality and can no longer be reversed.

B. The Trial Court Orders were issued in accordance with the SRC, the SEC's own Rules of Procedure and this Honorable Court's ruling in *Baviera v. Paglinawan* and *SEC v. Interport Resources Corp.* The Assailed Judgment grossly failed to appreciate key facts and decided the Petition for Certiorari in a way contrary to law and jurisprudence, which warrants the exercise of this Honorable Court's power of supervision.

C. Since Ms. Garcia was deprived of due process, the RTC-Makati never validly acquired jurisdiction. Lack of jurisdiction may be raised at any time, even on appeal. Ms. Garcia challenged RTC-Makati's lack of jurisdiction as soon as it became apparent and did not waive her right to question the same.

D. Even assuming that the Trial Court Orders incorrectly dismissed the criminal case, such error does not amount to a grave abuse of discretion that is correctible by *certiorari*.¹⁸

Meanwhile, in G.R. No. 237156, Jesuitas maintains the following as issues to be resolved by the Court:

The Court of Appeals committed glaring errors contrary to the clear mandate of law and jurisprudence, which, if duly corrected, would

¹⁷ *Rollo*, pp. 20-21 (G.R. No. 236620).

¹⁸ *Id.* at 10-11.

alter the results of its decision.

- I. Whether or not the Court of Appeals erred in ruling that there was substantial compliance with the requirements of [Section] 53.1 of the Securities Regulation Code.
- II. Whether or not the Court of Appeals erred when it ruled that the absence of preliminary investigation does not affect the court's jurisdiction over the case.
- III. Whether or not the Court of Appeals erred in ruling that Jesuitas waived her right to question the validity of the investigation conducted by the SEC.¹⁹

Ruling of the Court

The petitions have no merit. The CA did not commit any reversible error when it reinstated Criminal Case No. 08-1083 and remanded it to the RTC for further proceedings.

It must be underscored that, when the OSG questioned the RTC's issuance of the 16 May and 23 November 2016 Orders before the CA, it did not question the RTC's appreciation of the parties' evidence and the conclusions borne by such appreciation. Rather, the OSG asserted that the RTC's orders were issued without or in excess of its jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law.²⁰ We agree that a petition for *certiorari* under Rule 65 filed before the CA is the proper remedy.

Likewise, the CA correctly ruled that the RTC erred in its dismissal of the criminal cases. Petitioners claim that the RTC did not have jurisdiction because they were allegedly deprived of due process.

We examine the allegations of both parties through the lens of Section 53.1 of the Securities Regulation Code (SRC). According to this provision, the SEC has discretion in the conduct of investigations for violations of the SRC.

SEC. 53. *Investigations, Injunctions and Prosecution of Offenses.* —

53.1. **The Commission may, in its discretion, make such investigations as it deems necessary to determine whether any person**

¹⁹ *Rollo*, p. 23 (G.R. No. 237156).

²⁰ RULES OF COURT, Rule 65, Section 1.

has violated or is about to violate any provision of this Code, any rule, regulation or order thereunder, or any rule of an Exchange, registered securities association, clearing agency, other self-regulatory organization, and may require or permit any person to file with it a statement in writing, under oath or otherwise, as the Commission shall determine, as to all facts and circumstances concerning the matter to be investigated. The Commission may publish information concerning any such violations, and to investigate any fact, condition, practice or matter which it may deem necessary or proper to aid in the enforcement of the provisions of this Code, in the prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning the matters to which this Code relates: *Provided*, however, That any person requested or subpoenaed to produce documents or testify in any investigation shall simultaneously be notified in writing of the purpose of such investigation: *Provided, further*, That **all criminal complaints for violations of this Code**, and the implementing rules and regulations enforced or administered by the Commission **shall be referred to the Department of Justice for preliminary investigation and prosecution before the proper court**: *Provided, furthermore*, That in instances where the law allows independent civil or criminal proceedings of violations arising from the same act, the Commission shall take appropriate action to implement the same: *Provided, finally*, That the investigation, prosecution, and trial of such cases shall be given priority.

Clearly, Section 53.1 does not prescribe the specific manner by which the SEC shall make its investigations. The SEC has the discretion to determine what are necessary in the conduct of its investigations. However, the SEC is mandated to refer criminal complaints for violations of the SRC to the DOJ for preliminary investigation and prosecution before the proper court.

Petitioners rely on *Baviera v. Paglinawan (Baviera)*²¹ to assert their claim of lack of jurisdiction due to absence of SEC investigation. However, *Baviera* is not on all fours with the present petition. The facts in that case show that the private individual-complainant directly filed with the DOJ a complaint for violation of Section 8.1 of the SRC. In the present petition, the duped investors filed complaints before the SEC. The SEC, after investigation, filed a complaint before the DOJ. We stated in *Baviera*:

The Court of Appeals held that under the above provision, a criminal complaint for violation of any law or rule administered by the SEC must first be filed with the latter. If the Commission finds that there is probable cause, then it should refer the case to the DOJ. Since petitioner failed to comply with the foregoing procedural requirement, the DOJ did not gravely abuse its discretion in dismissing his complaint in I.S. No. 2004-229.

A criminal charge for violation of the Securities Regulation

²¹ 544 Phil. 107 (2007).

Code is a specialized dispute. Hence, it must first be referred to an administrative agency of special competence, i.e., the SEC. Under the doctrine of primary jurisdiction, courts will not determine a controversy involving a question within the jurisdiction of the administrative tribunal, where the question demands the exercise of sound administrative discretion requiring the specialized knowledge and expertise of said administrative tribunal to determine technical and intricate matters of fact. The Securities Regulation Code is a special law. Its enforcement is particularly vested in the SEC. **Hence, all complaints for any violation of the Code and its implementing rules and regulations should be filed with the SEC. Where the complaint is criminal in nature, the SEC shall indorse the complaint to the DOJ for preliminary investigation and prosecution as provided in Section 53.1 earlier quoted.**

We thus agree with the Court of Appeals that **petitioner committed a fatal procedural lapse when he filed his criminal complaint directly with the DOJ.** Verily, no grave abuse of discretion can be ascribed to the DOJ in dismissing petitioner's complaint.²²

We underscore our ruling in *Baviera* that a criminal complaint for violation of any law or rule administered by the SEC must first be filed before it. There is a "fatal procedural lapse" **only** when the criminal complaint is filed directly with the DOJ.

Petitioners further rely on *Pua v. Citibank, N.A.*²³ to bolster their claims. Like *Baviera*, the ruling in *Pua* does not concern itself with a mandated notice of investigation from the SEC. Rather, *Pua* emphasizes the difference between the filing of civil and criminal suits falling under the SRC. Thus:

Based on the foregoing, it is clear that cases falling under Section 57 of the SRC, which pertain to civil liabilities arising from violations of the requirements for offers to sell or the sale of securities, as well as other civil suits under Sections 56, 58, 59, 60, and 61 of the SRC **shall be exclusively brought before the regional trial courts.** It is a well-settled rule in statutory construction that the term "shall" is a word of command, and one which has always or which must be given a compulsory meaning, and it is generally imperative or mandatory. Likewise, it is equally revelatory that no SRC provision of similar import is found in its sections governing criminal suits; quite the contrary, the SRC states that criminal cases arising from violations of its provisions should be first referred to the SEC.

Therefore, based on these considerations, it stands to reason that civil suits falling under the SRC are under the exclusive original jurisdiction of the regional trial courts and hence, need not be first filed before the SEC, unlike criminal cases wherein the latter body exercises primary jurisdiction.

²² Id at 118-119; Emphasis supplied.

²³ 718 Phil. 1 (2013).

All told, petitioners' filing of a civil suit against respondent for purported violations of the SRC was properly filed directly before the RTC.²⁴

Petitioners themselves do not dispute that complaint-affidavits were filed by complainants-investors before the SEC prior to the SEC's referral of the case to the DOJ. Petitioners filed their respective counter-affidavits before the DOJ. The DOJ conducted a preliminary investigation with petitioners' full participation. Petitioners cannot claim, after seven years from the filing of the Information, that they were deprived of due process at the SEC level.

We thus agree with the CA that the RTC committed grave abuse of discretion when it granted petitioners' motions to dismiss.

WHEREFORE, premises considered, the instant petitions are hereby **DENIED**. Accordingly, the Decision dated 10 July 2017 and the Resolution dated 05 January 2018 rendered by the Court of Appeals in CA G.R. SP No. 149445 are **AFFIRMED**.

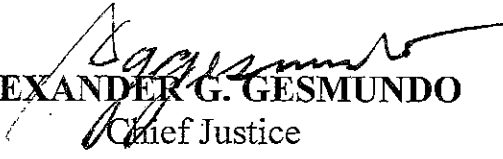
The Court further resolves to DECONSOLIDATE G.R. no. 237265 from G.R. Nos, 236620, 236802, and 237156, an Entry of Judgment having been made on 11 October 2018 in this case.


SO ORDERED.


RODIL V. ZALAMEDA
Associate Justice

²⁴ Id at 10; Citation omitted; Emphasis in the original.

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson


RAMON PAUL L. HERNANDO
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

Pursuant to the Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice