Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

THE SECURITIES AND EXCHANGE COMMISSION (SEC) CHAIRPERSON TERESITA J. HERBOSA, COMMISSIONER MA. JUANITA E. CUETO, COMMISIONER RAUL J. PALABRICA, COMMISSIONER MANUEL HUBERTO B. GAITE, COMMISIONER ELADIO M. JALA, and THE SEC ENFORCEMENT AND PROSECUTION DEPARTMENT, Petitioners, *- versus -* **CJH DEVELOPMENT CORPORATION and CJH SUITES CORPORATION, herein represented by its EXECUTIVE VICE-PRESIDENT AND CHIEF OPERATING OFFICER, ALFREDO R. YÑIGUEZ III,** Respondents.	**G.R. No. 210316** **Present:** VELASCO, JR., *J.*, *Chairperson*, PERALTA, PEREZ, REYES, LEONEN,* *JJ.* **Promulgated:** **November 28, 2016**

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DECISION

PERALTA, *J.*:

Before the Court is a petition for review on *certiorari* seeking to annul and set aside the Decision[1] and Resolution[2] of the Court of Appeals (*CA*),

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* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated October 1, 2014.

1 Penned by Associate Justice Hakim S. Abdulwahid, with Associate Justices Marlene Gonzales-Sison and Edwin D. Sorongon, concurring; Annex "A" to Petition, *rollo* pp. 70-77.

2 *Id.* at 78-79.

dated June 7, 2013 and November 28, 2013, respectively, in CA-G.R. SP No. 125482. The assailed CA Decision annulled and set aside the Cease and Desist Order (*CDO*) issued by the Securities and Exchange Commission (*SEC*) *En Banc* on June 7, 2012, and dismissed SEC-CDO Case No. 05-12-006, while the CA Resolution denied petitioners' Motion for Reconsideration.

The facts of the case are as follows:

Herein respondent CJH Development Corporation (*CJHDC*) is a duly-organized domestic corporation which is engaged in the acquisition, development, sale, lease and management of real estate and any improvements thereon or any interest and right therein.[3] Respondent CJH Suites Corporation (*CJHSC*), on the other hand, is a wholly-owned subsidiary of CJHDC which was formed primarily for the purpose of acquiring, maintaining, operating and managing hotels, inns, lodging houses, restaurants and other allied businesses.[4]

On October 19, 1996, CJHDC entered into a Lease Agreement (*Agreement*) with the Bases Conversion and Development Authority (*BCDA*) for the development into a public tourism complex, multiple-use forest watershed and human resource development center, of a 247-hectare property within the John Hay Special Economic Zone in Baguio City. The fixed annual rental for the property for the first five years was pegged at ₱425,001,378.00 or five percent of Gross Revenues, whichever is higher. Thereafter, for the duration of the lease period, the fixed annual rental shall not be more than ₱150,000,000.00 or five percent of Gross Revenues, whichever is higher. Among other provisions, the Agreement authorized CJHDC to sub-lease, develop and manage the abovementioned property for a period of fifty (50) years, or until 2046. It was also provided that, upon expiration of the Agreement, the leased property shall revert back to the BCDA and all the improvements thereon shall become its property.

Subsequently, CJHDC came up with a development plan and put it into effect. Part of such development plan was the construction of two (2) condominium-hotels (*condotels*) which it named as "The Manor" and "The Suites". Subject to CJHDC's leasehold rights under the Agreement, the residential units in these condotels were then offered for sale to the general public by means of two schemes. The first is a straight purchase and sale contract where the buyer pays the purchase price for the unit bought, either in lump sum or on installment basis and, thereafter, enjoys the benefits of full ownership, subject to payment of maintenance dues and utility fees. The second scheme involved the sale of the unit with an added option to avail of

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3 See Amended Articles of Incorporation of CJHDC, Annex "C" to Petition, *id.* at 80-87.

4 See Articles of Incorporation of CJHSC, Annex "D" to Petition, *id.* at 88-93.

a "leaseback" or a "money-back" arrangement. Under this added option, the buyer pays for the unit bought and, subsequently, surrenders its possession to the management of CJHDC or CJHSC. These corporations would then create a pool of these units and, in turn, will offer them for billeting under the management of the hotel operated by the Camp John Hay Leisure, Inc. (*CJHLI*). This arrangement lasts for a period of fifteen (15) years with a renewal option for the same period until 2046. The buyers who opt for the "leaseback" arrangement will receive either a proportionate share in seventy percent (70%) of the annual income derived from the hotel operation of the pooled rooms or a guaranteed eight percent (8%) return on their investment. On the other hand, those who choose to avail of the "money-back" arrangement are entitled to a return of the purchase price they paid for the units by expiration of the Lease Agreement in 2046. The buyers are given the right to use their units for thirty (30) days within a year and they are exempted from paying the monthly dues and utility fees.

Sometime in May 2010, the BCDA and the CJHDC entered into an agreement for the restructuring of the latter's rental payments and other financial obligations to the former. Thus, pursuant to this agreement, CJHDC transferred ownership of, among others, sixteen (16) units from "The Manor" and ten (10) units from "The Suites" to the BCDA via *dacion en pago*. These units were covered by Limited Warranty Deeds and were subject to a "leaseback" arrangement.

Subsequently, the BCDA acquired information regarding CJHDC and CJHSC's scheme of selling "The Manor" and "The Suites" units through "leaseback" or "money-back" terms. Hence, in a letter dated November 18, 2011, the BCDA requested the SEC to conduct an investigation into the operations of CJHDC and CJHSC on the belief that the "leaseback" or "money-back" arrangements they are offering to the public is, in essence, investment contracts which are considered as securities under Republic Act No. 8799, otherwise known as the Securities Regulation Code (*SRC*).

Acting on such a request, the Enforcement and Prosecution Department (*EPD*) of the SEC conducted its own investigation of the operations of CJHDC and CJHSC with respect to the sale of the subject condotel units and, thereafter, submitted a Field Investigation Report,[5] dated February 1, 2012, to the Chairperson of the SEC, providing details of their findings during such investigation. The EPD was also able to confer with several buyers of the condotel units who gave information with respect to the terms of the contracts they entered into with respondents.

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5 *Rollo*, pp. 179-184.

Subsequently, on April 23, 2012, the SEC's Corporation Finance Department (*CFD*) issued a Memorandum[6] indicating its opinion that the "leaseback" arrangements offered by respondents to the public are investment contracts.

On May 16, 2012, the EPD filed a Motion for Issuance of Cease and Desist Order[7] with the SEC *En Banc* praying that CJHDC and CJHSC, their respective officers, directors, representatives, salesmen, agents, and any and all persons claiming and acting for and in their behalf be directed to immediately cease and desist "from further engaging in activities of selling and/or offering for sale investment contracts covering the condotel units on "leaseback" and/or "money-back" arrangements until the requisite registration statement is duly filed with and approved by the Commission and the corresponding permit to offer/sell securities is issued."[8] The case was docketed as SEC-CDO Case No. 05-12-006.

On June 7, 2012, the SEC *En Banc* issued an Order,[9] disposing as follows:

> WHEREFORE, premises considered, there being a *prima facie* evidence that respondents CJH DEVELOPMENT CORPORATION and its wholly-owned subsidiary CJH SUITES CORPORATION, are engaged in the business of selling securities without the proper registration issued by this Commission in violation [of] Section 8 of the SRC, the respondents, their respective officers, directors, representatives, salesmen, agents and any and all persons claiming and acting for and in their behalf, are hereby ordered to immediately CEASE and DESIST from further engaging in the business of selling securities until they have complied with the requirements of law and its implementing rules and regulations.
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> x x x x
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> SO ORDERED.[10]

CJHDC and CJHSC then filed a Petition for Review[11] with prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction before the CA questioning the above CDO and praying that the same be reversed and set aside.

On September 25, 2012, the CA issued a temporary restraining order which enjoins the SEC from enforcing its questioned CDO for a period of

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6 *Id.* at 227-231.
7 Records, Vol. I, pp. 186-202.
8 *Id.* at 203-209.
9 *Id.* at 203.
10 *Rollo*, p. 238
11 *Id.* at 239-263.

sixty (60) days.[12] Thereafter, on November 8, 2012, the CA issued a writ of preliminary injunction which was made effective pending the decision of the petition on the merits.[13]

In its presently assailed Decision, the CA ruled in favor of CJHDC and CJHSC and disposed as follows:

> WHEREFORE, the instant petition is GRANTED. The Cease and Desist Order dated June 7, 2012 issued by the SEC En Banc is [ANNULLED] and SET ASIDE, and SEC-CDO Case No. 05-12-006 is DISMISSED. The writ of preliminary injunction per Resolution dated November 8, 2012, enjoining respondents from enforcing the June 7, 2012 Cease and Desist Order, is MADE PERMANENT.
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> SO ORDERED.[14]

CJHDC and CJHSC filed a Motion for Reconsideration, but the CA denied it in its Resolution[15] dated November 28, 2013.

Hence, the instant petition for review on *certiorari* based on the following grounds:

> I
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> THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT OUTRIGHTLY DISMISSING THE APPEAL FILED BY RESPONDENTS AGAINST AN INTERLOCUTORY OR PROVISIONAL ORDER OF THE SEC.
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> II
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> THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR AND ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN FAILING TO DISMISS THE PETITION FOR REVIEW CONSIDERING THAT THE SEC HAS THE PRIMARY JURISDICTION OVER THE CASE AND RESPONDENTS FAILED TO EXHAUST ALL THE ADMINISTRATIVE REMEDIES UNDER THE LAW TO CHALLENGE THE PROVISIONAL ORDER.
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> III
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> THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR AND ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN NULLIFYING THE CDO AND DISMISSING SEC-CDO CASE NO. 05-12-006.[16]

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12 CA *rollo*, pp. 459-461.
13 *Id.* at 742-745.
14 *Rollo*, p. 76.
15 629 Phil. 450, 459 (2010)
16 *Id.* at 39.

The petition is meritorious.

First, the Court agrees with petitioners that the challenged CDO is an interlocutory order. The word interlocutory refers to something intervening between the commencement and the end of the suit which decides some point or matter but is not a final decision of the whole controversy.[17] An interlocutory order merely resolves incidental matters and leaves something more to be done to resolve the merits of the case.[18] Stated differently, an interlocutory order is one which leaves substantial proceedings yet to be had in connection with the controversy.[19] It does not end the task of the court in adjudicating the parties' contentions and determining their rights and liabilities as against each other.[20] In this sense, it is basically provisional in its application.[21]

It is a settled rule in this jurisdiction that an appeal may only be taken from a judgment or final order that completely disposes of the case and that an interlocutory order is not appealable until after the rendition of the judgment on the merits for a contrary rule would delay the administration of justice and unduly burden the courts.[22]

In the present case, it is clear from the dispositive portion of the CDO that its issuance is based on the findings of the SEC that there exists *prima facie* evidence that respondents are engaged in the business of selling securities without the proper registration issued by the Commission. *Prima facie* means a fact presumed to be true unless disproved by some evidence to the contrary.[23] Applied to the instant case, it means that the findings of the SEC, as contained in the assailed CDO, can still be refuted and disproved by contrary evidence. This only means that the CDO is not final, is just provisional, and that the prohibition thereunder is merely temporary, subject to the determination of the parties' respective evidence in a subsequent hearing. It is, therefore, clear that the subject CDO, being interlocutory, may not be the subject of an appeal.

In fact, the non-appealability of a CDO issued by the SEC is provided for under the 2006 Rules of Procedure of the Commission. Thus, Section 10-8 of the Rules provides:

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17 *Calderon v. Roxas, et al.*, 701 Phil. 301, 310 (2013).

18 *Id.*

19 *Spouses Bergonia v. Court of Appeals, et al.*, 680 Phil. 334, 340 (2012).

20 *Id.*

21 *Id.*

22 *Aboitiz Equity Ventures, Inc. v. Chiongbian, et al.*, G.R. No. 197530, July 9, 2014, 729 SCRA 580, 594-595.

23 *Pambansang Koalisyon ng mga Samahang Magsasaka at Manggagawa sa Niyugan (PKSMMN), et al. v. Executive Secretary, et al.*, 685 Phil. 295, 308 (2012).

> SEC. 10-8. *Prohibitions.* – No pleading, motion or submission in any form that may prevent the resolution of an application for a CDO by the Commission shall be entertained except under Rule XII herein. **A CDO when issued, shall not be the subject of an appeal and no appeal from it will be entertained**; *Provided*, however, that an order by the Director of the Operating Department denying the motion to lift a CDO may be appealed to the Commission En Banc through the O[ffice of the] G[eneral] C[ounsel]. (Emphasis supplied)

In addition, the temporary character, thus interlocutory nature, of a CDO is recognized under Section 10-5 of the same Rules, as it provides for the procedure on how a CDO can be made permanent, to wit:

> SEC. 10-5. *Failure to File Motion to Lift.* – (a) If the respondent fails to file a motion to lift CDO within the prescribed period, the Director of the C[ompliance and] E[nforcement] D[epartment] may file with the Commission a motion to make the CDO permanent. The Order shall contain the following:
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> i. a brief and procedural history of the case;
> ii. a statement declaring the CDO as permanent;
> iii. a statement ordering the respondent to appear before the Commission within fifteen (15) days to file its Comment and to show cause why the stated penalty should not be imposed.
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> (b) The Commission may conduct hearing within fifteen (15) business days from the filing of the motion to make the CDO permanent. After the termination of the hearing, the Commission shall resolve the motion within ten (10) business days.

Thus, pursuant to the above provision, the EPD of the SEC filed a Motion for Issuance of Permanent Cease and Desist Order on July 9, 2012[24] which, however, was subsequently overtaken by the CA's issuance of a temporary restraining order and preliminary injunction enjoining the SEC from enforcing its assailed CDO.

Nonetheless, contrary to respondents' contention in their petition filed with the CA, they are not left without recourse in the administrative level. Section 64.3 of the SRC provides, thus:

> 64.3 Any person against whom a cease and desist order was issued may, within five (5) days from receipt of the order, file a formal request for a lifting thereof. Said request shall be set for hearing by the Commission not later than fifteen (15) days from its filing and the resolution thereof shall be made not later than ten (10) days from the termination of the hearing. If the Commission fails to resolve the request within the time herein prescribed, the cease and desist order shall automatically be lifted.

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24 Records, p. 246.

In the same manner Section 10-3 of the 2006 Rules of Procedure of the SEC states:

> SEC. 10-3. *Lifting of CDO.* – A party against whom a CDO was issued may, within a non-extendible period of five (5) business days from receipt of the order, file a formal request or motion for the lifting thereof with the OGC. Said motion or request shall be set for hearing by the OGC not later than fifteen (15) days from its filing and the resolution thereof not later than ten (10) days from the termination of the hearing.

Hence, as cited above, instead of filing an appeal with the CA, respondents should have filed a motion to lift the assailed CDO. Since the law and the SEC Rules require that this motion be heard by the SEC, it is during this hearing that respondents could have presented evidence in support of their contentions. However, they chose not to file the said motion.

Thus, the second reason for the denial of the instant petition is respondents' failure to exhaust all administrative remedies available to them. Settled is the rule that:

> Under the doctrine of exhaustion of administrative remedies, before a party is allowed to seek the intervention of the court, he or she should have availed himself or herself of all the means of administrative processes afforded him or her. Hence, if resort to a remedy within the administrative machinery can still be made by giving the administrative officer concerned every opportunity to decide on a matter that comes within his or her jurisdiction, then such remedy should be exhausted first before the court's judicial power can be sought. The premature invocation of the intervention of the court is fatal to one's cause of action. The doctrine of exhaustion of administrative remedies is based on practical and legal reasons. The availment of administrative remedy entails lesser expenses and provides for a speedier disposition of controversies. Furthermore, the courts of justice, for reasons of comity and convenience, will shy away from a dispute until the system of administrative redress has been completed and complied with, so as to give the administrative agency concerned every opportunity to correct its error and dispose of the case.[25]

It is true that there are exceptions to the above doctrine, to wit:

> (1) when there is a violation of due process; (2) when the issue involved is purely a legal question; (3) when the administrative action is patently illegal amounting to lack or excess of jurisdiction; (4) when there is estoppel on the part of the administrative agency concerned; (5) when there is irreparable injury; (6) when the respondent is a department secretary who acts as an alter ego of the President bears the implied and assumed approval of the latter; (7) when to require exhaustion of administrative remedies would be unreasonable; (8) when it would amount

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25 *Maglalang v. Philippine Amusement and Gaming Corporation*, 723 Phil. 546, 556-557 (2013).

> to a nullification of a claim; (9) when the subject matter is a private land in land case proceedings; (10) when the rule does not provide a plain, speedy and adequate remedy, (11) when there are circumstances indicating the urgency of judicial intervention, and unreasonable delay would greatly prejudice the complainant; (12) where no administrative review is provided by law; (13) where the rule of qualified political agency applies and (14) where the issue of non-exhaustion of administrative remedies has been rendered moot.[26]

However, the Court does not agree with the CA in its ruling that the present case falls under the first and second exceptions for reasons to be discussed hereunder.

Corollary to the principle of exhaustion of administrative remedies is the third reason for denying the instant petition. The main issue, as to whether or not the sale of "The Manor" or "The Suites" units to the general public under the "leaseback" or "money-back" scheme is a form of investment contract or sale of securities, is not a pure question of law. On the contrary, it involves a question of fact that falls under the primary jurisdiction of the SEC. Under the doctrine of primary administrative jurisdiction, courts will not determine a controversy where the issues for resolution demand the exercise of sound administrative discretion requiring the special knowledge, experience, and services of the administrative tribunal to determine technical and intricate matters of fact, which under a regulatory scheme have been placed within the special competence of such tribunal or agency.[27]

In other words, if a case is such that its determination requires the expertise, specialized training, and knowledge of an administrative body, relief must first be obtained in an administrative proceeding before resort to the court is had even if the matter may well be within the latter's proper jurisdiction.[28] The objective of the doctrine of primary jurisdiction is to guide the court in determining whether it should refrain from exercising its jurisdiction until after an administrative agency has determined some question or some aspect of some question arising in the proceeding before the court.[29]

In the instant case, the resolution of the issue as to whether respondents' scheme of selling the subject condotel units is tantamount to an investment contract and/or sale of securities, as defined under the SRC, requires the expertise and technical knowledge of the SEC being the government agency which is tasked to enforce and implement the provisions

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26 *Id.* at 557.

27 *Nestle, Philippines, Inc., et al. v. Uniwide Sales, Inc., et al.*, 648 Phil. 451, 459 (2010); *Euro-Med Laboratories Phil., Inc. v. The Province of Batangas*, 527 Phil. 623, 626-627 (2006).

28 *Id.; Id.* at 626.

29 *Id.; Id.*

of the said Code as well as its implementing rules and regulations. In fact, after the issuance of the CDO, the SEC is yet to hear from respondents and receive evidence from them regarding this issue. Nonetheless, respondents prematurely filed an appeal with the CA, which erroneously gave due course to it in disregard of the doctrines of exhaustion of administrative remedies and primary jurisdiction.

Furthermore, the present case does not fall under the exceptions to the doctrine of exhaustion of administrative remedies as there is no violation of respondents' right to due process. The Court does not agree with the CA in sustaining petitioners' contention that the investigation conducted by the EPD necessitated the participation of petitioners and that they should have been given opportunity to explain their side prior to the issuance of the questioned CDO. In this regard, Sections 64.1 and 64.2 of the SRC provide as follows:

> 64.1. The Commission, after proper investigation or verification, *motu proprio*, or upon verified complaint by any aggrieved party, may issue a cease and desist order without the necessity of a prior hearing if in its judgment the act or practice, unless restrained, will operate as a fraud on investors or is otherwise likely to cause grave or irreparable injury or prejudice to the investing public.
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> 64.2. Until the Commission issues a cease and desist order, the fact that an investigation has been initiated or that a complaint has been filed, including the contents of the complaint, shall be confidential. Upon issuance of a cease and desist order, the Commission shall make public such order and a copy thereof shall immediately be furnished to each person subject to the order.
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> 64.3. Any person against whom a cease and desist order was issued may, within five (5) days from receipt of the order, file a formal request for lifting thereof. Said request shall be set for hearing by the Commission not later than fifteen (15) days from its filing and the resolution thereof shall be made not later than ten (10) days from the termination of the hearing. If the Commission fails to resolve the request within the time herein prescribed, the cease and desist order shall automatically be lifted.

Explaining the import of these provisions, this Court, in the case of *Primanila Plans, Inc. v. Securities and Exchange Commission*,[30] held, thus:

> **The law is clear on the point that a cease and desist order may be issued by the SEC *motu proprio*, it being unnecessary that it results from a verified complaint from an aggrieved party. A prior hearing is also not required whenever the Commission finds it appropriate to issue a cease and desist order that aims to curtail fraud or grave or irreparable injury to investors.** There is good reason for this provision,

30 G.R. No. 193791, August 6, 2014, 732 SCRA 264.

as any delay in the restraint of acts that yield such results can only generate further injury to the public that the SEC is obliged to protect.

To equally protect individuals and corporations from baseless and improvident issuances, the authority of the SEC under this rule is nonetheless with defined limits. A cease and desist order may only be issued by the Commission after proper investigation or verification, and upon showing that the acts sought to be restrained could result in injury or fraud to the investing public. Without doubt, these requisites were duly satisfied by the SEC prior to its issuance of the subject cease and desist order.

Records indicate the prior conduct of a proper investigation on Primanila's activities by the Commission's CED. Investigators of the CED personally conducted an ocular inspection of Primanila's declared office, only to confirm reports that it had closed even without the prior approval of the SEC. Members of CED also visited the company website of Primanila, and discovered the company's offer for sale thereon of the pension plan product called Primasa Plan, with instructions on how interested applicants and planholders could pay their premium payments for the plan. One of the payment options was through bank deposit to Primanila's given Metrobank account which, following an actual deposit made by the CED was confirmed to be active.

As part of their investigation, the SEC also looked into records relevant to Primanila's business. Records with the SEC's Non-Traditional Securities and Instruments Department (NTD) disclosed Primanila's failure to renew its dealer's license for 2008, or to apply for a secondary license as dealer or general agent for pre-need pension plans for the same year. SEC records also confirmed Primanila's failure to file a registration statement for Primasa Plan, to fully remit premium collections from plan holders, and to declare truthfully its premium collections from January to September 2007.

The SEC was not mandated to allow Primanila to participate in the investigation conducted by the Commission prior to the cease and desist order's issuance. Given the circumstances, it was sufficient for the satisfaction of the demands of due process that the company was amply apprised of the results of the SEC investigation, and then given the reasonable opportunity to present its defense. Primanila was able to do this via its motion to reconsider and lift the cease and desist order. After the CED filed its comment on the motion, Primanila was further given the chance to explain its side to the SEC through the filing of its reply. "Trite to state, a formal trial or hearing is not necessary to comply with the requirements of due process. Its essence is simply the opportunity to explain one's position." x x x[31]

In the present case, as mentioned above, the SEC through its EPD, conducted an investigation upon request of the BCDA. The EPD dispatched a team of SEC employees, who posed as representatives of interested buyers,

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[31] *Primanila Plans, Inc. v. Securities and Exchange Commission, supra,* at 274-275. (Emphases supplied)

to the John Hay Special Economic Zone in Baguio City. There, the team members were able to talk to CJHDC's Director of Sales, who, not only explained to them the straight and leaseback agreements, but also gave the team copies of marketing material, as well as sample contracts, indicating that respondents are indeed selling the subject units either on a straight purchase or leaseback agreement.

Subsequently, on three different occasions, the EPD invited several buyers of the subject condotels and met with them in separate conferences wherein these buyers shed light on the transactions they entered into with respondents and informed the EPD that they bought condotel units on a leaseback arrangement. These buyers provided the EPD copies of documents relating to their purchase of condotel units on such terms.

Upon issuance of the CDO, nothing prevented respondents from filing a motion to lift the said Order wherein they could have amply explained their position. However, they chose not to avail of this remedy and, instead, went directly, albeit erroneously, to the CA via a petition for review.

Lastly, the Court neither agrees with the ruling of the CA that there is nothing in the assailed CDO which shows that the acts sought to be restrained therein operate as a fraud on investors. The SEC arrived at a preliminary finding that respondents are engaged in the business of selling securities without the proper registration issued by the Commission. Based on this initial finding, respondents' act of selling unregistered securities would necessarily operate as a fraud on investors as it deceives the investing public by making it appear that respondents have authority to deal on such securities. As correctly cited by the SEC, Section 8.1 of the SRC clearly states that securities shall not be sold or offered for sale or distribution within the Philippines without a registration statement duly filed with and approved by the SEC and that prior to such sale, information on the securities, in such form and with such substance as the SEC may prescribe, shall be made available to each prospective buyer. The Court agrees with the SEC that the purpose of this provision is to afford the public protection from investing in worthless securities.

WHEREFORE, the petition is **GRANTED**. The Decision of the Court of Appeals, dated June 7, 2013, and its Resolution dated November 28, 2013, in CA-G.R. SP No. 125482 are **REVERSED** and **SET ASIDE**. The Writ of Preliminary Injunction, per CA Resolution dated November 8, 2012, which was made permanent by its June 7, 2013 Decision, is hereby **LIFTED**. SEC-CDO Case No. 05-12-006 and the June 7, 2012 Cease and Desist Order of the Securities and Exchange Commission are **REINSTATED**.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

JOSE PORTUGAL PEREZ
Associate Justice

BIENVENIDO L. REYES
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

I attest 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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
DEC 19 2016