



Republic of the Philippines  
Court of Appeals  
Manila

FORMER SPECIAL THIRTEENTH DIVISION

ROBERTO V. ONGPIN,  
*Petitioner,*

CA-G.R. SP No. 146704

*Members:*

- versus -

ENFORCEMENT AND  
INVESTOR PROTECTION  
DEPARTMENT of the  
Securities and Exchange  
Commission,

GAERLAN, S.H., *Acting Chairperson,*  
QUIJANO-PADILLA, M.L.C., *and*  
AZCARRAGA-JACOB, M.C., *JJ.:*

*Promulgated:*

*Respondent.*

DECEMBER 1, 2017

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DECISION

QUIJANO-PADILLA, J.:

This involves a petition for review<sup>1</sup> under Rule 43 of the Rules of Court filed by petitioner Roberto V. Ongpin seeking the reversal of the Decision<sup>2</sup> dated July 8, 2016 of respondent Securities and Exchange Commission (SEC), finding him liable for committing 174 counts of insider trading under Section 27.1 of the Securities Regulation Code (SRC).<sup>3</sup>

As found by this Court in the earlier Resolution<sup>4</sup> promulgated on September 29, 2016, the facts of the case are as follows:

Petitioner Roberto V. Ongpin was a stockholder and member of the Board of Directors of PHILEX mining corporation (PHILEX), holding the positions of Vice Chairman of the corporation and Chairman of the Executive Committee.

\* Vice J.N.B. Pizarro, per Raffle dated August 25, 2016.

1 Rollo, pp. 3-30.

2 Id. at pp. 32-52.

3 Republic Act No. 8799, approved on July 19, 2000.

4 Rollo, pp. 497-507.

that for insider trading violations under Section 27, Section 54.1 (ii) of the SRC only provides for the imposition of a "fine of no less than Ten thousand pesos (P10,000.00) nor more than One million pesos (P1,000,000.00) plus not more than Two thousand pesos (P2,000.00) for each day of continuing violation". For insider trading violations, the SRC itself clearly provided for the minimum amount of fine which is P10,000.00 and the maximum amount which is P1,000,000.00, and the penalty to be imposed could not exceed that stated in the law. In fact, the circumstances of this case do not even warrant the application of the additional penalty of P2,000.00 for every day of continuing violation given that the alleged 174 transactions of insider trading were all done in a single day, that is December 2, 2009. Thus, there is no legal basis for respondent's imposition of a P174 million peso-fine against petitioner considering that said penalty went beyond the confines of the law.

**WHEREFORE**, in view of all the foregoing, the Decision dated July 8, 2016 of respondent, finding petitioner liable for committing 174 counts of insider trading under Section 27.1 of the Securities and Regulation Code is hereby **REVERSED** and **SET ASIDE**.

The administrative charge against petitioner is accordingly **DISMISSED**.

**SO ORDERED.**

**ORIGINAL SIGNED**  
**MA. LUISA C. QUIJANO-PADILLA**  
**Associate Justice**

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associated person thereof exercises the investment discretion: Provided, however, That this Section shall not make unlawful-

- (a) Any transaction by a member-broker acting in the capacity of a market maker;
- (b) Any transaction reasonably necessary to carry on an odd-lot transactions;
- (c) Any transaction to offset a transaction made in error; and
- (d) Any other transaction of a similar nature as may be defined by the Commission.

34.2. In all instances where the member-broker effects a transaction on an Exchange for its own account or the account of an associated person or an account with respect to which it exercises investment discretion, it shall disclose to such customer at or before the completion of the transaction it is acting for its own account: Provided, further, That this fact shall be reflected in the order ticket and the confirmation slip.

34.3. Any member-broker who violates the provisions of this Section shall be subject to the administrative sanctions provided in Section 54 of this Code.