# THIRD DIVISION

# [ G.R. No. 262484. October 22, 2025 ]

## ABACUS COAL EXPLORATION AND DEVELOPMENT CORPORATION, PETITIONER, VS. SECURITIES AND EXCHANGE COMMISSION, RESPONDENT.

## D E C I S I O N

**SINGH, J.:**

For the Court's resolution is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court assailing the Decision,[2] dated September 28, 2021, and the Resolution,[3] dated August 3, 2022, of the Court of Appeals (**CA**), in CA-G.R. SP No. 161839. The CA denied the Petition for Review under Rule 43 of petitioner Abacus Coal Exploration and Development Corporation (**Abacus Coal**) and affirmed the Letter-Order, dated January 19, 2011, of the Company Registration and Monitoring Division (**CRMD**) of the Securities and Exchange Commission (**SEC**).

Abacus Coal, a wholly-owned subsidiary of Abacus Consolidated Resources & Holdings, Inc. (**ACRH**), is a domestic corporation engaged in commercial exploration and development of coal in the Philippines. It has an authorized capital stock of PHP 20 million of which PHP 5 million was subscribed by ACRH.[4]

On September 23, 2008, ACRH executed a Deed of Assignment,[5] assigning its coal mining rights under Coal Operating Contract No. 148 (**COC No. 148**), in favor of Abacus Coal. The coal mining rights subject of the assignment is valued at PHP 2,693,403,665.00 or estimated at PHP 2.7 billion, and in exchange for these rights, ACRH will be issued 29.5 billion shares of Abacus Coal, with a par value of PHP 0.01 per share.[6]

Meanwhile, the SEC approved on December 24, 2008, the application of Abacus Coal to increase its authorized capital stock from PHP 20 million to PHP 300 million. The issuance of PHP 295 million worth of shares was fully subscribed and paid for by ACRH by way of assignment of the coal mining rights.[7]

In the 2008 and 2009 Audited Financial Statements (**AFS**) filed by Abacus Coal, it did not record in its Balance Sheet the increase in its capital stock to reflect its acquisition of coal mining rights. Instead, this was only disclosed in the Notes to the AFS.[8]

Abacus Coal then received from the CRMD a Notice of Conference to show cause why it should not be penalized for material deficiencies and material misstatements in its 2008 and 2009 AFS. In the conference, Abacus Coal claimed that it did not commit material misstatements, and reasoned out that it did not disclose the acquisition of mining rights due to a conflict between accounting standards and the approval by the SEC of the application for increase in its capitalization. It further argued that the approval of the increase in capitalization was disclosed under the Share Capital portion and Deferred Coal Exploration Costs of the 2008 and 2009 AFS.[9]

***The Ruling of the CRMD***

Unsatisfied with the explanation, the CRMD, in its Letter-Order,[10] dated January 19, 2011, directed Abacus Coal to settle the fine imposed against it in the amount of PHP 590,000.00[11] relative to the material misstatements made in its AFS, in violation of SEC Memorandum Circular No. 8, series of 2009[12] (**SEC MC No. 08-09**). [13]

Abacus Coal, thereafter, appealed its case before the SEC *En Banc*. On March 22, 2011, while the case was pending, Abacus Coal filed a Revised AFS for the years 2008 and 2009.[14]

***The Ruling of the SEC En Banc***

The SEC *En Banc* denied Abacus Coal's appeal. In sum, it ruled that Abacus Coal committed material deficiencies and material misstatements in its 2008 and 2009 AFS. It, however, modified the penalty imposed against Abacus Coal taking into consideration the scale of fines provided under SEC MC No. 08-09.

The dispositive portion of the Decision,[15] dated July 16, 2019, reads:

> **WHEREFORE**, the premises considered, the instant appeal is hereby DENIED for lack of merit. The Order of the CRMD dated [January 19,] 2011 is hereby AFFIRMED with MODIFICATION as to imposable penalty. Appellant is now hereby ordered to pay the fine of [PHP 1 million] per year of misstatement, or a total of [PHP 2 million], pursuant to Section 54.1(ii) of Republic Act No. 8799, otherwise known as the Securities Regulation Code (SRC), for the material deficiencies and material misstatements in its 2008 and 2009 Audited Financial Statements. The Appellant is hereby ordered to correct its 2008 and 2009 Audited Financial Statements to reflect the total misstatements of asset and equity amounting to [PHP 2.7 billion]. Further, the CRMD-FAAD is hereby directed to investigate the misstatements carried forward to succeeding audited financial statements and if necessary impose additional penalties until such are corrected.
>
> **SO ORDERED**.[16] (Emphasis in the original)

According to the SEC *En Banc*, the disclosures made by Abacus Coal in its Notes to the AFS are incomplete or deficient not only for the missing amounts or values, but also for

failure to make a clear connection to the Deed of Assignment of Mining Rights executed by ACRH in exchange for Abacus Coal's shares of stock worth PHP 295 million.[17]

As regards material misstatement, the SEC *En Banc* pointed out that Abacus Coal's failure to record the issuance of the capital stock in exchange for the mining rights despite's SEC's approval of the increase in its authorized capital stock in 2008, resulted in the understatement of its Stockholder's Equity.[18] While it properly expensed the exploration costs of the mineral resources, Abacus Coal failed to capitalize or recognize the corresponding intangible asset or the mining rights itself that eventually resulted in the understatement of its Total Assets – a misstatement of PHP 295 million each in its 2008 and 2009 AFS.[19]

Finally, as to the supposed conflict between accounting standards covering exploration for and evaluation of mineral resources, the SEC *En Banc* found the same to be irrelevant as the SEC already approved Abacus Coal's increase of authorized capital stock in 2008 before the issuance of its AFS thus, the values of the mining rights and shares issued to ACRH were readily available for reporting. By failing to report the same, Abacus Coal disregarded the approved increase when it did not recognize the value of the mining rights as an asset and the value of the shares issued in exchange for the mining rights as an equity.[20]

Aggrieved, Abacus Coal elevated its case before the CA.

***The Ruling of the CA***

The CA denied the appeal of Abacus Coal for lack of merit. The dispositive portion of the assailed Decision reads:

> **WHEREFORE**, premises considered, the instant petition is **DENIED**. The Decision[,] dated [July 16, 2019][,] of the Securities and Exchange Commission in the case docketed as SEC *En Banc* Case No. 02-11-230 is **AFFIRMED** *in toto*.
>
> SO ORDERED.[21] (Emphasis in the original)

In essence, the CA justified its ruling by explaining that Abacus Coal's failure to disclose under its assets the mining rights it acquired from ACRH, or the corresponding additional capital that was issued as a result of the assignment of rights, despite the SEC's approval of the increase of its authorized capital stock in 2008, constituted material deficiencies and material misstatements, pursuant to SEC MC No. 08-09 and the Securities Regulation Code (**SRC**).[22]

Moreover, the CA ruled that Abacus Coal cannot claim good faith in these alleged misstatements. Its contention that the increase in capitalization and assignment of the coal mining rights were put in Note 5 (Deferred Coal Exploration Costs) and Note 7 (Share Capital) of the 2008 and 2009 AFS deserved no merit because: (1) these fail to

suffice to provide the users of the financial statements a complete view of the financial performance of Abacus Coal, as required under the SRC; and (2) the value of the mining rights and the shares issued to Abacus Consolidated were readily available for reporting.[23]

The CA also decreed that, even if it were to consider the Revised AFS of Abacus Coal, the same only declared its exploration and evaluation assets at approximately PHP 300 million, and not the appraised value of the mining rights amounting to PHP 2.7 billion. Thus, given the discrepancy in the value of the assets and the value declared, the claim of good faith must fail.[24]

Lastly, the CA accorded respect to the findings of the SEC considering their expertise in the field, and were supported by substantial evidence.[25]

Abacus Coal sought reconsideration, but the same was denied in the assailed Resolution,[26] dated August 3, 2022.

***The Issue***

Did the CA gravely err in affirming the SEC *En Banc*'s finding that Abacus Coal committed material deficiencies and material misstatements in its 2008 and 2009 AFS?

***The Ruling of the Court***

The Petition is without merit.

A review of the Petition reveals that it is a mere reiteration of issues and arguments raised by Abacus Coal before the CA, which had already been fully passed upon by the appellate court. Moreover, Abacus Coal essentially raises questions of facts which are, generally, outside the ambit of the Court's discretionary review under a Rule 45 Petition as the Court is not a trier of facts. Unfortunately, Abacus Coal failed to convince the Court that its case falls under any of the recognized exceptions[27] for it to make a factual review of the findings of the CA.

*Abacus Coal is liable for material deficiencies and material misstatements*

Nevertheless, the Court agrees with the CA that Abacus Coal's failure to disclose under its assets the mining rights it acquired from ACRH, or the corresponding additional capital that accrued as a result of the assignment of rights, *constitutes material deficiencies* and *material misstatements* in violation of the pertinent provisions of Batas Pambansa Blg. 68, otherwise known as the Corporation Code, the SRC and SEC's MC No. 08-09.

At the time material to this case, Rule 68 of the SRC requires that a corporation prepare a Balance Sheet containing its intangible assets and issued capital and reserves, among others, in the presentation of its financial statements:

4. FRAMEWORK FOR THE PREPARATION AND PRESENTATION OF FINANCIAL STATEMENTS

. . . .

d. Basic Financial Statements and Minimum Presentation

(i) Balance Sheet

As a minimum, the face of the balance sheet should include the following line items:

1) Cash and Cash Equivalents;

2) Financial Assets (excluding amounts shown under (1), (3), and (6);

3) Trade and Other Receivables;

4) Inventories;

5) Property Plant and Equipment;

6) Investments accounted for using the equity method;

7) *Intangible Assets;*

8) Trade and other payables;

9) Tax Liabilities and assets as required by SFAS No. 23, Accounting for Income Taxes;

10) Provisions;

11) Non-current interest-bearing liabilities;

12) Minority interest; and

13) *Issued capital and reserves*.

Except as otherwise required by the Commission, the various line items and disclosures set forth for this form of statement shall be in accordance with the Statements of Financial Accounting Standards/International Accounting Standards enumerated under paragraph (2)(a) of this Rule.[28] (Emphasis supplied)

The omission of these information amount not only to material deficiency, but also material misstatements, as provided for under SEC MC No. 08-09:

**III. Test of Materiality**

A. The following shall be considered a ***material deficiency*** in the financial statements (FS) or significant non-compliance with SRC Rule 68:

. . . .

v) *The required disclosures or presentations under the applicable financial reporting framework and SRC Rule 68/68.1 for a significant account are not provided in the financial statements*. In case however of disclosures on related party transactions as required under PAS 24, any deficiency thereof shall be considered significant regardless of the amount involved if the reporting company is a public company, listed company, issuer of securities to the public or secondary licensee of the Commission.

. . . .

B. Any of the following shall be considered a ***material misstatement*** in the financial statements:

(1) An accounting policy for a significant account is not consistent with PFRS or GAAP, e.g., for non-publicly accountable entities or pre-need companies;

(2) An accounting policy for a significant account is not consistently applied between periods or to similar transactions and events (inconsistent application); or

(3) The estimate or assumption used on a significant account is unreasonable and resulted to material 1 misstatement of the financial statements;

(4) There is more than one (1) minor misstatement and the aggregate amount involved for said misstatements meets the test of materiality;

(5) The financial statements of a corporation with a subsidiary or subsidiaries are not presented on a consolidated basis in violation of PAS 27;

(6) *Such other misstatements in the financial statement, i.e., overstatement or understatement of income, asset, liability or equity, that the Commission may consider material*. (Emphasis supplied)

The rules are unequivocal regarding what constitutes material deficiencies and material misstatements in a company's financial statements. Applying the foregoing guidelines to the present case, the Court affirms the finding of the CA that Abacus Coal indeed committed both material misstatements and material deficiencies in its 2008 and 2009 AFS. Notably, the total assets reflected therein amounted to approximately PHP 15 million, balanced against the same figure as its liabilities and equity.

Abacus Coal likewise did not disclose under its assets the mining rights it had acquired from ACRH, as well as the corresponding additional capital. These omissions are significant, considering that these can be properly classified as intangible assets and issued capital, respectively. Further, as consistently held by both the SEC and the CA, Abacus Coal could have readily disclosed this material information, especially given that the SEC has already approved its increase of its authorized capital stock, from PHP 20 million to PHP 300 million, as early as December 24, 2008. Despite such approval, Abacus Coal failed to report the changes accurately.[29]

Abacus Coal's invocation of good faith must also fail.

Abacus Coal asserts that it made disclosures about the increase of its capital and assignment of coal mining rights in the Notes of the 2008 and 2009 AFS, and likewise reflected the same in its revised AFS. The Court finds the same to be insufficient.

As discussed, the requirements under Rule 68 are explicit, i.e., these information must be stated in the Balance Sheet of a financial statement. Abacus Coal has not provided a reasonable justification as to why the same were indicated merely in the Notes of the AFS. To be sure, the Notes to the AFS state, as follows:

> NOTE 5 – DEFERRED COAL EXPLORATION COSTS
> Deferred exploration costs pertain to exploration expenditures incurred for the exploration and administration of coal mining property situated in Tago and Marihatag, Surigao del Sur.
>
> COC 148 was originally granted by the Philippine Government through the DOE on January 10, 2007 to [Abacus Consolidated]. On September 23, 2008, the COC was transferred by [Abacus Consolidated] in exchange for the Company's shares.
>
> COC 148 provides for certain minimum work expenditure obligations covered by exploration work program with the DOE. The DOE validates these expenditures on a periodic basis for future reimbursements, as provided in the contract, in the event commercial operations take place as a result of successful recovery of coal or other mineral deposits in commercial quantities.
>
> As of December 31, 2009 and 2008, the accumulated costs incurred for COC 148 amounts to [PHP 6,681,872.00]. Management believes that all the expenses are recoverable when the mining starts its production. The recovery of deferred mine exploration costs, as well as the ability of the Company to pay its liabilities to a related party, is dependent upon the success of the future exploration and development activities and events, the outcome of which cannot be presently determined.[30]
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> NOTE 7 - SHARE CAPITAL
> As of December 31, 2009 and 2008, the number of shares subscribed, issued, and outstanding totaled 554,751,200 shares at a par value of [PHP

> 0.01], for a total amount of [PHP 5,547,512.00].
> In 2008, the Company increased its authorized share capital from [PHP 20,000,000.00] divided into 2,000,000,000 shares to [PHP 300,000,000.00] divided into 30,000,000,000 shares with a par value of [PHP 0.01]. In relation to the increase, the Company paid documentary stamp taxes amounting to [PHP 1,475,000.00].[31] (Emphasis in the original)

Clearly, the Court is convinced that the information disclosed in the Notes do not satisfy the requirements prescribed under the SRC. As pointed out by the SEC in its Comment to the Petition, the Notes merely describe the items and values in the financial statements.[32]

Accordingly, on this point, the Court echoes with approval the ruling of the CA:

> A close reading of Note 5 would show that it merely pertained to deferred coal exploration costs which amounted to P[H]P 6,681,872.00. It fails to declare the mining rights acquired from Abacus Consolidated as an asset, which is valued at P[H]P 2.7 billion. Indeed, while the note made mention of the transfer of mining rights under COC 148 in favor of petitioner, this was only done in order to explain the deferred coal exploration costs.
>
> With respect to Note 7, it should be borne in mind that although it discloses an increase in its authorized capital stock, it failed to disclose the shares issued in favor of Abacus Consolidated. It also failed to give the accurate reporting of the values behind the issuance of the shares. As earlier emphasized, SRC Rule 68 states that issued capital, as a minimum, should be disclosed in the Balance Sheet. Considering that this information should have been disclosed in the Balance Sheet, *We* find that the notes understate the assets and equity of Abacus Coal.
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> . . . .
>
> Indeed, without stating the relevant values in the financial statements, the purpose of preparing and filing financial statements is controverted. Especially so in this case, as the understatement of the assets and equity are substantial. Needless to state, Notes 5 and 7 fail to suffice in giving the users of the financial statements a complete view of the financial performance of Abacus Coal, which negates Abacus Coal's claim of good faith.[33] (Emphasis in the original)

Abacus Coal's submission of its Revised AFS[34] likewise does not cure the material deficiencies and material misstatements it had already committed. As observed by the CA, a reading of this Revised AFS reveal that Abacus Coal still did not report the appraised value of the mining rights amounting to PHP 2.7 billion – an obvious non-compliance with the pertinent SEC rules.

Lastly, it bears emphasis that the omissions committed by Abacus Coal are deemed material precisely because of their potential impact on the investing public. As defined under Rule 68 of the SRC, information is material if its omission or misstatement *could influence the economic decisions of users taken on the basis of the financial statements*. Materiality depends on the size of the item or error judged in the particular circumstances of its omission or misstatement. Thus, materiality provides a threshold or cut-off point rather than being a primary qualitative characteristic which information must have if it is to be useful.[35] Such understatement undermines the reliability of financial disclosures and defeats the very purpose of SRC Rule 68.

Here, as aptly found by the CA, the understatements in Abacus Coal's assets and equities are substantial enough to warrant classification as material:

> Doubtless, the valuation of the mining rights and the corresponding shares issued in consideration thereof, are material information as required under the SRC Rule 68. The values of these line items should be reported in order to aid its user or future investors in making sound decisions based on the accurate financial position of a firm.[36]

*Penalty*

The Court upholds the penalty imposed.

This finds basis in Section (I)(A) of SEC MC No. 08-09, which provides that for material misstatements, the fine imposed shall be an amount based on the scale or 1/10 of 1% of the amount of misstatement, whichever is higher, in relation to Section 54(a)(ii) of the SRC, which in turn imposes a cap on imposable fines. Therefore, for the misstatements in the 2008 and 2009 AFS, the SEC *En Banc* was correct in ruling that the total imposable fine shall be PHP 2 million:

> [A]fter re-evalution, the OGA confirmed that the penalty should be based on the misstatements of asset (mining rights) and equity (issued shares and APIC) which is equivalent to the total fair value of mining rights assigned to [Abacus Coal] amounting to [PHP 2.7 billion] which was not recorded and disclosed in the Audited Financial Statements. Following the Commission's scale of fines, the penalty should be 1/10 of 1% of the appraised value of [PHP2.7 billion] subject to the maximum penalty cap of [PHP 1 million] per year of misstatement.[37]

*Conclusion*

In conclusion, considering that the SEC's decision is supported by facts and in accord with law, the CA did not err in affirming the same. After all, the Court recognizes the power and authority of the SEC to implement the provisions of the Corporation Code, and to promulgate rules and regulations necessary to enable it to perform its duties.[38]

Ultimately, the Court finds no reason to review or set aside the factual findings of the SEC *En Banc*, as upheld by the CA, pursuant to the settled rule that the findings of fact of the SEC, as an administrative body having expertise on the matter at hand, should be accorded respect and finality as long as they are supported by substantial evidence, as in this case.[39] Lastly, it is worthy to stress that for a Rule 45 petition to succeed, it must not only raise pure questions of law, but also questions of such substance as to be of distinctly significant consequence and value.[40] Failing in this regard, the petition may be denied due course, and disposed without further action by this Court.

**ACCORDINGLY**, the Petition for Review on *Certiorari* is **DENIED**. The Decision, dated September 28, 2021, and the Resolution, dated August 3, 2022, of the Court of Appeals in CA-G.R. SP No. 161839 are **AFFIRMED**.

**SO ORDERED.**

*Caguioa (Chairperson)* and *Gaerlan, JJ.*, concur.
*Inting*[*] and *Dimaampao,*[*] *JJ.*, on official business.

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[*] On official business.

[1] *Rollo*, pp. 12-38.

[2] *Id.* at 40-63. Penned by Associate Justice Raymond Reynold R. Lauigan and concurred in by Associate Justices Ramon M. Bato, Jr. and Pablito A. Perez of the Fifth Division, Court of Appeals, Manila.

[3] *Id.* at 65-68. Penned by Associate Justice Raymond Reynold R. Lauigan and concurred in by Associate Justices Ramon M. Bato, Jr. and Pablito A. Perez of the Former Fifth Division, Court of Appeals, Manila.

[4] *Id.* at 41.

[5] *Id.* at 88-90.

[6] *Id.* at 41-42.

[7] *Id.* at 42.

[8] *Id.*

[9] *Id.* at 43.

[10] *Id.* at 149.

[11] *Id.* at 198.

[12] Scale of Fines for Non-Compliance with the Financial Reporting Requirements of the Commission (2009).

[13] *Rollo*, p. 149.

[14] *Id.* at 44; 163-187.

[15] *Id.* at 190-200.

[16] *Id.* at 195.

[17] *Id.* at 192.

[18] *Id.* at 193.

[19] *Id.*

[20] *Id.* at 194.

[21] *Id.* at 62-63.

[22] *Id.* at 53-54.

[23] *Id.* at 55-59.

[24] *Id.* at 60.

[25] *Id.* at 61.

[26] *Id.* at 65-68.

[27] The general rule for petitions filed under Rule 45 admits exceptions, to wit: (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of

Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record. **Miano v. Manila Electric Co.**, 800 Phil. 118, 123 (2016) [Per J. Leonen, Third Division], *citing* **Medina v. Mayor Asistio, Jr.**, 269 Phil. 255 (1990).

[28] Securities and Exchange Commission, Rules and Regulations Covering Form and Content of Financial Statements, SRC Rule 68, as amended, October 25, 2005.

[29] *Id.* at 58-59; 193.

[30] *Id.* at 142-143.

[31] *Id.* at 143.

[32] *Id.* at 243.

[33] *Id.* at 56-58.

[34] *Id.* at 162-187.

[35] SECURITIES REGULATIONS CODE, Rule 68, sec. (4)(c)(iii).

[36] *Rollo*, p. 55.

[37] *Id.* at 195.

[38] REVISED CORPORATION CODE, sec. 179. See *also* **First Philippine Holdings Corporation v. SEC**, 878 Phil. 94 (2020) [Per J. Caguioa, First Division].

[39] *See* **Cruz, et al. v. Cervantes, et al.**, 922 Phil. 454, 473 (2022) [Per J. Rosario, *En Banc*]; and **Cosmos Bottling Corporation v. Commission En Banc of the Securities and Exchange Commission**, 746 Phil. 800, 806 (2014) [Per J. Perlas-Bernabe, First Division].

[40] *See* **Kumar v. People of the Philippines**, 874 Phil. 214, 215-216 (2020) [Per J. Leonen, Third Division].

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