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SO ORDERED.

Velasco, Jr. (*Chairperson), Peralta,* and *Perez, JJ.,* concur.

Jardeleza, J., on official leave.

SECOND DIVISION

[G.R. No. 196329. June 1, 2016]

PABLO B. ROMAN, JR., and ATTY. MATIAS V. DEFENSOR, as Officers of the Capitol Hills Golf and Country Club, Inc., *petitioners, vs.* **SECURITIES AND EXCHANGE COMMISSION, ATTY. FRANKLIN I. CUETO, ATTY. EMMANUEL Y. ARTIZA and MANUEL C. BALDEO, as members of the Management Committee; JUSTINA F. CALLANGAN, as Director of the Corporation Finance Department; ATTY. NARCISO T. ATIENZA, EUSEBIO A. ABAQUIN, ATTY. CLODUALDO C. DE JESUS, SR., ATTY. CLODUALDO ANTONIO R. DE JESUS, JR., ATTY. IRENEO T. AGUIRRE, JR., SUNDAY O. PINEDA, PORFIRIO M. FLORES, and ATTY. ZOSIMO PADRO, JR.,** *respondents.*

SYLLABUS

MERCANTILE LAW; THE SECURITIES REGULATION CODE (REPUBLIC ACT NO. 8799); THE SECURITIES AND EXCHANGE COMMISSION (SEC) RETAINS SUFFICIENT POWERS TO JUSTIFY ITS ASSUMPTION OF JURISDICTION OVER MATTERS CONCERNING ITS SUPERVISORY, ADMINISTRATIVE AND REGULATORY FUNCTION; EXPLAINED.— Under the SRC, jurisidiction on matters stated under Section 5 of P.D. No. 902-A, which was originally vested

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in the SEC, has already been transferred to the RTC acting as a special commercial court. Despite the said transfer, however, the SEC still retains sufficient powers to justify its assumption of jurisdiction over matters concerning its supervisory, administrative and regulatory functions. In *SEC v. Subic Bay Golf and Country Club, Inc. (SBGCCI) and Universal International Group Development Corporation (UIGDC)*, for instance, the Court affirmed the SEC's assumption of jurisdiction over a complaint, which alleged that SBGCCI and UIGDC committed misrepresentations in the sale of their shares. The Court held in the said case that nothing prevented the SEC from assuming jurisdiction to determine if SBGCCI and UIGDC committed administrative violations and were liable under the SRC despite the complaint having raised intra-corporate issues. It also ruled that the SEC may investigate activities of corporations to ensure compliance with the law. In ruling that way, the Court cited Sections 5 and 53 of the SRC as justifications, x x x. Beyond doubt, therefore, is the authority of the SEC to hear cases regardless of whether an action involves issues cognizable by the RTC, provided that the SEC could only act upon those which are merely administrative and regulatory in character. In other words, the SEC was never dispossessed of the power to assume jurisdiction over complaints, even if these are riddled with intra-corporate allegations, if their invocation of authority is confined only to the extent of ensuring compliance with the law and the rules, as well as to impose fines and penalties for violation thereof; and to investigate even *motu proprio* whether corporations comply with the Corporation Code, the SRC and the implementing rules and regulations. x x x With such broad authority, it is beyond question that the SEC, as a regulator, has broad discretion to act on matters that relate to its express power of supervision over all corporations, partnerships or associations who are the grantees of primary franchises and/or a license or permit issued by the Government. Such grant of express power of supervision, necessarily includes the power to create a management committee following the doctrine of necessary implication. The reason is simple. The creation of a management committee is one that is premised on the immediate and speedy protection of the interest not only of minority stockholders, but also of the general public from immediate danger of loss, wastage or destruction of assets or the paralyzation of business

of a concerned corporation or entity. No body is more competent to provide such a temporary relief other than the regulatory body of these companies – the SEC.

APPEARANCES OF COUNSEL

Jose P. Fernandez for petitioners.
Redemberto R. Villanueva for respondents.
Office of the Solicitor General for public respondent.

D E C I S I O N

MENDOZA, *J.*:

This petition[1] for review on *certiorari* under Rule 45 of the Rules of Court seeks to review and reverse the November 30, 2010 Decision[2] and the March 15, 2011 Resolution[3] of the Court of Appeals (*CA*) in CA-G.R. SP No. 101613, which dismissed the petition for prohibition filed by petitioners Pablo B. Roman, Jr. (*Roman*) and Atty. Matias V. Defensor (*Defensor*), President and Corporate Secretary, respectively, of Capitol Hills Golf and Country Club, Inc., (*Capitol*). The said petition before the CA questioned the jurisdiction of respondent Securities and Exchange Commission (*SEC*) for acting upon the letter-complaint,[4] dated May 8, 2007, filed by the minority shareholders of Capitol and for issuing its December 5, 2007 Order[5] creating the Management Committee (*MANCOM*) tasked to oversee the affairs of the said company.

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[1] *Rollo*, pp. 12-30.

[2] *Id.* at 32-42. Penned by Associate Justice Stephen C. Cruz, with Associate Justices Isaias P. Dicdican and Elihu A. Ybañez, concurring.

[3] *Id.* at 44-45. Penned by Associate Justice Stephen C. Cruz, with Associate Justices Isaias P. Dicdican and Elihu A. Ybañez, concurring.

[4] *Id.* at 46-71.

[5] *Id.* at 167-168.

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Factual Antecedents

On June 6, 2007, private respondents Atty. Narciso T. Atienza, Eusebio A. Abaquin, Atty. Clodualdo C. De Jesus, Sr., Atty. Clodualdo Antonio R. De Jesus, Jr., Atty. Ireneo T. Aguirre, Jr., Sunday O. Pineda, Porfirio M. Florez, and Atty. Zosimo Padro, Jr. (*private respondents*) filed a verified letter-complaint against the petitioners before the SEC.

In their letter-complaint, private respondents alleged that on April 23, 1996, a Special Board of Directors Meeting was held and, thereafter, a resolution was passed by the Board of Directors of Capitol (*Board*) authorizing Roman, as its President:

(a) To acquire for and in behalf of the corporation four (4) parcels of land located at Montalban, Rizal xxx for a consideration of ONE HUNDRED FIFTY PESOS (₱150.00) per sq.m. xxx;

(b) To enter for and in behalf of the corporation [Capitol] into a Joint Venture Agreement with ALI [Ayala Land, Inc.] for the purpose of (1) having ALI develop and market the area occupied by the first nine (9) holes of the existing golf course of the corporation into saleable lots in consideration of the payment to the corporation of a forty percent (40%) share in the proceeds of the sale of such lots (NET OF TAXES AND DISCOUNTS); and (2) granting to ALI the right to develop the Properties into a first class golf course;

(c) For the purpose of acquiring the Properties, to obtain loans from ALI for the purpose of acquiring the Montalban properties up to an aggregate amount of One Hundred Fifty Million (₱150,000,000.00) to be secured by (a) real estate mortgage on the properties; and (b) assignment of the proceeds to be paid in connection with the Joint Venture for the development of the first nine (9) holes of the existing golf course of the corporation and under the Deed of Absolute Sale, dated April 10, 1992, between ALI and the Corporation covering the sale of the former driving range of the corporation to ALI under such terms, payment scheme and conditions as the President may deem reasonable and necessary under the circumstances;

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(d) To (1) negotiate, agree to terms of, execute, sign and deliver the following agreements: (a) A letter-agreement with ALI embodying the foregoing terms; (b) A deed of sale for the purchase of the Properties; (c) Joint Venture Agreement with ALI covering the first nine (9) holes of the existing golf course of the corporation; (d) Promissory Notes, real estate mortgages and assignment agreements in favor of ALI; and (e) such other documents and agreements related to or in connection with the transactions contemplated in this resolution and (2) to do any and all acts necessary and appropriate to carry this resolution into effect.[6]

It was further alleged that Roman also asked the Board to pass a resolution authorizing a third-party, Pacific Asia Capital Corporation (*Pacific Asia*), to receive from Ayala Land, Inc. (*ALI*) the proceeds of the loan, or any portion thereof, and ALI to cause the release of the proceeds of the aforesaid loan, or any portion thereof, to Pacific Asia, and that any release by ALI and receipt by Pacific Asia be deemed a valid release and receipt of such amount;[7] that the issued resolutions were erroneously made;[8] that in evident bad faith, Roman, as President of Capitol, never informed the Board that, at the time he made the proposals and before the resolutions were issued, ALI had already made substantial initial cash advance in favor of Capitol but directly payable to Pacific Asia;[9] that ALI had no legal basis to make cash advances as Roman had no authority yet to enter into any agreement with ALI; that part of the representations made by Roman was that ALI would not commence the conversion of the area occupied by the first nine (9) holes of the existing golf course of Capitol in Old Balara, Quezon City, until such time that one (1) 18 hole golf course of the promised two (2) championship golf courses in Macabud,

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[6] *Id.* at 48-49.

[7] *Id.* at 49.

[8] *Id.*

[9] *Id.*

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Montalban, Rizal, would have been finished and playable; and that after more than ten (10) long years, no golf course existed or was even under construction in Macabud, Montalban, Rizal, and yet the Old Balara property had already been converted and developed into a residential subdivision called the Ayala Hillside Estate.[10]

To private respondents, all these were irregularities and anomalies amounting to fraud and misrepresentation that prompted them to ask the SEC to investigate the Board and to order the constitution of the MANCOM to temporarily oversee the affairs of Capitol.

The said complaint was then docketed as SEC Case No. 169, series of 2007.

In its letter[11] to Roman, dated July 3, 2007, the SEC informed him of the verified complaint and gave him 15 days upon receipt to file his answer to the said complaint.

In their Answer,[12] the petitioners invoked the SEC's lack of jurisdiction claiming that the complaint of private respondents involved an intra-corporate controversy. Accordingly, they argued that under the Securities Regulation Code (*SRC*), jurisdiction over such intra-corporate controversies should be with the Regional Trial Court (*RTC*) acting as special commercial court.

In its December 5, 2007 Order,[13] the SEC, after finding merit in the arguments presented in the complaint, composed the membership of the MANCOM pursuant to its authority under Section 5 of the SRC and Presidential Decree (*P.D.*) No. 902-A. Thus:

Pursuant to Section 5 of the Securities Regulation Code and Presidential Decree No. 902-A, as amended, and finding merit in the

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[10] *Id.* at 47.

[11] *Id.* at 169.

[12] *Id.* at 71-79.

[13] *Id.* at 167-168.

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arguments presented for the creation of a Management Committee (Mancom) for Capitol Hills Golf and Country Club, as prayed for by the Petitioners in their letter dated May 08, 2007, the following are hereby designated to compose the Mancom of the aforenamed corporation:

Atty. Franklin I. Cueto	-	Chairman
Atty. Noel Y. Artiza	-	Member
Mr. Manuel Baldeo, Jr.	-	Member

to perform the following duties and functions, for a period of one (1) month from the date of receipt of this Order, and until further Orders from the Commission, to prevent the paralyzation of the operations of Capitol Hills Golf and Country Club, preserve its assets and protect the interests of the minority stockholders and other stakeholders:

(a) Oversee and supervise the activities of the Club upon turn over thereof to the Committee;
(b) Take custody of all the assets and properties owned or held by the Club under management;
(c) Oversee the performance of the duties and responsibilities of the management and board of directors of the Club, in order to preserve its assets and properties; and
(d) To perform or discharge the powers and functions of the Management Committee under Sec. 5 of Rule 9 of the Interim Rules of Procedure Governing Intra-Corporate Controversies under R.A. 8799, insofar as may be applicable.

The above notwithstanding, the incumbent Board of Directors and Officers shall continue to discharge their functions relative to the day to day operations of the Club and shall submit a report to the Management Committee at such time and frequency as it may determine.

SO ORDERED.[14]

The MANCOM, in turn, notified the petitioners of its assumption of duties. It also ordered that relevant documents of Capitol be made available to it.

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[14] *Id.* Penned by C.A. Gerard M. Lukban.

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Subsequently, the petitioners questioned the December 5, 2007 SEC order before the CA via a petition for *prohibition* under Rule 65 of the Rules of Court. It asked the CA to enjoin the SEC from conducting further proceedings and to dismiss the case and, in addition, prayed for the issuance of a temporary restraining order and/or writ of preliminary injunction.

The Ruling of the CA

In its November 30, 2010 decision,[15] the CA dismissed the petition stating that while the letter-complaint filed by private respondents raised intra-corporate matters, the case did not necessarily involve a controversy arising purely out of intra-corporate relations so as to deprive the SEC of its jurisdiction. The CA pointed out that the said letter-complaint was seeking that the SEC investigate alleged irregularities committed by the petitioners which, if found true, would constitute serious violations of the SRC and the pertinent rules and regulations.[16] Thus, the CA concluded that private respondents were merely seeking the administrative intervention of the SEC on a matter within its competence.

The CA agreed with the Office of the Solicitor General (*OSG*), representing the SEC, that the creation of the MANCOM was authorized under SEC Memorandum Circular (*MC*) No. 11, Series of 2003. The said memorandum stated that the SEC had the power "to do any and all acts to carry out the effective implementation of the laws it is mandated to enforce, that is, constitute a management committee; appoint receivers, issue cease and desist orders to prevent fraud or injury to the public; and such other measures to carry out its role as a regulator."[17]

In brief, the CA affirmed the power of the SEC to investigate and constitute the MANCOM because such actions were

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[15] *Id.* at 32-42. Penned by Associate Justice Stephen C. Cruz, with Associate Justices Isaias P. Dicdican and Elihu A. Ybañez, concurring.

[16] *Id.* at 40.

[17] *Id.* at 40-41.

pursuant to the administrative, supervisory and oversight powers of the SEC over Capitol. According to the CA, no grave abuse of discretion could be attributed to the SEC. Hence, the petition was dismissed.[18]

The petitioners moved for reconsideration, but their motion was denied by the CA in its March 15, 2011 resolution.

Hence, this petition.

ISSUE/S

(1) WAS TAKING COGNIZANCE OF THE LETTER-COMPLAINT FILED BY THE PRIVATE RESPONDENTS BEYOND THE JURISDICTION OF THE SEC?

(2) WAS THE SEC ORDER CREATING THE MANCOM ISSUED IN EXCESS OF ITS JURISDICTION?

In its Comment,[19] the SEC submitted that it correctly took cognizance of the subject letter-complaint and appointed the MANCOM to temporarily oversee Capitol. It asserted that Section 5 of the SRC authorized the SEC to assume jurisdiction over the subject matter to determine whether the petitioners, who were officers of Capitol, violated the SRC and its implementing rules and regulations. Lastly, the SEC justified its act in creating the MANCOM on the basis of SEC-MC No. 11, Series of 2003, which included the constitution of such a committee as one of its powers.

Private respondents, in their Comment/Opposition,[20] stated that the SEC had retained its administrative, regulatory and oversight powers over corporations citing *Orendain v. BF Homes, Inc.*;[21] that in the exercise of such powers, the SEC was justified in entertaining their letter-complaint; and that as

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[18] *Id.* at 42.

[19] *Id.* at 278-291.

[20] *Id.* at 304-310.

[21] 536 Phil. 1059 (2006).

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correctly appreciated by the CA, the letter-complaint readily showed that it was an invocation for the SEC to exercise its mandated power/authority by conducting an investigation on the perceived irregularities and fraudulent transactions allegedly committed by the petitioners which, if found to be true, would constitute serious violations of the SRC and its rules and regulations. Private respondents further argued that the creation of the MANCOM was justified under SEC-MC No. 11, Series of 2003.

The petitioners failed to file a reply despite the Court's several notices. In the Manifestation,[22] dated April 20, 2015, their lawyer[23] explained that the petitioners had not been responding to calls or other communication after Capitol was taken over by ALI sometime in the middle of 2011.

The Court's Ruling

The CA ruled in the negative on both scores and this Court agrees for the reasons discussed hereinafter.

On SEC's authority to take cognizance of the letter-complaint

Under the SRC, jurisdiction on matters stated under Section 5 of P.D. No. 902-A, which was originally vested in the SEC, has already been transferred to the RTC acting as a special commercial court. Despite the said transfer, however, the SEC still retains sufficient powers to justify its assumption of jurisdiction over matters concerning its supervisory, administrative and regulatory functions. In *SEC v. Subic Bay Golf and Country Club, Inc. (SBGCCI) and Universal International Group Development Corporation (UIGDC)*,[24] for instance, the Court affirmed the SEC's assumption of jurisdiction over a complaint,

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[22] *Rollo*, pp. 351-353.

[23] Atty. Jose P. Fenandez, counsel for the petitioners.

[24] G.R. No. 179047, March 11, 2015.

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which alleged that SBGCCI and UIGDC committed misrepresentations in the sale of their shares. The Court held in the said case that nothing prevented the SEC from assuming jurisdiction to determine if SBGCCI and UIGDC committed administrative violations and were liable under the SRC despite the complaint having raised intra-corporate issues. It also ruled that the SEC may investigate activities of corporations to ensure compliance with the law.

In ruling that way, the Court cited Sections 5 and 53 of the SRC as justifications, to wit:

SECTION 5. *Powers and Functions of the Commission*. — 5.1. The Commission shall act with transparency and shall have the powers and functions provided by this Code, Presidential Decree No. 902-A, the Corporation Code, the Investment Houses Law, the Financing Company Act and other existing laws. Pursuant thereto the Commission shall have, among others, the following powers and functions:

(a) **Have jurisdiction and supervision over all corporations, partnerships or associations who are the grantees of primary franchises and/or a license or permit issued by the Government;**

x x x x x x x x x

(d) **Regulate, investigate or supervise the activities of persons to ensure compliance;**

x x x x x x x x x

(n) Exercise such other powers as may be provided by law as well as those which may be implied from, or which are necessary or incidental to the carrying out of, the express powers granted the Commission to achieve the objectives and purposes of these laws.

x x x x x x x x x

SECTION 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 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

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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. xxx

Beyond doubt, therefore, is the authority of the SEC to hear cases regardless of whether an action involves issues cognizable by the RTC, provided that the SEC could only act upon those which are merely administrative and regulatory in character. In other words, the SEC was never dispossessed of the power to assume jurisdiction over complaints, even if these are riddled with intra-corporate allegations, if their invocation of authority is confined only to the extent of ensuring compliance with the law and the rules, as well as to impose fines and penalties for violation thereof; and to investigate even *motu proprio* whether corporations comply with the Corporation Code, the SRC and the implementing rules and regulations.

Thus, in this case, there is simply no doubt that the SEC acted properly in assuming jurisdiction over the letter-complaint filed by private respondents. A perusal of their letter-complaint demonstrates that private respondents sought the SEC's intervention in the interest of the minority stockholders by "*conducting thorough investigation*"[25] on the actions of the petitioners over "the apparent anomalies and fraud over the agreement with ALI," the growing labor unrest at [Capitol], the unpaid individual creditors some of whom have already gone into courts to enforce collection, the continuing financial mismanagement and gross negligence and incompetence shown by Mr. Pablo B. Roman, Jr., et al. in running the business affairs of [Capitol] xxx that resulted in losses, wastages and dissipation of funds of the corporation."[26] Their prayer for the SEC to exercise its investigatory powers in the end would adequately justify the assumption of jurisdiction over the letter-complaint regardless if, indeed, intra-corporate allegations were raised.

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[25] *Rollo*, p. 59.

[26] *Id.* at 58-59.

As the SEC is not ousted of its regulatory and administrative jurisdiction to determine and act if administrative violations were committed,[27] no grave abuse of discretion can be attributed to it when it assumed jurisdiction over the letter-complaint. Accordingly, the Court finds no error with what was held by the CA.

On the Constitution of the MANCOM

The SEC submits that the power to constitute a management committee is based on its supervisory and regulatory functions. It cites SEC-MC No. 11, Series of 2003 as authority, which provides in part:

> 4. Notwithstanding the foregoing, the Commission, as provided in Section 5 of the SRC and the effective provisions of PD 902-A, shall have the power to do any and all acts to carry out the effective implementation of the laws it is mandated to enforce, i.e.: **constitute a Management Committee**; appoint receivers, issue Cease and Desist Orders to prevent fraud or injury to the public; and such other measures to carry out its role as a regulator.

In effect, the authority of the SEC is viewed as one that is intimately related to its functions as a regulator.

The petitioners reject this and opine that constituting the MANCOM involves an intra-corporate controversy, which is within the jurisdiction of the RTC. Invoking Section 5.2 of the SRC, they contend that the authority to create the MANCOM is exclusive to the RTC and no longer with the SEC.

Indeed, Section 5.2. of the SRC has transferred jurisdiction over intra-corporate controversies to the RTC. It provides:

> The Commission's jurisdiction over all cases enumerated **under Section 5 of Presidential Decree No. 902-A** is hereby transferred to the Courts of general jurisdiction or the appropriate Regional Trial Court: *Provided*, that the Supreme Court in the exercise of its authority

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[27] *SEC v. SBGCCI and UIGDC*, *supra* note 24.

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may designate the Regional Trial Court branches that shall exercise jurisdiction over these cases. The Commission shall retain jurisdiction over pending cases involving intra-corporate disputes submitted for final resolution which should be resolved within one (1) year from the enactment of this Code. The Commission shall retain jurisdiction over pending suspension of payments/rehabilitation cases filed as of 30 June 2000 until finally disposed.

Relative thereto, Section 5 of P.D. No. 902-A states:

SECTION 5. In addition to the regulatory and adjudicative functions of the Securities and Exchange Commission over corporations, partnerships and other forms of associations registered with it as expressly granted under existing laws and decrees, it shall have original and exclusive jurisdiction to hear and decide cases involving

a) Devices or schemes employed by or any acts, of the board of directors, business associates, its officers or partnership, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholder, partners, members of associations or organizations registered with the Commission;

b) Controversies arising out of intra-corporate or partnership relations, between and among stockholders, members, or associates; between any or all of them and the corporation, partnership or association of which they are stockholders, members or associates, respectively; and between such corporation, partnership or association and the state insofar as it concerns their individual franchise or right to exist as such entity; and

c) Controversies in the election or appointments of directors, trustees, officers or managers of such corporations, partnerships or associations.

Clearly, any dispute concerning intra-corporate issues is now beyond the province of the SEC.

Yet, it must be stressed that under Section 5.1 (n) of the SRC, the SEC is permitted to exercise such other powers as may be provided for by law as well as those which may be implied from, or which are necessary or incidental to the carrying

out, of the express powers granted the SEC to achieve the objectives and purposes of these laws.

With such broad authority, it is beyond question that the SEC, as a regulator, has broad discretion to act on matters that relate to its express power of supervision over all corporations, partnerships or associations who are the grantees of primary franchises and/or a license or permit issued by the Government. Such grant of express power of supervision, necessarily includes the power to create a management committee following the doctrine of necessary implication.

The reason is simple. The creation of a management committee is one that is premised on the immediate and speedy protection of the interest not only of minority stockholders, but also of the general public from immediate danger of loss, wastage or destruction of assets or the paralyzation of business of a concerned corporation or entity.[28] No body is more competent to provide such a temporary relief other than the regulatory body of these companies — the SEC.

Thus, such authority is expressly sanctioned under SEC-MC No. 11, Series of 2003. Suffice it to state that such circular enjoys the presumption of validity unless this Court declares otherwise.

WHEREFORE, the petition is **DENIED**.

SO ORDERED.

Carpio (*Chairperson*) and *Leonen, JJ.,* concur.

Brion[*] and *Jardeleza, JJ.,* on official leave.

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[28] See Presidential Decree No. 1758, Amending Sections 2, 3, 5, 6 and 8 of P.D. No. 902-A.

[*] Designated additional member in lieu of Associate Justice Mariano C. del Castillo, per Raffle dated April 19, 2016.