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in Sta. Maria, Bulacan. The venue in Civil Case No. 94-72076 was therefore laid improperly.

Finally, there is no merit in petitioners' claim that the respondent bank is no longer the real party in interest after selling the ice plant to a third person during the pendency of the case. Section 20 of Rule 3 of the Revised Rules of Court provides that in a transfer of interest pending litigation, the action may be continued by or against the original party, unless the court, upon motion, directs the transferee to be substituted in the action or joined with the original party. The court has not ordered the substitution of respondent bank.

IN VIEW WHEREOF, the decision dated January 11, 1996 and resolution dated May 23, 1996 of the Court of Appeals in CA-G.R. SP No. 36032 are affirmed. Costs against petitioners.

SO ORDERED.

Regalado (Chairman), Romero, Mendoza, and *Torres, Jr., JJ.,* concur.

SECOND DIVISION

[G.R. No. 125221. June 19, 1997]

REYNALDO M. LOZANO, *petitioner, vs.* **HON. ELIEZER R. DE LOS SANTOS, Presiding Judge, RTC, Br. 58, Angeles City; and ANTONIO ANDA,** *respondents.*

SYLLABUS

1. **COMMERCIAL LAW; SECURITIES AND EXCHANGE COMMISSION; JURISDICTION; DETERMINATION THEREOF.**— The grant of jurisdiction to the SEC must be viewed in the light of its nature and function under the law. This jurisdiction is determined by a concurrence of two

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elements: (1) the status or relationship of the parties; and (2) the nature of the question that is the subject of their controversy. The first element requires that the controversy must arise out of intracorporate 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 in so far as it concerns their individual franchises. The second element requires that the dispute among the parties be intrinsically connected with the regulation of the corporation, partnership or association or deal with the internal affairs of the corporation, partnership or association. After all, the principal function of the SEC is the supervision and control of corporations, partnerships and associations with the end in view that investments in these entities may be encouraged and protected, and their activities pursued for the promotion of economic development.

2. **ID.; ID.; ID.; DISPUTE BETWEEN MEMBERS OF TWO SEPARATE AND DISTINCT CORPORATIONS WHO HAVE NO INTRACORPORATE RELATION, DOES NOT FALL WITHIN THE JURISDICTION OF SECURITIES EXCHANGE COMMISSION; CASE AT BAR.**— The KAMAJDA and SAMAJODA to which petitioner and private respondent belong are duly registered with the SEC, but these associations are two separate entities. The dispute between petitioner and private respondent is not within the KAMAJDA nor the SAMAJODA. It is between members of separate and distinct associations. Petitioner and private respondent have no intracorporate relation much less do they have an intracorporate dispute. The SEC therefore has no jurisdiction over the complaint.

3. **ID.; ID.; ID.; DOCTRINE OF CORPORATION BY ESTOPPEL CANNOT OVERRIDE JURISDICTIONAL REQUIREMENTS.**— The doctrine of corporation by estoppel advanced by private respondent cannot override jurisdictional requirements. Jurisdiction is fixed by law and is not subject to the agreement of the parties. It cannot be acquired through or waived, enlarged or diminished by, any act or omission of the parties, neither can it be conferred by the acquiescence of the court.

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4. **ID.; ID.; ID.; WHERE THERE IS NO THIRD PERSON INVOLVED AND THE CONFLICT ARISES ONLY AMONG THOSE ASSUMING THE FORM OF A CORPORATION, THERE IS NO CORPORATION BY ESTOPPEL.**— Corporation by estoppel is founded on principles of equity and is designed to prevent injustice and unfairness. It applies when persons assume to form a corporation and exercise corporate functions and enter into business relations with third persons. Where there is no third person involved and the conflict arises only among those assuming the form of a corporation, who therefore know that it has not been registered, there is no corporation by estoppel.

APPEARANCES OF COUNSEL

Willie B. Rivera for petitioner.
Yabut Law Office for respondents.

D E C I S I O N

PUNO, *J.*:

This petition for *certiorari* seeks to annul and set aside the decision of the Regional Trial Court, Branch 58, Angeles City which ordered the Municipal Circuit Trial Court, Mabalacat and Magalang, Pampanga to dismiss Civil Case No. 1214 for lack of jurisdiction.

The facts are undisputed. On December 19, 1995, petitioner Reynaldo M. Lozano filed Civil Case No. 1214 for damages against respondent Antonio Anda before the Municipal Circuit Trial Court (MCTC), Mabalacat and Magalang, Pampanga. Petitioner alleged that he was the president of the Kapatirang Mabalacat-Angeles Jeepney Drivers' Association, Inc. (KAMAJDA) while respondent Anda was the president of the Samahang Angeles-Mabalacat Jeepney Operators' and Drivers' Association, Inc. (SAMAJODA); in August 1995, upon the request of the Sangguniang Bayan of Mabalacat, Pampanga, petitioner and private respondent agreed to consolidate their respective associations and form the Unified Mabalacat-Angeles Jeepney Operators' and Drivers' Association, Inc. (UMAJODA); petitioner

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and private respondent also agreed to elect one set of officers who shall be given the sole authority to collect the daily dues from the members of the consolidated association, elections were held on October 29, 1995 and both petitioner and private respondent ran for president; petitioner won; private respondent protested and, alleging fraud, refused to recognize the results of the election; private respondent also refused to abide by their agreement and continued collecting the dues from the members of his association despite several demands to desist. Petitioner was thus constrained to file the complaint to restrain private respondent from collecting the dues and to order him to pay damages in the amount of P25,000.00 and attorney's fees of P500.00.[1]

Private respondent moved to dismiss the complaint for lack of jurisdiction, claiming that jurisdiction was lodged with the Securities and Exchange Commission (SEC). The MCTC denied the motion on February 9, 1996.[2] It denied reconsideration on March 8, 1996.[3]

Private respondent filed a petition for *certiorari* before the Regional Trial Court, Branch 58, Angeles City.[4] The trial court found the dispute to be intracorporate, hence, subject to the jurisdiction of the SEC, and ordered the MCTC to dismiss Civil Case No. 1214 accordingly.[5] It denied reconsideration on May 31, 1996.[6]

Hence this petition. Petitioner claims that:

"THE RESPONDENT JUDGE ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION AND SERIOUS ERROR OF LAW IN CONCLUDING THAT THE SECURITIES AND EXCHANGE COMMISSION HAS JURISDICTION OVER A CASE OF DAMAGES BETWEEN HEADS/PRESIDENTS OF TWO (2) ASSOCIATIONS WHO IN-

[1] Complaint, Annex "C" to the Petition, *Rollo*, pp. 25-28.

[2] Annex "D" to the Petition, *Rollo*, pp. 35-37.

[3] Annex "E" to the Petition, *Rollo*, p. 37.

[4] Civil Case No. 8237.

[5] Annex "A" to the Petition, *Rollo*, pp. 18-21.

[6] Annex "B" to the Petition, *Rollo*, pp. 22-24.

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TENDED TO CONSOLIDATE/MERGE THEIR ASSOCIATIONS BUT NOT YET [SIC] APPROVED AND REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION."[7]

The jurisdiction of the Securities and Exchange Commission (SEC) is set forth in Section 5 of Presidential Decree No. 902-A. Section 5 reads as follows:

" *Section 5.* x x x [T]he Securities and Exchange Commission [has] 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 partners, amounting to fraud and misrepresentation which may be detrimental to the interest of the public and/or of the stockholders, partners, members of associations or organizations registered with the Commission.

(b) Controversies arising out of intracorporate 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.

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

(d) Petitions of corporations, partnerships or associations to be declared in the state of suspension of payments in cases where the corporation, partnership or association possesses sufficient property to cover all its debts but foresees the impossibility of meeting them when they respectively fall due or in cases where the corporation, partnership or association has no sufficient assets to cover its liabilities, but is under the management of a Rehabilitation Receiver or Management Committee created pursuant to this Decree."

The grant of jurisdiction to the SEC must be viewed in the light of its nature and function under the law.[8] This jurisdiction

[7] Petition, p. 6, *Rollo*, p. 8.

[8] Union Glass & Container Corporation *v.* Securities and Exchange Commission, 126 SCRA 32, 38 [1983].

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is determined by a concurrence of two elements: (1) the status or relationship of the parties; and (2) the nature of the question that is the subject of their controversy.[9]

The first element requires that the controversy must arise out of intracorporate 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 in so far as it concerns their individual franchises.[10] The second element requires that the dispute among the parties be intrinsically connected with the regulation of the corporation, partnership or association or deal with the internal affairs of the corporation, partnership or association.[11] After all, the principal function of the SEC is the supervision and control of corporations, partnerships and associations with the end in view that investments in these entities may be encouraged and protected, and their activities pursued for the promotion of economic development.[12]

There is no intracorporate nor partnership relation between petitioner and private respondent. The controversy between them arose out of their plan to consolidate their respective jeepney drivers' and operators' associations into a single common association. This unified association was, however, still a proposal. It had not been approved by the SEC, neither had its officers and members submitted their articles of consolidation in accordance with Sections 78 and 79 of the Corporation Code.Consolidation becomes effective not upon

[9] Macapalan *v.* Katalbas-Moscardon, 227 SCRA 49, 54 [1993]; Viray *v.* Court of Appeals, 191 SCRA 308, 323 [1990].

[10] Union Glass & Container Corporation *v.* Securities and Exchange Commission, *supra*, at 38; Agpalo, Comments on the Corporation Code of the Philippines, pp. 447-448 [1993].

[11] Dee *v.* Securities and Exchange Commission, 199 SCRA 238, 250 [1991]; Union Glass & Container Corporation *v.* Securities and Exchange Commission, *supra*, at 38.

[12] Union Glass & Container Corporation *v.* Securities and Exchange Commission, *supra*, at 38, citing Whereas Clauses of P.D. 902-A.

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mere agreement of the members but only upon issuance of the certificate of consolidation by the SEC.[13] When the SEC, upon processing and examining the articles of consolidation, is satisfied that the consolidation of the corporations is not inconsistent with the provisions of the Corporation Code and existing laws, it issues a certificate of consolidation which makes the reorganization official.[14] The new consolidated corporation comes into existence and the constituent corporations dissolve and cease to exist.[15]

The KAMAJDA and SAMAJODA to which petitioner and private respondent belong are duly registered with the SEC, but these associations are two separate entities. The dispute between petitioner and private respondent is not within the KAMAJDA nor the SAMAJODA. It is between members of separate and distinct associations. Petitioner and private respondent have no intracorporate relation much less do they have an intracorporate dispute. The SEC therefore has no jurisdiction over the complaint.

The doctrine of corporation by estoppel[16] advanced by private respondent cannot override jurisdictional requirements. Jurisdiction is fixed by law and is not subject to the agreement of the parties.[17] It cannot be acquired through or waived, enlarged or diminished by, any act or omission of the parties, neither can it be conferred by the acquiescence of the court.[18]

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[13] Section 79, Corporation Code; Campos, The Corporation Code, Comments, Notes and Selected Cases, Vol. 2, p. 447 [1990].

[14] Lopez, The Corporation Code of the Philippines Annotated, Vol. 2, p. 940 [1994].

[15] Section 80, Corporation Code.

[16] Section 21, Corporation Code.

[17] De Leon *v.* Court of Appeals, 245 SCRA 166, 176 [1995]; Lozon *v.* National Labor Relations Commission, 240 SCRA 1, 11 [1995].

[18] Lozon *v.* National Labor Relations Commission, *supra*, at 11 [1995]; De Jesus *v.* Garcia, 19 SCRA 554, 558 [1967]; Calimlim *v.* Ramirez, 118 SCRA 399, 406 [1982].

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Corporation by estoppel is founded on principles of equity and is designed to prevent injustice and unfairness.[19] It applies when persons assume to form a corporation and exercise corporate functions and enter into business relations with third persons. Where there is no third person involved and the conflict arises only among those assuming the form of a corporation, who therefore know that it has not been registered, there is no corporation by estoppel.[20]

IN VIEW WHEREOF, the petition is granted and the decision dated April 18, 1996 and the order dated May 31, 1996 of the Regional Trial Court, Branch 58, Angeles City are set aside. The Municipal Circuit Trial Court of Mabalacat and Magalang, Pampanga is ordered to proceed with dispatch in resolving Civil Case No. 1214. No costs.

SO ORDERED.

Regalado (Chairman), Romero, Mendoza, and *Torres, Jr., JJ.,* concur.

SECOND DIVISION

[G.R. No. 125347. June 19, 1997]

EMILIANO RILLO, *petitioner, vs.* **COURT OF APPEALS and CORB REALTY INVESTMENT, CORP.,** *respondents.*

SYLLABUS

1. **CIVIL LAW; CONTRACT; SALE; RESCISSION OF AN OBLIGATION; NOT APPLICABLE IN CONTRACT TO SELL.—** The contract between the parties is not an absolute conveyance of real property but a contract to sell. In a contract to sell real property on installments, the full payment of the purchase price is a positive suspensive condition, the failure

[19] Lopez, *supra*, v. 1, pp. 340-341 [1994].

[20] Hall *v.* Piccio, 86 Phil. 603, 605 [1950]; also cited in Agpalo, *supra*, at 85.