

EN BANC

[G.R. No. 191877, June 18, 2013]

**PHILIPPINE AMUSEMENT AND GAMING CORPORATION
(PAGCOR), PETITIONER, VS. ARIEL R. MARQUEZ, RESPONDENT.**

[G.R. NO. 192287]

**IRENEO M. VERDILLO, PETITIONER, VS. PHILIPPINE
AMUSEMENT AND GAMING CORPORATION (PAGCOR),
RESPONDENT.**

D E C I S I O N

VILLARAMA, JR., J.:

Before the Court are two consolidated petitions for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended.

The petition in G.R. No. 191877 seeks to reverse the October 9, 2009 Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 106196, which set aside Resolution Nos. 08-0702^[2] and 08-1858^[3] of the Civil Service Commission (CSC) dismissing respondent Ariel R. Marquez from service for serious dishonesty, violation of office rules and regulations, and conduct prejudicial to the best interest of the service.

The petition in G.R. No. 192287 meanwhile, questions the July 21, 2009 CA Decision^[4] in CA-G.R. SP No. 106961, which affirmed CSC Resolution Nos. 08-0931^[5] and 08-2231, dismissing petitioner Ireneo M. Verdillo from service for serious dishonesty, violation of office rules and regulations, and conduct prejudicial to the best interest of the service.

The antecedent facts of the case are as follows:

Ariel R. Marquez and Ireneo M. Verdillo were both employed as dealers in the game of Craps at the Philippine Amusement and Gaming Corporation (PAGCOR) at the Casino Filipino Heritage. The game of Craps is initiated when a player, called a "shooter," rolls a pair of dice that should pass a demarcation line set across the table. As a rule, at least one of the two dice must come in contact with the rubber wall at the end of the table. When these conditions are met, the dealer known as a stickman^[6] considers the throw a "good dice" and the pay-off dealer pays the winner. Otherwise, the throw is invalidated, and the stickman must announce "no dice." The conditions are imposed to prevent manipulation of the results of the throw.

On November 26, 2006, Marquez and Verdillo alternately manned Craps Table No. 30, together with Joselito Magahis and Virgilio Ruanto. At around 2:46 a.m., Mr.

Johnny Cheng^[7] began playing at Craps Table No. 30 with Verdillo as stickman and Marquez as the pay-off dealer. While doing her rounds, Acting Pit Supervisor Eulalia Yang noticed that on several occasions Verdillo made a "good dice" call even though not one of the dice from the player's throw hit the table's rubber wall. Alarmed by what she saw, Yang reported the matter to the Casino Management. Thereafter, Mr. Ariston Tangalin, the Acting Casino Shift Manager, requested to review the Closed Circuit Television (CCTV) footage of the incident. After watching the footage, the members of the Casino Management and the investigators from the Corporate Investigation Unit were convinced that several void throws were declared as "good dice" in Table No. 30 while the same was being manned by Marquez and Verdillo. Senior Branch Surveillance Officer Wilbur U. Isabelo also submitted a report to the Surveillance Unit, stating that

Based on video footage, there were [eight (8)] occasions when the dices did not [touch] the rubber wall. Dealer Stickman Verdillo should have declared the games void or no dice but instead declared the games as good dice after which, Dealer Pay-off paid the bets of the customer, a certain Mr. Johnny Ching. It was noted that whenever A/PS Eulalia Yang, Dealers Joselito Magahis and Virgilio Ruanto were monitoring the transactions on said table, Mr. Ching would throw the dices normally which touched the rubber wall. It was also observed that Mr. Ching was positioned near the Stickman.

Hereunder is the chronological fraudulent transactions which transpired from 0246H – 0314H November 27, 2006 at table #30 (Craps):

0246H : Customer Mr. Johnny Ching started playing at table #30.

0258:05H : Game was no dice. Customer's placed bet of P2,000 on point 5 was paid with P3,000.

0258:41H : Game was no dice. Customer's placed bet of P1,000 on point 6 was paid with P1,100.

0259:23H : Game was no dice. Customer's placed bet of P4,000 on point 5 was paid with P5,000.

0259:36H : Game was no dice. Customer's placed bet of P2,000 on point 6 was paid with P2,200.

0302:57H : Game was no dice. Customer's placed bet of P4,000 on point 6 was paid with P4,400.

0303:23H : Game was no dice. Customer's placed bet of P1,000 on point 8 was paid with P1,100.

0303:39H : Game was no dice. Customer's placed bet of P2,000 on point 9 was paid with P2,500.

0305:18H : Game was no dice. Customer's placed bet of P4,000 on point 9 was paid with P5,000.

0314H : Customer Mr. Ching stopped playing.^[8]

On November 28, 2006, after conducting a fact-finding investigation, the Internal Security Investigation Section found that a *prima facie* case exists against Marquez and Verdillo. Hence, they were administratively charged with conspiring with Cheng in defrauding PAGCOR of an undetermined amount of money^[9] and were required to submit a written explanation. In his *Sinumpaang Salaysay*,^[10] Marquez admitted that he was aware of several erroneous calls made by Verdillo on the dice throws, but he still paid out winnings to Cheng. Meanwhile, Verdillo also submitted a written explanation, denying the accusations against him. On December 13, 2006, they were invited by the Branch Management Panel (BMP) to a hearing to explain their side of the controversy.^[11]

Later, the BMP rendered its decision finding both Marquez and Verdillo liable for fraudulent transactions and recommended their dismissal from service, as follows:

Though it was only in November 26, 2006 that the anomaly was discovered, the information and revelations pronounced by PM Senatin^[12] since August 2005 and the proof from the footages, are strong evidence to prove that there is something going on with craps.

It was observed and viewed in the CCTV footages that whenever there are other customers watching his play, Mr. Cheng throws the dice with force passing through the center of the table in such a way that it produces a sound to be heard loudly when it touches the rubber wall. However, when both Marquez and Verdillo are around, the dice is thrown at the side of the table barely touching its rubber walling.

Dealer Pay-off may overrule the decision of the stickman. However, during the game on eight (8) occasions, Dealer Marquez did not become observant considering that Dealer Verdillo is not good in craps nor did not insist on calling his attention for the bad calls.

Foregoing considered, the Panel resolved **to dismiss Dealers Ireneo Verdillo and Ariel Marquez for the offense of "FRAUDULENT TRANSACTIONS AT CRAPS TO THE DISADVANTAGE OF THE HOUSE."**^[13] (Emphasis and underscoring in the original.)

The BMP's recommendation was adopted by the Adjudication Committee and its findings were then forwarded to PAGCOR's Board of Directors for final approval. Senior Managing Head of the Human Resource and Development Department, Visitacion F. Mendoza, later sent a Memorandum to Marquez and Verdillo informing them that the Board had approved the Adjudication Committee's recommendation to dismiss them from the service due to "Dishonesty, Grave violation of company rules and regulations, Conduct prejudicial to the best interest of the company, and Loss of trust and confidence" for conspiring with a co-dealer and a customer in defrauding the house on numerous occasions on November 27, 2006.^[14]

Marquez and Verdillo filed their motions for reconsideration, but both were denied by PAGCOR for lack of merit.^[15]

Aggrieved, they appealed their dismissal from the service to the CSC. In Resolution No. 08-0702, the CSC dismissed Marquez's appeal for lack of merit. The decretal portion of the Resolution reads:

WHEREFORE, the appeal of Ariel R. Marquez is hereby **DISMISSED** for lack of merit. The decision of the PAGCOR Board of Directors dated February 1, 2007, finding respondent-appellant guilty of the administrative offenses of Dishonesty, Grave Violation of Company Rules and Regulations, Conduct Prejudicial to the Best Interest of the Company, Loss of Trust and Confidence and Conspiring with a co-Dealer and a Customer in Defrauding the House and imposing upon him the penalty of dismissal from the service and the decision of the same Board denying his Motion for Reconsideration is hereby **MODIFIED**. Accordingly, this Commission finds that respondent-appellant is guilty of the administrative offenses of Serious Dishonesty, Violation of Office Rules and Regulations and Conduct Prejudicial to the Best Interest of the Service and imposes the penalty of dismissal from the service with all its accessory penalties of forfeiture of retirement benefits, perpetual disqualification from re-employment in government service, bar from taking civil service examinations in the future and cancellation of civil service eligibilities.^[16]

Likewise, in Resolution No. 08-0931, the appeal of Verdillo was dismissed as follows:

WHEREFORE, the appeal of Ireneo M. Verdillo, Dealer, Philippine Amusement and Gaming Corporation (PAGCOR), Manila is hereby **DISMISSED** for lack of merit. The decision of the PAGCOR Board of Directors dated February 1, 2007, finding respondent-Appellant guilty of the administrative offenses of Dishonesty, Grave Violation of Company Rules and Regulations, Conduct Prejudicial to the Best Interest of the Company, Loss of Trust and Confidence and Conspiring with a co- Dealer and a Customer in Defrauding the House and imposing upon him the penalty of dismissal from the service and the decision of the same Board denying his Motion for Reconsideration is hereby **MODIFIED**. Accordingly, this Commission finds that respondent-Appellant is guilty of the administrative offenses of Serious Dishonesty, Violation of Office Rules and Regulations and Conduct Prejudicial to the Best Interest of the Service and imposes the penalty of dismissal from the service with all its accessory penalties of forfeiture of retirement benefits, perpetual disqualification from reemployment in government service and cancellation of all eligibilities.^[17]

The CSC held that it has reasonable ground to believe that Marquez and Verdillo were involved in a conspiracy to manipulate the game of Craps on November 27,

2006. It found that the statements made by Marquez and Verdillo, the CCTV footage, the investigation report, and the statements of the employees, all belie their innocence. The CSC further pointed out that it was incumbent upon Marquez to make sure that Verdillo's calls were in order, and it was Verdillo's duty to verify that his declarations on the dice throws were accurate. Hence, it concluded that together with Cheng, they were one in their goal to manipulate the game of Craps to the detriment of PAGCOR. The CSC denied their motions for reconsideration.

Not satisfied, Marquez filed a petition for review with the CA arguing that he was not accorded his right to due process and that there was no substantial evidence to support a finding of his guilt in the administrative charge.

In CA-G.R. SP No. 106196, the CA rendered a decision in his favor, to wit:

WHEREFORE, premises considered, the assailed resolutions dated February 1, 2007 and May 12, 2007 are **REVERSED** and **SET ASIDE**. In lieu thereof, another is entered ordering respondent to reinstate petitioner to his former position and to pay his backwages and benefits from March 28, 2007 onwards.

SO ORDERED.^[18]

The CA held that there is no administrative charge of conspiracy under the Uniform Rules of Administrative Cases in the Civil Service. It found Marquez's *Sinumpaang Salaysay* credible and ruled that there was no dishonesty on his part, much less a conspiracy with Verdillo and Cheng to defraud PAGCOR. The CA observed that the fact that as stated in his sworn statement, Marquez called Verdillo's attention to his erroneous call only on the second time that Verdillo made an erroneous call, cannot be interpreted that he was dishonest or engaged in a conspiracy. Rather, it shows that he was negligent in the performance of his duties.

Meanwhile, Verdillo filed with the CA a separate petition for review which was docketed as CA-G.R. SP No. 106961. He argued that PAGCOR's Decision was not supported by the evidence on record. He also averred that he was denied due process of law.

The CA, however, denied Verdillo's petition, as follows:

WHEREFORE, the petition is hereby DENIED and the assailed Civil Service Commission Resolution Nos. 080931 and 082231 are AFFIRMED.

SO ORDERED.^[19]

In that case, the CA found that Verdillo did not judiciously perform all the acts expected of him as a dealer-stickman and all acts necessary to protect PAGCOR's interest. The CA found that there exists substantial evidence to support the conclusion that Verdillo is guilty of the offense of violation of office rules and regulations and conduct prejudicial to the best interest of the service. The CA also concluded that the circumstances present in the case supply more than reasonable