

THIRD DIVISION

[G.R. NO. 151030, August 30, 2006]

**PHILIPPINE AMUSEMENT AND GAMING CORPORATION,
PETITIONER, VS. RICHARD SYHONGPAN, RESPONDENT.**

D E C I S I O N

CARPIO MORALES, J.:

Assailed via Petition for Review on Certiorari is the Court of Appeals Decision^[1] of June 20, 2000 reversing the Civil Service Commission Resolution No. 981738 dated July 2, 1998 and No. 990479 dated February 17, 1999 which ordered the dismissal from the service of respondent, Richard Syhongpan (Syhongpan), for dishonesty, grave misconduct, and conduct grossly prejudicial to the best interest of the service.

The factual backdrop of the case follows:

On October 8, 1997, petitioner Philippine Amusement and Gaming Corporation (PAGCOR)'s Casino Filipino-Heritage, Manila opened its expanded VIP Gaming Area.^[2] Syhongpan, the Branch Manager of Casino Filipino-Davao, attended the event during which he played in the casino area with other officers of the casino and players until the next day, October 9, 1997.

Generally, PAGCOR employees are prohibited from playing in the casino. On special occasions, however, officers may be authorized by the Chairman of the Board of Directors to play, provided that they play only at the small tables, limit their bets to ₱5,000 per deal, and cease playing by 6:00 a.m. of the following day.^[3]

The incident prompted the PAGCOR to instruct its Corporate Investigation Unit (CIU) to conduct an investigation.

After Syhongpan and Carlos Gonzales (Gonzales), Casino Operations Manager (COM) of Club Filipino-Heritage, were served with Memoranda of Charges^[4] and given the opportunity to, as they did, submit their written statements,^[5] the CIU personally interviewed the two.

The CIU later reported as follows:

We therefore believe that **a partnership was formed last October 8th by BM SYHONGPAN and COM GONZALES to win money at Pagcor gaming tables in CF-Heritage. To evade the strict injunctions on table limits, time limit and playing in the big tables applicable to playing officers, the partnership employed CORAZON CASTILLO as its "gunner[.]"** When the partnership needed additional capital, it was COM GONZALES acting under the direction and control of BM SYHONGPAN who approached various financiers, eventually incurring a

total indebtedness of P2.7 Million. When they could not borrow from the financiers anymore, BM SYHONGPAN conceived a scheme utilizing: 1) the character and reputation of one QUINTIN A. LLORENTE; 2) his [BM SYHONGPAN's] position and influence as a Branch Manager of Pagcor and, 3) the position and influence of COM GONZALES as a COM of CF-Heritage to circumvent the existing approval procedure for personal checks accommodations. **This allowed the partnership to borrow a total of P7 Million from the Heritage Treasury.** Proof of this scheme can be seen in the fact that, after deducting about P100,000 which was paid to MS. CASTILLO for her services as a gunner and the owner of the PCs issued, **the net profits of roughly P500,000 were divided 50-50 between BM SYHONGPAN and COM GONZALES.** Part of the elaborate scheme to deceive the Treasury involved the usurpation of authority by COM GONZALES to have them believe that the check accommodations were all cleared by the branch SBM/BMO, when in fact they were not. Another part of the scheme involved the use of MR. LLORENTE as an indorsee/guarantor to present himself as the purported applicant for the accommodation. This was an act of fraud, since, as correctly observed by the Treasury, the true applicant/owner of the checks was CORAZON CASTILLO and not QUINTIN LLORENTE.^[6] (Emphasis and underscoring supplied)

Syhongpan, Gonzales and other personnel of the PAGCOR were thereafter summoned to appear before the PAGCOR's Adjudication Committee to "explain further."^[7]

Before the Adjudication Committee, it was established that Syhongpan played in the company of Gonzales and a certain Brenda del Rio from around 10:30 p.m. of October 8, 1997 up to after 6:00 o'clock in the morning the following day, October 9, 1997, and that they were thereafter joined by Betty Lim (Betty) and Corazon Castillo (Corazon).^[8]

Syhongpan admitted that on the instigation of Corazon and Betty, he form a self-styled "corporation" (or partnership) with an agreement to share profits and losses; that in borrowing from the financiers and from the Casino Filipino-Heritage Treasury, the partnership relied on the financial capacity of Betty, a part-owner of BMG Records; that the partnership relied on his acumen and wizardry at the gaming tables; and that his participation in the partnership was only ten percent (10%).^[9]

Syhongpan likewise admitted "calling the shots," telling Corazon where to bet, for he believed that a player has better odds betting with the banker;^[10] that Corazon, who was the "gunner" for proxy betting, was betting amounts of up to P1.5 million; ^[11] that he was able to borrow money from financiers amounting to P2.7 million, broken down as follows:

QUINTIN LLORENTE	1,400,000
LITO MADLANGBAYAN	870,000
TEDDY TAYLAN	200,000
FELISA SY (ASA)	100,000
BOY OZAMIS	50,000
LOUIE (runner of FELISA	<u>80,000</u>

SY)
TOTAL

2,700,000;[12]

that when he and Gonzales could not borrow from the financiers anymore, he inquired from Gonzales if Quintin Llorente (Llorente), a more well-known player/financier, had been extended check accommodation in the past and on answering in the affirmative, he instructed Gonzales to borrow money from the Casino Filipino-Heritage Treasury (Treasury) upon the representation that Llorente was applying for personal check (PC) accommodation, although the checks issued were those of Corazon, a small-time player; and that a total loan of P7 million pesos was thus obtained from the Treasury.[13]

Gonzales corroborated Syhongpan's admissions, except the latter's claim on the percentage of sharing, Gonzales having asserted that of the P600,000 profits earned by the partnership, Syhongpan received P250,000 (41.67%), he (Gonzales) received P250,000 (41.67%), and Corazon received P100,000 (16.67%).[14]

Ultimately, Syhongpan raised before the Committee the defense of intoxication in that he did not know what was going on.[15]

The Adjudication Committee, which noted, among other things, that Llorente was not one of those players to whom PC accommodation was granted as a matter of course since approval by the Senior Branch Manager or Branch Manager for Operations (SBM/BMO) was still required,[16] concluded that Syhongpan violated the conditions strictly regulating gambling by officers in PAGCOR casinos on special occasions by committing the following acts:

1. conspiring with COM GONZALES and casino patrons to borrow and obtain chips from the CF-Heritage Treasury.
2. playing beyond 6:00 of the immediately following day.
3. exceeding the betting limit of P5,000 per deal.
4. playing at the big tables
5. borrowing from players or financiers
6. engaging in proxy betting
7. excessively fraternizing with female casino patrons
8. drinking excessively while at the gaming area
9. abusing his authority in obtaining playing chips from Treasury personnel.[17]

The Committee thus recommended as follows:

1. BM RICHARD S. SYHONGPAN of CF-Davao is liable for Dishonesty, Grave Misconduct and conduct prejudicial to the best interests of the service as **the "mastermind" of the whole nefarious scheme, from the time of the formation of the partnership until the division of its profits, with partners all acting under his direction and control and acting personally as a principal by inducement and by direct participation in the borrowing of sums from financiers.** At the same time, he is liable for circumventing casino regulations prohibiting officers from playing beyond 6:00 of the following morning, rules on maximum bets and rules prohibiting officers from playing at the big tables by

employing CORAZON CASTILLO as his "gunner[.]" This constitutes "proxy betting[.]" He took undue advantage of his position and influence to circumvent the rules, for his personal benefit and profit.

Because he utilized a fraud to borrow funds from Pagcor to win against Pagcor, the entire scheme was dishonest. By his acts, he manifested a desire for personal gain which overrode his duty to protect the Corporation. This created a conflict of interest for which he is directly and personally responsible and liable. Finally, BM SYHONGPAN prevaricated under [sic] investigation and before the Adjudication Committee to conceal the truth.

It is also the opinion of the Adjudication Committee that the acts committed by BM RICHARD SYHONGPAN violated the Anti-Graft and Corrupt Practices Act, Section 3 subparagraphs a, e, h and j thereof. Also, BM RICHARD SYHONGPAN violated the Code of Ethical Conduct for Public Officers and Employees, particularly Section 7 thereof, subparagraphs (c) and (d).

For this, it is respectfully recommended that BM RICHARD SYHONGPAN be **dismissed** from the service. This is without prejudice to the filing of the appropriate charges against him before the Ombudsman.^[18] (Emphasis and underscoring partly in the original and partly supplied)

The Board of Directors, after considering the findings and recommendation of the Adjudication Committee, resolved to dismiss from the service Syhongpan, together with Gonzales.^[19]

After they received notices of termination, Syhongpan and Gonzales appealed to the Civil Service Commission (CSC).^[20]

The CSC affirmed the decision of PAGCOR by CSC Resolution No. 981738^[21] of July 2, 1998, the dispositive portion of which reads.

WHEREFORE, the appeal of Richard Syhongpan and Carlos Gonzales is hereby dismissed for lack of merit. Accordingly, the decision of the Board of Directors of the Philippine Amusement and Gaming Corporation finding them guilty of Dishonesty, Grave Misconduct, Conduct Grossly Prejudicial to the Best Interest of the Service for which they are meted out the penalty of dismissal is hereby affirmed.

Let copies of this Resolution be furnished the Office of the Ombudsman for appropriate criminal action.^[22]

Syhongpan and Gonzales's Motion for Reconsideration was denied by CSC Resolution No. 990479^[23] of February 17, 1999.

Only Syhongpan appealed to the Court of Appeals via Rule 43 of the Rules of Court.

The appellate court reversed, as stated early on, the CSC Resolutions by Decision of June 20, 2000,^[24] the dispositive portion of which reads: