

EN BANC

[G.R. No. 144463, January 14, 2004]

SENATOR ROBERT S. JAWORSKI, PETITIONER, VS. PHILIPPINE AMUSEMENT AND GAMING CORPORATION AND SPORTS AND GAMES ENTERTAINMENT CORPORATION, RESPONDENTS.

DECISION

YNARES-SATIAGO, J.:

The instant petition for certiorari and prohibition under Rule 65 of the Rules of Court seeks to nullify the "Grant of Authority and Agreement for the Operation of Sports Betting and Internet Gaming," executed by respondent Philippine Amusement and Gaming Corporation (hereinafter referred to as PAGCOR) in favor of respondent Sports and Games and Entertainment Corporation (also referred to as SAGE).

The facts may be summarized as follows:

PAGCOR is a government owned and controlled corporation existing under Presidential Decree No. 1869 issued on July 11, 1983 by then President Ferdinand Marcos. Pertinent provisions of said enabling law read:

SECTION 1. *Declaration of Policy.* – It is hereby declared to be the policy of the State to centralize and integrate all games of chance not heretofore authorized by existing franchises or permitted by law in order to attain the following objectives:

x x x

x x x

x x x

b) To establish and operate clubs and casinos, for amusement and recreation, including sports, gaming pools (basketball, football, lotteries, etc.) and such other forms of amusement and recreation including games of chance, which may be allowed by law within the territorial jurisdiction of the Philippines and which will: x x x (3) minimize, if not totally eradicate, the evils, malpractices and corruptions that are normally prevalent in the conduct and operation of gambling clubs and casinos without direct government involvement.

x x x

x x x

x x x

TITLE IV – GRANT OF FRANCHISE

Sec.10. *Nature and term of franchise.* – Subject to the terms and conditions established in this Decree, the Corporation is hereby granted for a period of twenty-five (25) years, renewable for another twenty-five (25) years, the rights, privileges and authority to operate and maintain gambling casinos, clubs, and other recreation or amusement places,

sports, gaming pools, i.e. basketball, football, lotteries, etc. whether on land or sea, within the territorial jurisdiction of the Republic of the Philippines.

On March 31, 1998, PAGCOR's board of directors approved an instrument denominated as "Grant of Authority and Agreement for the Operation of Sports Betting and Internet Gaming", which granted SAGE the authority to operate and maintain Sports Betting station in PAGCOR's casino locations, and Internet Gaming facilities to service local and international bettors, provided that to the satisfaction of PAGCOR, appropriate safeguards and procedures are established to ensure the integrity and fairness of the games.

On September 1, 1998, PAGCOR, represented by its Chairperson, Alicia Ll. Reyes, and SAGE, represented by its Chairman of the Board, Henry Sy, Jr., and its President, Antonio D. Lacdao, executed the above-named document.

Pursuant to the authority granted by PAGCOR, SAGE commenced its operations by conducting gambling on the Internet on a trial-run basis, making pre-paid cards and redemption of winnings available at various Bingo Bonanza outlets.

Petitioner, in his capacity as member of the Senate and Chairman of the Senate Committee on Games, Amusement and Sports, files the instant petition, praying that the grant of authority by PAGCOR in favor of SAGE be nullified. He maintains that PAGCOR committed grave abuse of discretion amounting to lack or excess of jurisdiction when it authorized SAGE to operate gambling on the internet. He contends that PAGCOR is not authorized under its legislative franchise, P.D. 1869, to operate gambling on the internet for the simple reason that the said decree could not have possibly contemplated internet gambling since at the time of its enactment on July 11, 1983 the internet was yet inexistent and gambling activities were confined exclusively to real-space. Further, he argues that the internet, being an international network of computers, necessarily transcends the territorial jurisdiction of the Philippines, and the grant to SAGE of authority to operate internet gambling contravenes the limitation in PAGCOR's franchise, under Section 14 of P.D. No. 1869 which provides:

Place. – The Corporation [i.e., PAGCOR] shall conduct gambling activities or games of chance on land or water within the territorial jurisdiction of the Republic of the Philippines. x x x

Moreover, according to petitioner, internet gambling does not fall under any of the categories of the authorized gambling activities enumerated under Section 10 of P.D. No. 1869 which grants PAGCOR the "right, privilege and authority to operate and maintain gambling casinos, clubs, and other recreation or amusement places, sports gaming pools, within the territorial jurisdiction of the Republic of the Philippines."^[1] He contends that internet gambling could not have been included within the commonly accepted definition of "gambling casinos", "clubs" or "other recreation or amusement places" as these terms refer to a physical structure in real-space where people who intend to bet or gamble go and play games of chance authorized by law.

The issues raised by petitioner are as follows:

- I. WHETHER OR NOT RESPONDENT PAGCOR IS AUTHORIZED UNDER P.D. NO. 1869 TO OPERATE GAMBLING ACTIVITIES ON THE

INTERNET;

II. WHETHER RESPONDENT PAGCOR ACTED WITHOUT OR IN EXCESS OF ITS JURISDICTION, OR GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION, WHEN IT AUTHORIZED RESPONDENT SAGE TO OPERATE INTERNET GAMBLING ON THE BASIS OF ITS RIGHT "TO OPERATE AND MAINTAIN GAMBLING CASINOS, CLUBS AND OTHER AMUSEMENT PLACES" UNDER SECTION 10 OF P.D. 1869;

III. WHETHER RESPONDENT PAGCOR ACTED WITHOUT OR IN EXCESS OF ITS JURISDICTION OR WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT GRANTED AUTHORITY TO SAGE TO OPERATE GAMBLING ACTIVITIES IN THE INTERNET.

The above-mentioned issues may be summarized into a single pivotal question: Does PAGCOR's legislative franchise include the right to vest another entity, SAGE in this case, with the authority to operate Internet gambling? Otherwise put, does Presidential Decree No. 1869 authorize PAGCOR to contract any part of its franchise to SAGE by authorizing the latter to operate Internet gambling?

Before proceeding with our main discussion, let us first try to hurdle a number of important procedural matters raised by the respondents.

In their separate Comments, respondents PAGCOR and SAGE insist that petitioner has no legal standing to file the instant petition as a concerned citizen or as a member of the Philippine Senate on the ground that he is not a real party-in-interest entitled to the avails of the suit. In this light, they argue that petitioner does not have the requisite personal and substantial interest to impugn the validity of PAGCOR's grant of authority to SAGE.

Objections to the legal standing of a member of the Senate or House of Representative to maintain a suit and assail the constitutionality or validity of laws, acts, decisions, rulings, or orders of various government agencies or instrumentalities are not without precedent. Ordinarily, before a member of Congress may properly challenge the validity of an official act of any department of the government there must be an unmistakable showing that the challenged official act affects or impairs his rights and prerogatives as legislator.^[2] However in a number of cases,^[3] we clarified that where a case involves an issue of utmost importance, or one of overreaching significance to society, the Court, in its discretion, can brush aside procedural technicalities and take cognizance of the petition. Considering that the instant petition involves legal questions that may have serious implications on public interests, we rule that petitioner has the requisite legal standing to file this petition.

Respondents likewise urge the dismissal of the petition for certiorari and prohibition because under Section 1, Rule 65 of the 1997 Rules of Civil Procedure, these remedies should be directed to any tribunal, board, officer or person whether exercising judicial, quasi-judicial, or ministerial functions. They maintain that in exercising its legally-mandated franchise to grant authority to certain entities to operate a gambling or gaming activity, PAGCOR is not performing a judicial or quasi-