

GILBERTO M. DUAUIT, IN HIS CAPACITY AS ASSISTANT EXECUTIVE SECRETARY, AND THE PHILIPPINE CHARITY SWEEPSTAKES OFFICE, PETITIONERS, VS. HON. HERMINIO MARIANO, IN HIS CAPACITY AS ...*G.R. No. L-30697. August 21, 1982*

Ponente: CONCEPCION JR., J.

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Petition for certiorari and prohibition with preliminary injunction, to annul and set aside the orders issued by the respondent Judge on June 6 and July 5, 1969 in Civil Case No. 11860 of the Court of First Instance of Rizal, entitled: "Manila Jockey Club, Inc., petitioner, versus The Chairman and Members of the Games and Amusements Board, et al., respondents," and to restrain the respondent Judge from hearing or taking cognizance of Civil Case No. 11860 of the Court of First Instance of Rizal, and from enforcing the questioned orders of June 6 and July 5, 1969 and, instead, to allow the petitioner Philippine Charity Sweepstakes Office and other charitable organizations to hold or conduct horse-racing on days allotted to them by law at the race track of the Philippine Racing Club or of any other person licensed for the purpose.

It is of record that on December 6 and 13, 1968, the Philippine Racing Club and the Manila Jockey Club, Inc. submitted to the Games and Amusements Board, for approval, a proposed calendar of races to be conducted at their respective race tracks for the year 1969.[1] The Calendar of Races was approved by the Games and Amusements Board on December 18, 1968, "without prejudice to whatever decision the Office of the President may make concerning the appeal filed from this Board's resolution authorizing the holding of simultaneous races in both racing clubs; to the denial of particular applications for permits when there is good and valid cause therefor; nor to the right of the Board to authorize the holding of races in another club whenever the interests of the entity sponsoring the race demand such deviation from the Calendar of Races, and in general, when this Board determines that the supreme interest of the public so requires." [2]

On June 4, 1969, the General Manager of the Philippine Charity Sweepstakes Office recommended to the Assistant Executive Secretary, Gilberto M. Duavit, the suspension of the license issued to the Manila Jockey Club "in view of the seriousness of the charges against the MJC, particularly that which pertains to undeclared income derived from said Club during Charity-sponsored races, one of which is the PCSO, and in view further of the fact that the Games and Amusements Board has not instituted appropriate action relative to this case, which power it has under Sec. 3 of Republic Act 309." [3]

Pursuant thereto, Assistant Executive Secretary Gilberto M. Duavit directed the Games and Amusements Board, on June 4, 1969, that "in order to protect the interest of the government and charitable institutions dependent on income from the races, all races scheduled for the Manila Jockey Club, Inc., the license of which is hereby suspended by this Order, shall be held at the Philippine Racing Club, Inc." [4]

Acting upon the said directive, the Games and Amusements Board notified the Manila Jockey Club and other parties concerned, on June 6, 1969, that it will conduct a hearing on the charges against the Manila Jockey Club,

Inc. on June 10, 1969, "with the view to determining whether or not there is valid ground on which to proceed against the MJCI for revocation of its license as a race track." [5]

Immediately upon receipt of the letter, the Manila Jockey Club, Inc. filed a petition for prohibition with preliminary injunction with the Court of First Instance of Rizal, docketed therein as Civil Case No. 11860, praying that the Games and Amusements Board, Assistant Executive Secretary Gilberto M. Duavit, Philippine Racing Club, the White Cross, the Philippine Tuberculosis Society, and the Philippine Charity Sweepstakes Office be restrained from implementing the directive of Assistant Executive Secretary Gilberto M. Duavit to the Games and Amusements Board on June 4, 1969, claiming that the said Assistant Executive Secretary acted without legal authority and outside of his legal competence in issuing the afore-mentioned directive, and encroached upon the prerogatives of the Games and Amusements Board, the entity exclusively vested by law with the power to issue and suspend licenses of horse-racing entities. [6]

The respondent Judge gave due course to the petition and on that same day, he issued a temporary restraining order, restraining the respondents therein "from implementing the directive of the respondent Assistant Executive Secretary dated June 4, 1969, and in suspending the license or licenses of the petitioner club to hold races in its hippodrome." [7]

On June 23, 1969, the Solicitor General, in behalf of the Assistant Executive Secretary, filed a motion to dissolve the restraining order, [8] but his motion was denied in an order dated July 5, 1969, the dispositive portion of which reads, as follows:

"WHEREFORE, the parties having been heard, the Court is convinced that petitioner is entitled to the relief demanded considering that the continuance of the acts sought to be enjoined will cause great and irreparable injury, let a writ of preliminary injunction issue upon the petitioner filing a bond in the amount of P20,000.00 to answer for any damage or damages which the respondents may suffer should it be finally adjudged that petitioner is not entitled thereto, enjoining the respondents Chairman and Members of the Games and Amusements Board, Assistant Executive Secretary Gilberto M. Duavit, The Philippine Racing Club, Inc., The White Cross, the Philippine Tuberculosis Society, and the Philippine Charity Sweepstakes Office from implementing the directive of the respondent Assistant Executive Secretary Gilberto M. Duavit dated June 4, 1969, from suspending the racing license or licenses of the petitioner club to hold races in its hippodrome and from transferring races scheduled at said hippodrome as may be licensed and determined by the Games and Amusements Board. Likewise, respondents Assistant Executive Secretary Gilberto M. Duavit, the Philippine Racing Club, Inc., The White Cross, The Philippine Tuberculosis Society, and The Philippine Charity Sweepstakes Office are hereby enjoined from depriving respondent Games and Amusements Board the power and authority to issue and/or suspend racing license or licenses pursuant to Section 3 of Republic Act 309, and from acting in any manner whatsoever that will result in the cancellation of the license or licenses issued or to be issued hereafter by the Games and Amusements Board, until final determination of the issue in this case by this Court.

"In the meantime, all the respondents who have not filed their responsive pleading are hereby required to file the same within the reglementary period from receipt of this Order." [9]

Hence, the present recourse. As prayed for, the Court issued a writ of preliminary injunction, restraining the respondents from executing or implementing the questioned orders of June 6 and July 5, 1969. The Court further ordered the respondent Judge to desist from hearing, issuing any writ of injunction or order, holding any pre-trial, deciding and in any manner taking cognizance or assuming jurisdiction of Civil Case No. 11860 of the Court of First Instance of Rizal. [10]

The fundamental issue involved here is whether or not the petitioner, Gilberto M. Duavit, in his capacity as

Assistant Executive Secretary, can directly suspend or revoke licenses of racing entities. The respondents hold that the Games and Amusements Board is the entity exclusively vested by law with the power to suspend or revoke licenses of racing entities and that the Office of the President has no power or authority to directly cancel or revoke a license duly issued by the Games and Amusements Board and can do so only in a proper appeal brought before it from the decision of the Games and Amusements Board so that the respondent Judge correctly restrained the petitioners herein from implementing the directive of the Assistant Executive Secretary which suspended the license issued to the Manila Jockey Club, Inc. and transferred the scheduled races to the Philippine Racing Club hippodrome, as well as in restraining the herein petitioners from depriving the Games and Amusements Board of its power and authority to issue or suspend racing license; and from acting in any manner that would result in the cancellation of the licenses issued or thereafter to be issued by the Games and Amusements Board.

We find, however, that the questioned orders, even if found to have been validly issued, have become ineffective since the functions of the Games and Amusements Board with respect to horse-racing, except those related to the supervision and regulation of betting in horse-racing as provided in Sections 6, 11, 18 and 24 of Republic Act 309, as amended, were transferred to the Philippine Racing Commission, an entity created pursuant to Presidential Decree No. 420, which took effect on March 20, 1974, to have exclusive jurisdiction and control over every aspect of the conduct of horse-racing, including the framing and scheduling of races, the construction and safety of race tracks, the allocations of prizes, and the security of racing. The respondent Judge can no longer enforce his orders and restrain the herein petitioners from "depriving the respondent Games and Amusements Board the power and authority to issue and/or suspend racing license or licenses pursuant to Section 3 of Republic Act 309, and from acting in any manner whatsoever that will result in the cancellation of the license or licenses issued or to be issued hereafter by the Games and Amusements Board." As a result, the fundamental issue involved has become moot and academic.

WHEREFORE, the petition is GRANTED and the writs prayed for are hereby issued. The questioned orders issued on June 6 and July 5, 1969 in Civil Case No. 11860 of the Court of First Instance of Rizal, entitled: "Manila Jockey Club, Inc., petitioner, versus The Chairman and Members of the Games and Amusements Board, et al., respondents," should be, as they are hereby, SET ASIDE. The writ of preliminary injunction heretofore issued is hereby made permanent. No costs.

SO ORDERED.

Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur. Barredo, (Chairman), J., this case is already moot and academic. Aquino, J., no part.

[1] Rollo, pp. 34-36.

[2] Id., pp. 37 and 38.

[3] Id., p. 46.

[4] Id., p. 47.

[5] Id., pp. 50-53.

[6] Id., p. 54.

[7] Id., p. 62.

[8] Id., p. 72.

[9] Id., p. 122.

[10] Id., p. 133.

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