RAOUL B. DEL MAR, PETITIONER, VS. PHILIPPINE AMUSEMENT AND GAMING CORPORATION, BELLE JAI-ALAI CORPORATION, FILIPINAS GAMING ENTERTAINMENT TOTALIZATOR CORPORATION, RESPONDENTS.

G.R. No. 138298. August 24, 2001

Ponente: VITUG, J.

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VITUG, J.:

In it's decision, dated 29 November 2000, the Court granted the petitions filed by Raoul B. Del Mar, Federico S. Sandoval II and Michael T. Defensor to enjoin the Philippine Amusement and Gaming Corporation (PAGCOR), Belle Jai-Alai Corporation (BELLE) and Filipinas Gaming Entertainment Totalizator Corporation (FILGAME) from operating, maintaining or managing jai-alai games and from enforcing the 17[th] June 1999 Agreement entered into among said respondents for that purpose.[1]

The ponencia penned by Justice Reynato S. Puno, concurred in by Chief Justice Hilario G. Davide, Jr., and Justices Jose A.R. Melo, Artemio V. Panganiban, Bernardo P. Pardo, Arturo B. Buena, Minerva P. Gonzaga-Reyes and Consuelo Ynares-Santiago, enucleated that PAGCOR was bereft of any franchise to operate, maintain or manage jai-alai games whether by itself alone or in conjunction with its co-respondents. The dissenting opinion of Justice Sabino R. de Leon, Jr., subscribed to by Justices Josue N. Bellosillo, Santiago M. Kapunan and Leonardo A. Quisumbing, stated that PAGCOR had a valid franchise to conduct jai-alai games and had likewise the authority under that franchise to maintain, operate or manage jai-alai games through and in association with its co-respondents BELLE and FILGAME pursuant to their agreement. The separate opinion of Justice Jose C. Vitug, shared by Justice Vicente V. Mendoza, expressed the view that while the franchise accorded to PAGCOR was broad enough to authorize it to operate sports and gaming pools, inclusive of jai-alai, that authority, however, did not allow it to contract any part of that franchise to its co-respondents BELLE and FILGAME.

The subsequent motions for reconsideration were resolved in the Court's resolution of 19 June 2001, in this wise; viz:

> "Acting on the motions for reconsideration filed by public respondent Philippine Amusement and Gaming Corporation (PAGCOR) and private respondents Belle Jai-Alai Corporation (BELLE), and Filipinas Gaming Entertainment Totalizator Corporation (FILGAME), seeking to reverse the court's Decision dated November 29, 2000, only seven (7) justices, namely, Josue Bellosillo, Jose Melo, Santiago Kapunan, Leonardo Quisumbing, Consuelo Y. Santiago, Sabino de Leon and Angelina Gutierrez voted to grant the motions. For lack of required number of votes, the said motions for reconsideration are denied. The opinions of Justices Puno, Melo, Vitug and De Leon are herewith made part of this resolution."

Respondents have sought from the Court a clarification of the foregoing resolution.

During the deliberations of the Court culminating in the promulgation of its 19[th] June 2001 resolution, the

justices voted thusly: (a) Chief Justice Hilario G. Davide, Jr., and Justices Reynato S. Puno, Artemio V. Panganiban, Bernardo P. Pardo and Minerva P. Gonzaga-Reyes held that PAGCOR had no valid franchise and that, therefore, it had no authority to operate, maintain or manage jai-alai games, either by itself or in association with any other entity; (b) Justices Josue N. Bellosillo, Jose A.R. Melo, Santiago M. Kapunan, Leonardo A. Quisumbing, Consuelo Ynares-Santiago, Sabino R. de Leon, Jr., and Angelina Sandoval-Gutierrez concluded that PAGCOR had a valid franchise to conduct jai-alai games and that it could operate, maintain or manage such games by itself or in association with BELLE and FILGAME conformably with their agreement; while (c) Justices Jose C. Vitug, Vicente V. Mendoza and Arturo B. Buena maintained that PAGCOR alone could operate, maintain or manage jai-alai games but that it could not contract, either directly or indirectly, any of such activities to entities, including BELLE and FILGAME, which were not themselves holders of a valid franchise.

In fine, the results of voting on the issues raised in the motions for reconsideration, can be summed up thusly: On the issue of whether PAGCOR itself has a valid franchise to conduct jai-alai games, five members of the Court (Chief Justice Hilario G. Davide, Jr., and Justices Reynato S. Puno, Artemio V. Panganiban, Bernardo P. Pardo, and Minerva P. Gonzaga-Reyes) have voted in the negative and ten members of the Court (Justices Josue N. Bellosillo, Jose A. R. Melo, Jose C. Vitug, Vicente V. Mendoza, Santiago M. Kapunan, Leonardo A. Quisumbing, Arturo B. Buena, Consuelo Ynares-Santiago, Sabino R. De Leon, Jr., and Angelina Sandoval-Gutierrez) have voted in the affirmative; and on the issue of whether PAGCOR can operate, maintain or manage jai-alai games in association with Belle and Filgame according to their assailed agreement, only seven members of the Court (Justices Josue N. Bellosillo, Jose A. R. Melo, Santiago M. Kapunan, Leonardo A. Quisumbing, Consuelo Ynares-Santiago, Sabino R. De Leon, Jr., and Angelina Sandoval-Gutierrez) have voted in the affirmative; while eight members of the Court have voted in the negative - five justices (Chief Justice Hilario G. Davide, Jr., and Justices Reynato S. Puno, Artemio V. Panganiban, Bernardo P. Pardo, and Minerva P. Gonzaga-Reyes) have voted in the negative on the thesis that PAGCOR has no franchise to operate, maintain, or manage jai-alai, and three justices (Justices Jose C. Vitug, Vicente V. Mendoza, and Arturo B. Buena) have voted in the negative on the ground that only PAGCOR by itself, not with any other person or entity, can operate, maintain, or manage jai-alai games.

WHEREFORE, acting on the instant motions for clarification filed by respondents and on the basis of the results of the voting heretofore elucidated, the Court resolves (a) to partially GRANT the motions for clarification insofar as it is prayed that Philippine Amusement and Gaming Corporation (PAGCOR) has a valid franchise to, but only by itself (i.e., not in association with any other person or entity), operate, maintain and/or manage the game of jai-alai, and (b) to DENY the motions insofar as respondents would also seek a reconsideration of the Court's decision of 29 November 2000 that has, since then, (i) enjoined the continued operation, maintenance, and/or management of jai-alai games by PAGCOR in association with its co-respondents Belle Jai-Alai Corporation and/or Filipinas Gaming Entertainment Totalizator Corporation and (ii) held to be without force and effect the agreement of 17 June 1999 among said respondents.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, De Leon, Jr., and Sandoval-Gutierrez, JJ., concur.

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[1] The dispositive portion of the decision reads:

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"WHEREFORE, the petitions are GRANTED. Respondents PAGCOR, Belle Jai Alai Corporation and Filipinas Gaming Entertainment Totalizator Corporation are ENJOINED from managing, maintaining and operating jai alai games, and from enforcing the agreement entered into by them for that purpose." (p. 42, Decision.)

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