

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

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

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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 P5,000 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 SY) 80,000

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:

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

The Committee thus recommended as follows:

- 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:

WHEREFORE, CSC Resolution Nos. 981738 dated July 2, 1998 and 990479 dated February 16, 1999 [sic] are hereby ANNULLED. Respondent PAGCOR is hereby ordered to pay petitioner his backwages, bonuses, tips plus all the benefits and privileges granted to a Branch Manager in petitioner's work from December 5, 1997 up to his actual reinstatement. Further, respondent PAGCOR is ordered to reinstate petitioner to his former position without loss of rank and seniority rights.[25]

The appellate court held that Syhongpan could not be found guilty of grave misconduct and dishonesty as, for such offenses to merit his dismissal from the service, they must have a direct relation to, and be connected with, the performance of his official duties. It noted that the incident did not occur in Syhongpan's office in Davao, but in Manila; and that there was nothing on record to support the finding that it was Syhongpan who was responsible for the check accommodation given to a playing customer. Syhongpan's involvement, the appellate court concluded, was based on mere speculations and conjectures.[26]

PAGCOR's motion for reconsideration having been denied,[27] it filed the present petition faulting the appellate court

I

. . . WHEN IT FAILED TO CONSIDER THAT THE RESPONDENT IS GUILTY OF DISHONESTY, GRAVE MISCONDUCT AND CONDUCT GROSSLY PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE.

II

. . . WHEN IT REVERSED AND NULLIFIED THE FINDING OF THE CSC AFFIRMING THE FINDINGS OF THE PAGCOR BOARD DISMISSING THE RESPONDENT FROM THE SERVICE BECAUSE OF DISHONESTY, GROSS MISCONDUCT AND CONDUCT GROSSLY PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE.

III

. . . WHEN IT FAILED TO CONSIDER THE RESPONDENT A CONFIDENTIAL EMPLOYEE WHOSE TERM HAD EXPIRED BY REASON OF LOSS OF CONFIDENCE.[28]

The appeal is impressed with merit.

Dishonesty, to warrant dismissal, need not be committed in the performance of duty of the employee charged. In *Remolona v. Civil Service Commission*,[29] the therein petitioner, a Postmaster at the Postal Office Service in Infanta, Quezon, was dismissed by the CSC for dishonesty – acquiring fake eligibility for his wife who was an elementary school teacher. Posed as main issue was whether a civil service employee can be dismissed from the government service for an offense which is not work-related or which is not connected with the performance of his official duty. This Court, upholding the legality of the dismissal, held:

It cannot be denied that dishonesty is considered a grave offense punishable by dismissal for the first offense under Section 23, Rule XIV of the Rules Implementing Book V of Executive Order No. 292. And the rule is that dishonesty, in order to warrant dismissal, need not be committed in the course of the performance of duty by the person charged. The rationale for the rule is that if a government officer or employee is dishonest or is guilty of oppression or grave misconduct, even if said defects of character are not connected with his office, they affect his right to continue in office. The Government cannot tolerate in its service a dishonest official, even if he performs his duties correctly and well, because by reason of his government position, he is given more and ample opportunity to commit acts of dishonesty against his fellow men, even against offices and entities of the government other than the office where he is employed; and by reason of his office, he enjoys and possesses a certain influence and power which renders the victims of his grave misconduct, oppression and dishonesty less disposed and prepared to resist and to counteract his evil acts and actuations. The private life of an employee cannot be segregated from his public life. Dishonesty inevitably reflects on the fitness of the officer or employee to continue in office and the discipline and morale of the service. (Emphasis supplied)

Syhongpan did indeed commit serious violations of casino rules and regulations and his duties as Branch Manager of Casino Filipino-Davao. By his own admission, he formed a "corporation" composed of persons who agreed to pool together their resources and play at the gaming tables and share in the profits or losses,[30] thereby advancing his personal interest over that of the corporation which he was duty bound to protect, being a high officer of the corporation. Such admission, together with his other admissions detailed above which are against his interest, clearly merit his dismissal.

As the CSC, which adopted the factual findings and recommendations of the CIU as well as the Adjudication Committee of PAGCOR, aptly ruled:

As borne by the records of the case, Syhongpan circumvented casino regulations prohibiting New PAGCOR officers from playing beyond 6:00 o'clock 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[.]" Gonzales, acting under the direction and control by [sic] Syhongpan, approached various financiers whenever their partnership needed additional capital, incurring a total indebtedness of P2.7 Million pesos. When they could not borrow from the financiers, Syhongpan utilized the character and reputation of a certain Quintin A. Llorente as an indorsee/guarantor to present himself as the purported applicant for the accommodation. This was an act of fraud, since the true applicant/owner of the checks was Corazon Castillo and not Quintin Llorente. Syhongpan also took advantage of his position and influence as Branch Manager of a PAGCOR casino. Likewise Gonzales took advantage of his position and influence as Casino Operations Manager of Casino Filipino-Heritage to circumvent the existing approval procedure for personal checks accommodations. This allowed the partnership to borrow a total of P7 Million pesos from the Heritage Treasury.[31]

It is axiomatic that where the findings of the administrative body are amply supported by substantial evidence, as they are in the present case, they are accorded not only respect but also finality, and are binding on this Court.[32]

At all events, since Syhongpan is occupying a Branch Manager position of Casino Filipino-Davao which is primarily confidential, his dismissal from the service by the Board of Directors of PAGCOR under the circumstances is in order.

WHEREFORE, the Court of Appeals Decision of June 20, 2000 is hereby REVERSED and SET ASIDE. The Civil Service Commission Resolution No. 981738 dated July 2, 1998 and No. 990479 dated February 17, 1999 are REINSTATED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 34-45.

[2] Id. at 34.

[3] Id. at 54.

[4] Records, pp. 203-204.

[5] Rollo, p. 55.

[6] Id. at 112-113. Vide also rollo, pp. 126-127.

[7] Id. at 55.

[8] Id. at 124 and 55.

[9] Id. at 124 and 55.

[10] Id. at 124-125.

[11] Id. at 125.

[12] Id. at 126 and 56.

[13] Id. at 56. Vide also the CIU's Investigation Report at 96-101.

[14] Id. at 55.

[15] Id. at 129.

[16] Id. at 56.

[17] Id. at 128.

[18] Id. at 137-138.

[19] Id. at 57.

[20] Id. at 16.

[21] Id. at 49-59.

[22] Id. at 59.

[23] Id. at 60-62.

[24] Id. at 34-45. Penned by Associate Justice Demetrio Demetria and concurred in by Associate Justices Eubolo

Verzola and Jose Sabio, Jr.

[25] Id. at 45.

[26] Id. at 38 and 44.

[27] Id. at 48.

[28] Rollo, p. 18.

[29] G.R. No. 137473, August 2, 2001, 362 SCRA 304, 313 citing *Nera v. Garcia, et al.* 106 Phil. 1031, 1036 (1960); See also *Alabastro v. Moncada, Sr.*, A.M No. P-04-1887, December 16, 2004, 447 SCRA 42, 59.

[30] Rollo, p. 124.

[31] Id. at 57-58.

[32] *Tiatco v. Civil Service Commission*, G. R. No. 100249, December 21, 1992, 216 SCRA 749, 754. Vide also *Smith Kline & French Laboratories, Ltd. v. Court of Appeals*, 420 Phil. 10, 23-24 (2001); *Santos v. Macaraig*, G. R. No. 94070, April 10, 1992, 208 SCRA 74, 80.

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