

**PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR)
REPRESENTED BY ATTY. CARLOS R. BAUTISTA, JR., PETITIONER, VS.
PHILIPPINE GAMING JURISDICTION INCORPORATED (PEJI),
ZAMBOANGA ...**

G.R. No. 177333. April 24, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Before the Court is a petition for Prohibition.

Republic Act No. 7903 (R.A. No. 7903), which was enacted into law on February 23, 1995, created the Zamboanga City Special Economic Zone (ZAMBOECOZONE) and the ZAMBOECOZONE Authority. Among other things, the law gives the ZAMBOECOZONE Authority the following power under Sec. 7 (f), viz:

Section 7.

x x x x

(f) To operate on its own, either directly or through a subsidiary entity, or license to others, tourism-related activities, including games, amusements and recreational and sports facilities;

x x x x

Apparently in the exercise of its power granted under the above provision, public respondent ZAMBOECOZONE Authority passed Resolution No. 2006-08-03 dated August 19, 2006 approving the application of private respondent Philippine E-Gaming Jurisdiction, Inc. (PEJI) to be a Master Licensor/Regulator of on-line/internet/electronic gaming/games of chance.

PEJI forthwith undertook extensive advertising campaigns representing itself as such licensor/regulator to the international business and gaming community, drawing the Philippine Amusement and Gaming Corporation (PAGCOR) to file the present petition for Prohibition which assails the authority of the ZAMBOECOZONE Authority to operate, license, or regulate the operation of games of chance in the ZAMBOECOZONE.

PAGCOR contends that R.A. No. 7903, specifically Section 7(f) thereof, does not give power or authority to the ZAMBOECOZONE Authority to operate, license, or regulate the operation of games of chance in the ZAMBOECOZONE. Citing three (3) statutes, which it claims are in pari materia with R.A. No. 7903 as it likewise created economic zones and provided for the powers and functions of their respective governing and administrative authorities, PAGCOR posits that the grant therein of authority to operate games of chance is clearly expressed, but it is not similarly so in Section 7(f) of R.A. No. 7903.

Thus PAGCOR cites these three statutes and their respective pertinent provisions:

Republic Act No. 7227, or the "Bases Conversion and Development Authority Act" enacted on March 13, 1992:

Section 13. The Subic Bay Metropolitan Authority. -

x x x x

(b) Powers and functions of the Subic Bay Metropolitan Authority. - The Subic Bay Metropolitan Authority, otherwise known as the Subic Authority, shall have the following powers and functions:

x x x x

(7) To operate directly or indirectly or license tourism-related activities subject to priorities and standards set by the Subic Authority including games and amusements, except horse-racing, dog-racing and casino gambling which shall continue to be licensed by the Philippine Amusement and Gaming Corporation (PAGCOR) upon recommendation of the Conversion Authority; to maintain and preserve the forested areas as a national park;

x x x x

Republic Act No. 7922 or the "Cagayan Economic Zone Act of 1995" enacted on February 24, 1995:

Section 6. Powers and Functions of the Cagayan Economic Zone Authority - The Cagayan Economic Zone Authority shall have the following powers and functions:

x x x x

(f) To operate on its own, either directly or through a subsidiary entity, or license to others, tourism-related activities, including games, amusements, recreational and sports facilities such as horse-racing, dog-racing gambling, casinos, golf courses, and others, under priorities and standards set by the CEZA;

x x x x

And Republic Act No. 7916 or the "Special Economic Zone Act of 1995," enacted on February 24, 1995 authorizing other economic zones established under the defunct Export Processing Zone Authority (EPZA) and its successor Philippine Economic Zone Authority (PEZA) to establish casinos and other games of chance under the license of PAGCOR by way of the ipso facto clause, viz:

SECTION 51. Ipso Facto Clause. - All privileges, benefits, advantages or exemptions granted to special economic zones under Republic Act No. 7227 shall ipso facto be accorded to special economic zones already created or to be created under this Act. The free port status shall not be vested upon the new special economic zones.

PAGCOR maintains that, compared with the above-quoted provisions of the ecozone-related statutes, Section 7(f) of R.A. No. 7903 does not categorically empower the ZAMBOECOZONE Authority to operate, license, or authorize entities to operate games of chance in the area, as the words "games" and "amusement" employed therein do not include "games of chance." Hence, PAGCOR concludes, ZAMBOECOZONE Authority's grant of license to private respondent PEJI encroached on its (PAGCOR's) authority under Presidential Decree No. 1869 vis-a-vis the above-stated special laws to centralize and regulate all games of chance.

ZAMBOECOZONE Authority, in its Comment,[1] contends that PAGCOR has no personality to file the present petition as it failed to cite a superior law which proves its claim of having been granted exclusive right and authority to license and regulate all games of chance within the Philippines; and that, contrary to PAGCOR's assertion, the words "games" and "amusements" in Section 7(f) of R.A. No. 7903 include "games of chance" as was the intention of the lawmakers when they enacted the law.

In its Reply Ex Abundante Ad Cautelam,[2] PAGCOR cites the November 27, 2006 Opinion[3] rendered by the Office of the President through Deputy Executive Secretary for Legal Affairs Manuel B. Gaité, the pertinent

portions of which read:

Coming to the issue at hand, the ZAMBOECOZONE Charter simply allows the operation of tourism-related activities including games and amusements without stating any form of gambling activity in its grant of authority to ZAMBOECOZONE.

x x x x

In view of the foregoing, we are of the opinion that under its legislative franchise (RA 7903), the ZAMBOECOZONE is not authorized to enter into any gaming activity by itself unless expressly authorized by law or other laws specifically allowing the same. (Emphasis and underscoring supplied)

The Court finds that, indeed, R.A. No. 7903 does not authorize the ZAMBOECOZONE Authority to operate and/or license games of chance/gambling.

Section 7(f) of R.A. No. 7903 authorizes the ZAMBOECOZONE Authority "[t]o operate on its own, either directly or through a subsidiary entity, or license to others, tourism-related activities, including games, amusements and recreational and sports facilities."

It is a well-settled rule in statutory construction that where the words of a statute are clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.[4]

The plain meaning rule or *verba legis*, derived from the maxim *index animi sermo est* (speech is the index of intention), rests on the valid presumption that the words employed by the legislature in a statute correctly express its intention or will, and preclude the court from construing it differently. For the legislature is presumed to know the meaning of the words, to have used them advisedly, and to have expressed the intent by use of such words as are found in the statute. *Verba legis non est recedendum*. From the words of a statute there should be no departure.[5]

The words "game" and "amusement" have definite and unambiguous meanings in law which are clearly different from "game of chance" or "gambling." In its ordinary sense, a "game" is a sport, pastime, or contest; while an "amusement" is a pleasurable occupation of the senses, diversion, or enjoyment.[6] On the other hand, a "game of chance" is "a game in which chance rather than skill determines the outcome," while "gambling" is defined as "making a bet" or "a play for value against an uncertain event in hope of gaining something of value." [7]

A comparison of the phraseology of Section 7(f) of R.A. No. 7903 with similar provisions in the three cited statutes creating ECOZONES shows that while the three statutes, particularly R.A. No. 7922 which authorized the Cagayan Economic Zone Authority to directly or indirectly operate gambling and casinos within its jurisdiction, categorically stated that such power was being vested in their respective administrative bodies, R.A. No. 7903 did not.

The spirit and reason of the statute may be passed upon where a literal meaning would lead to absurdity, contradiction, injustice, or defeat the clear purpose of the lawmakers.[28] Not any of these instances is present in the case at bar, however. Using the literal meanings of "games" and "amusement" to exclude "games of chance" and "gambling" does not lead to absurdity, contradiction, or injustice. Neither does it defeat the intent of the legislators. The lawmakers could have easily employed the words "games of chance" and "gambling" or even "casinos" if they had intended to grant the power to operate the same to the ZAMBOECOZONE Authority, as what was done in R.A. No. 7922 enacted a day after R.A. No. 7903. But they did not.

The Court takes note of the above-mentioned Opinion of the Office of the President which, after differentiating the grant of powers between the Cagayan Special Economic Zone and the ZAMBOECOZONE Authority, states

that while the former is authorized to, among other things, operate gambling casinos and internet gaming, as well as enter into licensing agreements, the latter is not. The relevant portions of said Opinion read:

The difference in the language and grant of powers to CEZA and ZAMBOECOZONE is telling. To the former, the grant of powers is not only explicit, but amplified, while to the latter the grant of power is merely what the law (RA 7903) states. Not only are the differences in language telling, it will be noted that both charters of CEZA and ZAMBOECOZONE were signed into law only one (1) day apart from each other, i.e., February 23, 1995 in the case of ZAMBOECOZONE and February 24, 1995 in the case of CEZA. x x x Accordingly, both laws have to be taken in the light of what Congress intended them to be, and the distinction that the lawmakers made when they enacted the two laws.

Coming to the issue at hand, the ZAMBOECOZONE Charter simply allows the operation of tourism-related activities including games and amusements without stating any form of gambling activity in its grant of authority to ZAMBOECOZONE. On the other hand, the grant to CEZA included such activities as horse-racing, dog-racing and gambling casinos.

x x x x

In view of the foregoing, we are of the opinion that under its legislative franchise (RA 7903), the ZAMBOECOZONE is not authorized to enter into any gaming activity by itself unless expressly authorized by law or other laws specifically allowing the same. (Emphasis supplied)

Both PAGCOR and the Ecozones being under the supervision of the Office of the President, the latter's interpretation of R.A. No. 7903 is persuasive and deserves respect under the doctrine of respect for administrative or practical construction. In applying said doctrine, courts often refer to several factors which may be regarded as bases thereof - factors leading the courts to give the principle controlling weight in particular instances, or as independent rules in themselves. These factors include the respect due the governmental agencies charged with administration, their competence, expertness, experience, and informed judgment and the fact that they frequently are the drafters of the law they interpret; that the agency is the one on which the legislature must rely to advise it as to the practical working out of the statute, and practical application of the statute presents the agency with unique opportunity and experiences for discovering deficiencies, inaccuracies, or improvements in the statute.[8]

In fine, Section 7(f) did not grant to the ZAMBOECOZONE Authority the power to operate and/or license games of chance/gambling.

WHEREFORE, the petition is GRANTED. Public respondent Zamboanga Economic Zone Authority is DIRECTED to CEASE and DESIST from exercising jurisdiction to operate, license, or otherwise authorize and regulate the operation of any games of chance. And private respondent Philippine Gaming Jurisdiction, Incorporated is DIRECTED to CEASE and DESIST from operating any games of chance pursuant to the license granted to it by public respondent.

SO ORDERED.

Tinga, Velasco, Jr., Leonardo De Castro[*], and Brion, JJ., concur.

[*] Additional member in lieu of Justice Leonardo A. Quisumbing who is on official leave.

[1] Rollo, pp. 75-85.

[2] Id. at 99-109.

[3] Annex "A" of Reply, id. at 111-113.

[4] Vide National Food Authority (NFA) v. Masada Security Agency, Inc., G.R. No. 163448, March 8, 2005, 453 SCRA 70, 79; Philippine National Bank v. Garcia, Jr., G.R. No. 141246, September 9, 2002, 388 SCRA 485, 487, 491.

[5] Id.

[6] Black's Law Dictionary, Sixth Edition, West Publishing Co., St. Paul, Minnesota, U.S.A., 1990, pp. 679 and 84.

[7] Id. at 679.

[8] Asturias v. Commissioner of Customs, G.R. No. L-19337, September 30, 1969, 29 SCRA 617, 623.

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