

# FIRST DIVISION

[ G.R. No. 252189, November 03, 2020 ]

**GAMES AND AMUSEMENT BOARD AND BUREAU OF INTERNAL REVENUE, PETITIONERS, VS. KLUB DON JUAN DE MANILA, INC., AND CESAR AVILA, JR., MANILA JOCKEY CLUB, INC. PHILIPPINE RACING CLUB, INC., AND METRO MANILA TURF CLUB, INC. RESPONDENTS.**

## DECISION

**CARANDANG, J.:**

Before this Court is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court, assailing the Decision<sup>[2]</sup> dated February 28, 2019 and the Resolution<sup>[2]</sup> dated November 11, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 158302 filed by Klub Don Juan De Manila, Inc. (Klub Don Juan) and Cesar G. Avila, Jr. against the Games and Amusement Board (GAB), the Bureau of Internal Revenue (BIR), Manila Jockey Club, Inc. (MJCI), Philippine Racing Club, Inc. (PRCI), and Metro Manila Turf Club, Inc. (MMTCI).

### Facts of the Case

On May 25, 2018, Klub Don Juan filed a complaint for Injunction with Prayer for Issuance of Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction<sup>[3]</sup> against the GAB, the BIR, MJCI, PRCI, and MMTCI. Klub Don Juan is an organization whose members are racehorse owners regularly participating in horse racing conducted by different racing clubs." On the other hand, the MJCI, PRCI, and MMTCI (collectively, racing clubs) are grantees of legislative franchises, allowing them to construct, maintain, and operate horse racing tracks.<sup>[4]</sup> Their legislative franchises imposed upon the racing clubs the duty to withhold and remit documentary stamp taxes (DST) to the BIR.<sup>[5]</sup>

Section 11 of Republic Act No. (R.A.) 8407 or the law granting franchise to MJCI provides for the following:

Section 11. Documentary Stamps. - On each horse racing ticket, there shall be collected a documentary stamp tax of Ten centavos (P0.10): provided, that if the cost of the ticket exceeds One peso (P1.00), an additional tax of Ten centavos (P0.10) on every One peso (P1.00) or fractional part thereof shall be collected.

Section 8 of R.A. 7953, the law granting franchise to PRCI states that:

Section 8. On each horse racing ticket, there shall be collected a documentary stamp tax of ten centavos (P0.10): Provided, that if the cost of the ticket exceeds one peso (P1.00), an additional tax of ten

centavos (P0.10) on every one peso (P1.00) or fractional part thereof shall be collected: Provided, further, that in case of double, forecast/quinella and trifecta bets the tax shall be five centavos (P0.05) on every one peso (P1.00) worth of ticket.

Section 6 of R.A. 7978 or the law granting franchise to MMTCI provides that:

Section 6. On each horse racing ticket, there shall be collected a documentary stamp tax of Ten centavos (P0.10): Provided, That if the cost of the ticket exceeds One peso (P1.00), an additional tax of Ten centavos (P0.10) on every One peso (P1.00) or fractional part thereof shall be collected: Provided, Further, That in the case of double forecast/quinella and trifecta bets, the tax shall be Five centavos (P0.05) on every One peso (P1.00) worth of ticket.

On January 1, 2018, R.A. 10963, otherwise known as the "Tax Reform for Acceleration and Inclusion (TRAIN) Law" took effect, which amended the old law on DST as follows:

Section 63. Section 190 of the NIRC, as amended, is hereby further amended to read as follows:

Section 190. Stamp Tax on Jai-alai, Horse Race, Tickets, Lotto or Other Authorized Numbers Games. - On each jai-alai, horse race ticket, lotto, or other authorized numbers games, there shall be collected a documentary stamp tax of **Twenty centavos (P0.20)**: Provided, That if the cost of the ticket exceed **One peso (P1.00)**, an additional tax of **Twenty centavos (P0.20)** on every **One peso (P1.00)**, or fractional part thereof, shall be collected. (Emphasis supplied)

Upon the effectivity of the TRAIN Law, there was a substantial increase on the DST withheld as compared to the DST under the franchises of the racing clubs. Because of this, Klub Don Juan alleged that there is a conflict between the provisions of the franchises of the racing clubs being a special law and the provisions of the TRAIN Law.<sup>[8]</sup> Klub Don Juan asserted that the GAB and the BIR should be restrained from enforcing the provision of the TRAIN Law on the increased DST rate. Instead, the franchise rates should continue to apply since it was not specifically amended by the TRAIN Law. Further, Klub Don Juan claimed that the application of the increased DST resulted in the reduction of dividends granted to the winning bettor. The reduced dividends drove away bettors which resulted in lesser gross sales.<sup>[9]</sup>

The GAB and BIR through the Office of the Solicitor General filed an *Urgent Ad Cautelam Motion for Re-Raffle*<sup>[10]</sup> arguing that they have not received the Notice of Raffle of the case.<sup>[11]</sup> The GAB and the BIR, likewise, filed an *Ad Cautelam Opposition to the Grant of a Temporary Restraining Order with a Motion to Dismiss*.<sup>[12]</sup> According to the GAB and the BIR, the withholding of the increased rates of DST under the TRAIN Law, which is sought to be restrained by Klub Don Juan, is outside the territorial jurisdiction of the Regional Trial Court (RTC) of Mandaluyong City, Branch 213 because horse race tickets may be purchased all over the country and not just in Metro Manila.<sup>[13]</sup> The GAB and the BIR added that Section 218 of the National Internal Revenue Code (NIRC) prohibits the grant of injunction to restraint the collection of national internal revenue taxes including DST.<sup>[14]</sup> Lastly, the GAB

and the BIR asserted that Klub Don Juan is not entitled to a TRO or Writ of Preliminary Injunction because it was not able to prove a clear legal right that would entitle it to the injunctive relief.<sup>[15]</sup>

MMTCI concurred with Klub Don Juan that the TRAIN Law is a general law that should yield to the law granting franchise to the racing clubs.

PRCI and MCJI manifested their compliance with the TRAIN Law rate but averred that the higher DST on horse racing tickets threatened the continued operation of the racing clubs.<sup>[16]</sup>

### **Ruling of the Regional Trial Court**

In its Order<sup>[17]</sup> dated July 25, 2018, the RTC explained that anent the motion for re-raffle, electronic raffle of all cases immediately after filing thereof has been mandated pursuant to the directive of the Court. Thus, the motion for re-raffle was denied.<sup>[18]</sup>

However, the RTC granted the motion to dismiss filed by the GAB and the BIR on the ground that it has no jurisdiction to restrain the collection of the DST under Section 218 of the NIRC.<sup>[19]</sup>

Klub Don Juan moved for reconsideration which was denied in a Resolution<sup>[20]</sup> dated September 18, 2018. Consequently, Klub Don Juan filed an appeal to the CA.

### **Ruling of the Court of Appeals**

On February 28, 2019, the CA issued its Decision<sup>[21]</sup> which granted the appeal of Klub Don Juan, reinstated the case, and directed the RTC to continue the proceedings.

While the CA agreed that the RTC does not have the jurisdiction to grant the provisional relief of injunction prayed for by Klub Don Juan, nevertheless, the CA held that it was erroneous for the RTC to also dismiss the main action. The CA explained that although the complaint filed by Klub Don Juan with the RTC was denominated as one for "Injunction," nevertheless, the claims asserted therein made out a case for declaratory relief.<sup>[22]</sup>

According to the CA, the allegations in the complaint filed by Klub Don Juan and the ultimate prayer of the latter is for the RTC to make a judicial declaration as to which statutory DST rate to apply upon the effectivity of the TRAIN Law.<sup>[23]</sup> The CA held that all the requisites of an action for declaratory relief are present in the case because there is no showing of any breach yet of the provisions of the TRAIN Law on the increased DST rate. The CA also found that there is ripening judicial controversy considering the adverse positions of the GAB and the BIR *vis-a-vis* Klub Don Juan and the racing clubs. Since the true cause of action of Klub Don Juan was for declaratory relief, then the complaint falls under the jurisdiction of the RTC. Thus, its dismissal by the RTC was premature.<sup>[24]</sup>

The GAB and the BIR filed a motion for reconsideration, but it was denied in a