

THIRD DIVISION

[G.R. Nos. 236577 and 236597, August 15, 2018]

**PHILIPPINE CHARITY SWEEPSTAKES OFFICE, PETITIONER, VS.
HON. MAXIMO M. DE LEON, PRESIDING JUDGE OF THE MAKATI
CITY REGIONAL TRIAL COURT, BRANCH 143, AND PHILIPPINE
GAMING AND MANAGEMENT CORPORATION, RESPONDENTS.**

DECISION

LEONEN, J.:

Absent the showing of an existing right to be protected, a party's application for an injunctive relief must necessarily be denied.

This is a Petition for Certiorari^[1] under Rule 65 of the 1997 Rules of Civil Procedure, praying that the August 3, 2017^[2] and November 7, 2017^[3] Resolutions and the August 10, 2017 Writ of Preliminary Injunction^[4] of the Regional Trial Court be reversed and set aside.^[5] The Regional Trial Court granted the Philippine Gaming and Management Corporation's application for injunctive relief.^[6]

Petitioner Philippine Charity Sweepstakes Office likewise prays for the issuance of a *status quo ante* order or a Temporary Restraining Order and/or Writ of Preliminary Injunction to enjoin the Philippine Gaming and Management Corporation and Presiding Judge Maximo M. De Leon (Judge De Leon): (1) "from committing or performing any acts pursuant to the Assailed Resolution and Writ and/or barring or preventing [the Philippine Charity Sweepstakes Office] from bidding the [Nationwide On-line Lottery System] project and/or from proceeding with any procurement activities to procure online lottery equipment;"^[7] and (2) "from doing anything that will adversely affect, impede, obstruct, and/or prevent the smooth conduct of the bidding for the [Nationwide On-line Lottery System] project."^[8]

This case arose from the Equipment Lease Agreement^[9] executed on January 25, 1995 by the Philippine Charity Sweepstakes Office and the Philippine Gaming and Management Corporation. The Equipment Lease Agreement provided that the Philippine Charity Sweepstakes Office, as lessee, will lease the lottery equipment and accessories of the Philippine Gaming and Management Corporation, as lessor, for the operation of its online lottery in Luzon. The term of the Equipment Lease Agreement was eight (8) years or until 2003.^[10]

On November 14, 1997, the Philippine Charity Sweepstakes Office and the Philippine Gaming and Management Corporation amended the Equipment Lease Agreement "to reduce the original number of required terminals from 2,000 to 1,250 terminals."^[11] Several cases were filed in court causing the 8-year term of the Equipment Lease Agreement to commence in 1999. With the 4-year delay, the Equipment Lease

Agreement would end in 2007.^[12]

On December 29, 2004, the Philippine Charity Sweepstakes Office and the Philippine Gaming and Management Corporation executed another lease agreement, amending the Equipment Lease Agreement.^[13] One of the provisions in the Amendments to Equipment Lease Agreement^[14] was on the extension of the lease duration to another eight (8) years or until 2015.^[15] Paragraph 3 of the Amendments to Equipment Lease Agreement provides:

3. **Paragraph 3** of the [Equipment Lease Agreement] is hereby amended by extending the lease term for a period of eight (8) years commencing 23 August 2007; provided that, all of the upgraded/replacement equipment shall be ready for commercial operation no later than 23 August 2007; and provided further that, every two (2) years thereafter until the end of the term of this Agreement, as required by mutual agreement of the parties, the LESSOR guarantees the periodic upgrading of all equipment at no additional cost on the part of the LESSEE.^[16] (Emphasis in the original)

In 2011, the Equipment Lease Agreement was investigated by the Philippine Senate Blue Ribbon Committee.^[17] The investigation was conducted due to an alleged "lapse in financial judgment"^[18] when the Philippine Charity Sweepstakes Office rented lottery machines for US\$148,000,000.00, instead of purchasing them for US\$25,000,000.00.^[19] After investigation, the Philippine Senate Blue Ribbon Committee recommended that the Philippine Charity Sweepstakes Office proceed with the renegotiation of the rental fee "to ensure that the basis for the fees is commensurate to the cost of the subject of the lease and that the amount thereof is not unduly burdensome to the public."^[20] The Philippine Senate Blue Ribbon Committee also recommended that the renegotiations should be pursued not only with the Philippine Gaming and Management Corporation but also with the Pacific Online Systems Corporation (Pacific Online), the on-line lottery operator for Visayas and Mindanao.^[21]

Pursuant to the Philippine Senate Blue Ribbon Committee's recommendation, the Philippine Charity Sweepstakes Office sought the renegotiation of the lease rental rate with the Philippine Gaming and Management Corporation, and Pacific Online. Pacific Online conceded for the reduction of the lease rental to 7.85% of the gross lotto sales. Since the Philippine Gaming and Management Corporation declined to reduce the rental rate of 10% of the gross lotto sales, the Philippine Charity Sweepstakes Office allowed Pacific Online to provide lottery equipment for the on-line lottery operations in Luzon.^[22]

On June 8, 2012, while the Amendments to Equipment Lease Agreement was still in effect, the Philippine Gaming and Management Corporation filed a Petition for Indirect Contempt with Temporary Restraining Order and/or Writ of Preliminary Injunction before the Regional Trial Court of Makati City. The case was docketed as SCA Case 12-530.^[23] The Philippine Gaming and Management Corporation argued that the Philippine Charity Sweepstakes Office "violated a Court order confirming its exclusiv[e] right."^[24] Impleaded as respondents were the Philippine Charity

Sweepstakes Office, its Chairman Margarita P. Juico, and its Board of Directors, namely, Ma. Aleta L. Tolentino, Betty B. Nantes, Mabel V. Mamba, and Francisco G. Joaquin III (collectively, the Philippine Charity Sweepstakes Office and its Board and Officials).

On the other hand, the Philippine Charity Sweepstakes Office and its Board and Officials filed an Omnibus Motion to Dismiss Ad Cautelam^[25] on June 26, 2012 and a Supplemental Motion to Dismiss on July 9, 2012.^[26] They contended that the Regional Trial Court has no jurisdiction over the case and that the Philippine Gaming and Management Corporation "has no exclusive right as the sole supplier of on-line lottery equipment to [the Philippine Charity Sweepstakes Office] in Luzon territory."^[27]

On July 12, 2012, then Acting Presiding Judge Rommel Baybay (Judge Baybay) issued a Resolution^[28] granting the Philippine Gaming and Management Corporation's application for a Writ of Preliminary Injunction.^[29] The Philippine Charity Sweepstakes Office moved for reconsideration.^[30]

In October 2012, another Petition for contempt,^[31] docketed as SCA Case No. 12-1011, was filed by the Philippine Gaming and Management Corporation against the Philippine Charity Sweepstakes Office and its Board and Officials. The Philippine Gaming and Management Corporation alleged that the Philippine Charity Sweepstakes Office refused to comply with the Writ of Preliminary Injunction.^[32] SCA Case Nos. 12-530 and 12-1011 were then consolidated before Branch 143, Regional Trial Court, Makati City.^[33]

On November 14, 2012, Judge Baybay issued a Resolution,^[34] denying the June 26, 2012 Motion to Dismiss Ad Cautelam and the July 9, 2012 Supplemental Motion to Dismiss filed by the Philippine Charity Sweepstakes Office and its Board and Officials.^[35]

On January 18, 2013, the Philippine Charity Sweepstakes Office and its Board and Officials filed a Petition for Certiorari^[36] against Judge Baybay before the Court of Appeals. The case was docketed as CA-G.R. SP No. 128259.^[37] They alleged that Judge Baybay committed grave abuse of discretion when he denied their Motion to Dismiss and granted the Philippine Gaming and Management Corporation's application for a Writ of Preliminary Injunction.^[38]

On December 11, 2013, during the pendency of SCA Case Nos. 12-530 and 12-1011 before the Regional Trial Court, the Philippine Charity Sweepstakes Office and the Philippine Gaming and Management Corporation entered into an Interim Settlement,^[39] which provided:

3. The parties hereby agree that the exclusivity issue and all matters arising related to or consequential therefrom, shall be resolved through an arbitration proceeding using [International Chamber of Commerce] Rules by a three[-]member Arbitral Tribunal in Manila;

4. The parties further agree to archive in the meantime the two contempt

cases, docketed as SCA 12-520 (sic) and 12-1011 now pending before the Makati City RTC until the parties shall proceed to arbitration[.][40]

In accordance with the Interim Settlement, a Request for Arbitration[41] was filed by the Philippine Gaming and Management Corporation on March 13, 2014 before the International Chamber of Commerce, International Court of Arbitration. The Philippine Gaming and Management Corporation raised the issue of whether it has "the exclusiv[e] right to supply online lottery equipment to [the Philippine Charity Sweepstakes Office] in Luzon." [42] The Philippine Charity Sweepstakes Office filed its Answer.[43] Thereafter, preliminary hearings were conducted.[44]

Meanwhile, the Philippine Charity Sweepstakes Office and the Philippine Gaming and Management Corporation executed a Supplemental and Status Quo Agreement[45] on August 13, 2015. They agreed to extend the term of the Equipment Lease Agreement from August 22, 2015 to August 21, 2018.[46] The Supplemental and Status Quo Agreement provided:

II. STATUS QUO

1. The parties shall dismiss all pending judicial and civil actions between them but shall continue with the arbitration proceedings until resolved with finality, for the purpose of determining territorial exclusivity. [The Philippine Gaming and Management Corporation] shall no longer claim any damages from the [Philippine Charity Sweepstakes Office], Board and officials in said arbitration proceedings, without prejudice to the claim for performance, if warranted.
2. Except as otherwise provided, upon the execution of this Agreement, the parties agree to maintain the status quo existing as provided in the Interim Settlement for a period of three years from 22 August 2015.[47] (Emphasis in the original)

Pursuant to the Interim Settlement, and the Supplemental and Status Quo Agreement, the Philippine Charity Sweepstakes Office and its Board and Officials filed on January 20, 2016 two (2) motions to dismiss: (1) a Manifestation with Motion to Dismiss[48] before the Court of Appeals; and (2) a Consolidated Motion to Revive and to Dismiss Cases Based on Status Quo Agreement[49] before Branch 143, Regional Trial Court, Makati City.[50] They sought to dismiss the Petition for Certiorari against Judge Baybay docketed as CA-G.R. SP No. 128259 pending before the Court of Appeals[51] and the Indirect Contempt cases docketed as SCA Case Nos. 12-530 and 12-1011 pending before the Makati City Regional Trial Court.[52]

Meanwhile, the Philippine Charity Sweepstakes Office and its Board and Officials filed a Request to Direct Philippine Gaming and Management Corporation to Amend its Memorials Pursuant to the Parties' August 13, 2015 Status Quo Agreement[53] dated January 21, 2016 before the International Chamber of Commerce, International Court of Arbitration. They alleged that the Philippine Gaming and Management Corporation's Memorials "raised several issues that fall outside the limited scope of 'exclusivity issue'." [54]

On March 1, 2016, the Court of Appeals issued a Resolution^[55] granting the Philippine Charity Sweepstakes Office and its Board and Officials' Manifestation with Motion to Dismiss and directed the Division Clerk of Court to issue an Entry of Judgment.^[56] Thus, an Entry of Judgment^[57] was issued on March 1, 2016.

On March 30, 2016, the Philippine Charity Sweepstakes Office and its Board and Officials immediately filed a Manifestation and Motion for Reconsideration^[58] before the Court of Appeals. They prayed for the reversal of the March 1, 2016 Resolution of the Court of Appeals because the Supplemental and Status Quo Agreement's validity was being questioned by the Philippine Gaming and Management Corporation before the International Chamber of Commerce, International Court of Arbitration. They stressed that the Supplemental and Status Quo Agreement was the basis of the Philippine Charity Sweepstakes Office and its Board and Officials' filing of the Manifestation with Motion to Dismiss.^[59]

On November 2, 2016, the Court of Appeals issued a Resolution,^[60] denying the Philippine Charity Sweepstakes Office and its Board and Officials' Manifestation and Motion for Reconsideration.^[61]

On December 29, 2016, the Philippine Charity Sweepstakes Office and its Board and Officials filed a Petition for Review^[62] against the Philippine Gaming and Management Corporation before this Court, assailing the March 1, 2016 and November 2, 2016 Resolutions of the Court of Appeals.^[63] This case was docketed as G.R. No. 228801 and is also pending with the Third Division.^[64]

Meanwhile, since the term of the Equipment Lease Agreement was about to expire in August 2018, the Philippine Charity Sweepstakes Office started preparations for the public bidding of the Nationwide On-line Lottery System.^[65]

On July 11, 2017, the Philippine Gaming and Management Corporation filed a new application^[66] for the issuance of a Temporary Restraining Order and a Writ of Preliminary Injunction in SCA Case Nos. 12-530 and 12-1011. It sought for the cessation of the nationwide bidding for the procurement of the Nationwide On-line Lottery System.^[67]

After the conduct of the summary hearing on the Philippine Gaming and Management Corporation's application for Temporary Restraining Order, Judge De Leon, the new presiding judge of Branch 143, granted the Temporary Restraining Order application in a July 21, 2017 Order.^[68] He enjoined the Philippine Charity Sweepstakes Office and its officials from proceeding with the nationwide public bidding that was scheduled on July 27, 2017.^[69]

On August 3, 2017, Judge De Leon issued a Resolution^[70] granting the Philippine Gaming and Management Corporation's application for a Writ of Preliminary Injunction, which was issued on August 10, 2017.^[71] The dispositive portion of the August 3, 2017 Resolution provided: