779 Phil. 492

SECOND DIVISION

[G.R. No. 194962, January 27, 2016]

CAGAYAN ECONOMIC ZONE AUTHORITY, PETITIONER, VS. MERIDIEN VISTA GAMING CORPORATION, RESPONDENT.

D E C I S I O N

MENDOZA, J.:

Before the Court is a petition for review under Rule 45 of the Rules of Court assailing the August 13, 2010[1] and December 9, 2010[2] Resolutions of the Court of Appeals *(CA)*, in CA-G.R. SP No. 115034, which denied the petition for certiorari and prohibition[3] filed by petitioner Cagayan Economic Zone Authority (*CEZA*), after its Petition For Relief[4] (from judgment) was denied by the Regional Trial Court, Branch 7, Aparri City *(RTC)* in its Resolution,[5] dated March 4, 2010.

The Antecedents

Petitioner CEZA is a government-owned and controlled corporation, created by virtue of Republic Act *(R.A.)* No. 7922, otherwise known as the "Cagayan Special Economic Zone Act of 1995." Its primary purpose is to manage and supervise the development of the Cagayan Special Economic Zone and Freeport *(Freeport Zone)*.

Due to several inquiries from a group of Spanish nationals on the possibility of operating a jai alai fronton, CEZA sought the opinion of the Office of the Government Corporate Counsel *(OGCC)* on whether it could operate/license jai alai inside the Freeport Zone.

The OGCC, in its Opinion No. 251, s. 2007,[6] was of the view that the CEZA could operate and/or license jai alai under its legislative franchise including the authority to manage, establish and operate jai alai betting stations inside and outside the Freeport Zone.

Accordingly, respondent Meridien Vista Gaming Corporation *(MVGC)* applied with CEZA for registration as licensed/authorized operator of gaming, sports betting and tourism-related activities such as jai alai, cock fighting, virtual gaming, bingo, horse racing, dog racing, sports betting, internet gaming, and land based casinos.[7]

CEZA granted the application of MVGC to engage in gaming operations within the Freeport Zone and subsequently issued several certifications attesting that MVGC was licensed to conduct gaming operations within the zone and to set up betting stations in any place as may be allowed by law.[8]

On January 5, 2009, MVGC informed CEZA that its virtual games software had been *alpha* tested and was ready for actual field testing as of December 29, 2008. MVGC

also proposed to conduct a real market environment testing starting on January 15, 2009 and to utilize an offsite gaming station in the provinces of Isabela, Camarines Sur and Nueva Viscaya subject to the requisite local government permits.[9]

On March 31, 2009, the OGCC issued Opinion No. 67, series of 2009,[10] *clarifying* its earlier opinion regarding the authority of CEZA to grant a franchise to operate jai alai. In effect, the said opinion stated that CEZA could not grant a franchise to operate jai alai in the absence of an express legislative franchise.

Consequently, CEZA issued a letter,[11] dated April 1, 2009, directing MVGC to stop all its gaming operations including the testing of softwares and telecommunication infrastructure relative thereto.

Its interest being affected, MVGC filed a petition[12] for mandamus and damages with application for the issuance of a temporary restraining order and/or writ of preliminary mandatory injunction before the RTC. In its petition, MVGC prayed that it be allowed to continue with its gaming operations including the testing of softwares and relative telecommunication infrastructures.

The case was referred by CEZA to the OGCC, which assigned Atty. Edgardo Baniaga *(Atty. Baniaga)* to handle the case. Thus, all notices, orders and legal processes in connection with the case were forwarded to him for appropriate action.

CEZA, in its Answer,[13] admitted issuing a license agreement in favor of MVGC to operate jai alai. It, however, denied allowing the latter to manage virtual gaming operations. CEZA argued that MVGC had no legal right to compel it, by way of mandamus, to allow the operation of its virtual gaming. CEZA cited four (4) laws to bolster its argument that the granting of franchise to operate jai alai must be clearly prescribed by law; namely: (1) Executive Order *(E.O.)* No. 392, transferring the authority to regulate jai alai from the Local Government to the Games and Amusement Board; (2) Republic Act *(R.A.)* No. 954, or an act prohibiting certain activities in connection with horse races and *basque pelota* games (jai alai); (3) Presidential Decree (P.D.) No. 771 revoking all powers and authority of the Local Government to grant, franchise, license, permit, and regulate wages or betting by the public on horse and dog races, jai alai and other forms of gambling; and (4) P.D. No. 810, "An Act Granting the Philippine Jai-Alai and Amusement Corporation a Franchise to Operate, Construct and Maintain a Fronton for Basque Pelota and Similar Games of Skill in the Greater Manila Area."

On October 30, 2009, after the parties had filed their Joint Manifestation with Motion to Render Judgment based on the Pleadings,[14] the RTC rendered a decision[15] in favor of MVGC, the dispositive portion of which reads:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of the petitioner and against the respondent. Accordingly, let a Writ of Mandamus issue directing respondent or any other person/s acting under its control and direction to allow the petitioner to continue with its gaming operations in accordance with the license already granted. The bond earlier posted by Petitioner is hereby released in its favor.

> Let a copy of this Decision be furnished the Department of Justice, the Department of Interior and Local Government and the Philippine National Police and other law enforcement agencies of the government for their reference and guidance.
>
> No Costs.
>
> SO ORDERED.[16]

On the same date, a copy of the decision was obtained by Atty. Baniaga, who was coincidentally then in the premises of the court building.[17]

On November 26, 2009, the OGCC filed a Manifestation[18] informing the court that they received information that a decision had been rendered but they have not received a copy thereof. Thus, it requested from the RTC that an official copy of the decision be given to its representative, Monico Manuel *(Manuel)*. The request was granted and a copy of the said decision was given to Manuel on December 3, 2009.

On December 9, 2009, CEZA filed its Notice of Appeal[19] stating that it officially received a copy of the decision only on December 3, 2009.

On the same date, December 9, 2009, the RTC issued an Order[20] denying the notice of appeal on the ground that the 15-day reglementary period within which to appeal had already lapsed. It stated that the 15-day reglementary period should have been counted from October 30, 2009, the date a copy of the decision was received by Atty. Baniaga.

On January 25, 2010, CEZA, with the assistance of a new government corporate counsel appointed by the OGCC, filed a Petition for Relief[21] (Petition for Relief from Judgment under Rule 38) before the RTC alleging honest mistake or excusable neglect on the part of Atty. Baniaga. CEZA reasoned out that Atty. Baniaga was under the impression that the notice he received on October 30, 2009 was a resolution pertaining to the Joint Manifestation with Motion to Render a Judgment based on the pleadings; that the copy he received was his personal copy and that the official copy intended for CEZA would be sent to OGCC. CEZA also pointed out that the reckoning period for the filing of its appeal should be December 3, 2009, the day when it was furnished a copy of the decision, and not October 30, 2009, the date of receipt by Atty. Baniaga.

The RTC, in its Resolution,[22] dated March 4, 2010, denied the petition for relief from judgment for lack of merit. It stated that the negligence of CEZA's counsel, Atty. Baniaga,[23] was binding on his client and could not be used as an excuse to revive the right to appeal which had been lost.

On July 23, 2010, CEZA filed with the CA a petition for *certiorari* and prohibition.

On August 13, 2010, the CA denied the petition, sustaining the ruling that CEZA was bound by the mistakes and negligence of its counsel.[24]

A motion for reconsideration was filed by CEZA but it was likewise denied in the CA Resolution, dated December 9, 2010.[25]

Hence, this petition praying for the reversal and setting aside of the August 13, 2010 and December 9, 2010 Resolutions of the CA in CA-G.R. SP No. 115034 anchored on the ground that the CA **gravely erred**[26]

> **(A) WHEN IT RULED THAT PETITIONER CEZA FAILED TO SHOW THE SPECIFIC ACTS COMMITTED BY HON. JUDGE ZALDIVAR THAT CONSTITUTE GRAVE ABUSE OF DISCRETION.**
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> **(B) WHEN IT RULED THAT PETITIONER CEZA IS BOUND BY THE MISTAKES AND NEGLIGENCE OF ATTY. BANIAGA.**
>
> **(C) WHEN IT RULED THAT PETITIONER CEZA's 15-DAY PERIOD TO APPEAL IS COUNTED FROM ATTY. BANIAGA'S RECEIPT OF THE 30 OCTOBER 2009 DECISION.**
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> **(D) WHEN IT RULED THAT UNDER REPUBLIC ACT (R.A.) NO. 7922, PETITIONER CEZA HAS THE POWER TO OPERATE ON ITS OWN OR LICENSE TO OTHERS, JAI-ALAI.**

Petitioner CEZA ascribes grave error on the part of the CA in dismissing its petition on a mere technicality. The petitioner avers that its case is an exception to the general rule that the negligence of counsel binds the client because the negligence of Atty. Baniaga was so gross, reckless and inexcusable as it systematically deprived CEZA of its right to appeal and fully ventilate its cause.

Traversing such assertion, MVGC insists that CEZA should be bound by the mistakes of its counsel and suffer the consequences. It asserts that relief from judgment should not be granted on the excuse that the failure to appeal was due to the negligence of its counsel. MVGC also argues that the petition for relief cannot be used to revive the right to appeal which had been lost through the counsel's inexcusable negligence

The Court finds the petition meritorious.

Relief from judgment is a remedy provided by law to any person against whom a decision or order is entered through fraud, accident, mistake, or excusable negligence.[27] This remedy is equitable in character, allowed only in exceptional cases where there is no other available or adequate remedy provided by law or the rules.[28] Generally, relief will not be granted to a party who seeks avoidance from the effects of the judgment when the loss of the remedy at law was due to the negligence of his counsel[29] because of the time-honored principle that clients are bound by the mistakes and negligence of their counsel.[30]

The notices sent to the counsel of record is binding upon the client, and the neglect or failure of counsel to inform him of an adverse judgment resulting in the loss of his right to appeal is not a ground for setting aside a judgment that is valid and

regular on its face.[31] This is based on the rule that any act performed by a counsel within the scope of his general or implied authority is regarded as an act of the client.[32]

In highly meritorious cases, however, the Court may depart from the application of this rule such as when the negligence of the counsel is so gross, reckless, and inexcusable that the client is deprived of due process of law;[33] when adherence to the general rule would result in the outright deprivation of the clients' property;[34] or when the interests of justice so require.[35] In the case of *People's Homesite and Housing Corporation v. Tiongco*,[36] the Court stated the reason therefor. Thus:

> There should be no dispute regarding the doctrine that normally notice to counsel is notice to parties, and that such doctrine has beneficient effects upon the prompt dispensation of justice. **Its application to a given case, however, should be looked into and adopted, according to the surrounding circumstances; otherwise, in the court's desire to make a short cut of the proceedings, it might foster, wittingly or unwittingly, dangerous collusions to the detriment of justice.** It would then be easy for one lawyer to sell one's right down the river, by just alleging that he just forgot every process of the court affecting his clients, because he was so busy. Under this circumstance, one should not insist that a notice to such irresponsible lawyer is also a notice to his clients.[37]
>
> [Emphases Supplied]

Thus, though the Court is cognizant of the general rule, in cases of gross and palpable negligence of counsel and of extrinsic fraud, the Court must step in and accord relief to a client who suffered thereby.[38] For negligence to be excusable, it must be one which ordinary diligence and prudence could not have guarded against, [39] and for the extrinsic fraud to justify a petition for relief from judgment, it must be that fraud which the prevailing party caused to prevent the losing party from being heard on his action or defense. Such fraud concerns not the judgment itself but the manner in which it was obtained.[40] Guided by these pronouncements, the Court in the case of *Apex Mining, Inc. vs. Court of Appeals*[41] wrote:

> If the incompetence, ignorance or inexperience of counsel is so **great** and the error committed as a result thereof is so **serious** that the client, who otherwise has a good cause, is prejudiced and denied his day in court, the **litigation may be reopened** to give the client another chance to present his case. Similarly, when an unsuccessful party has been prevented from fully and fairly presenting his case as a result of his lawyer's professional delinquency or infidelity the litigation may be reopened to allow the party to present his side. Where counsel is guilty of **gross ignorance, negligence** and **dereliction of duty**, which resulted in the clients being held liable for damages in a damage suit, the client is deprived of his day in court and the **judgment may be set aside on**