

SECOND DIVISION

[G.R. No. 163553, December 11, 2009]

**YUN KWAN BYUNG, PETITIONER, VS. PHILIPPINE AMUSEMENT
AND GAMING CORPORATION, RESPONDENT.**

DECISION

CARPIO, J.:

The Case

Yun Kwan Byung (petitioner) filed this Petition for Review^[1] assailing the Court of Appeals' Decision^[2] dated 27 May 2003 in CA-G.R. CV No. 65699 as well as the Resolution^[3] dated 7 May 2004 denying the Motion for Reconsideration. In the assailed decision, the Court of Appeals (CA) affirmed the Regional Trial Court's Decision^[4] dated 6 May 1999. The Regional Trial Court of Manila, Branch 13 (trial court), dismissed petitioner's demand against respondent Philippine Amusement and Gaming Corporation (PAGCOR) for the redemption of gambling chips.

The Facts

PAGCOR is a government-owned and controlled corporation tasked to establish and operate gambling clubs and casinos as a means to promote tourism and generate sources of revenue for the government. To achieve these objectives, PAGCOR is vested with the power to enter into contracts of every kind and for any lawful purpose that pertains to its business. Pursuant to this authority, PAGCOR launched its Foreign Highroller Marketing Program (Program). The Program aims to invite patrons from foreign countries to play at the dollar pit of designated PAGCOR-operated casinos under specified terms and conditions and in accordance with industry practice.^[5]

The Korean-based ABS Corporation was one of the international groups that availed of the Program. In a letter-agreement dated 25 April 1996 (Junket Agreement), ABS Corporation agreed to bring in foreign players to play at the five designated gaming tables of the Casino Filipino Silahis at the Grand Boulevard Hotel in Manila (Casino Filipino). The relevant stipulations of the Junket Agreement state:

1. PAGCOR will provide ABS Corporation with separate junket chips. The junket chips will be distinguished from the chips being used by other players in the gaming tables.
2. ABS Corporation will distribute these junket chips to its players and at the end of the playing period, ABS Corporation will collect the junket chips from its players and make an accounting to the casino treasury.

3. ABS Corporation will assume sole responsibility to pay the winnings of its foreign players and settle the collectibles from losing players.
4. ABS Corporation shall hold PAGCOR absolutely free and harmless from any damage, claim or liability which may arise from any cause in connection with the Junket Agreement.
5. In providing the gaming facilities and services to these foreign players, PAGCOR is entitled to receive from ABS Corporation a 12.5% share in the gross winnings of ABS Corporation or 1.5 million US dollars, whichever is higher, over a playing period of 6 months. PAGCOR has the option to extend the period.^[6]

Petitioner, a Korean national, alleges that from November 1996 to March 1997, he came to the Philippines four times to play for high stakes at the Casino Filipino.^[7] Petitioner claims that in the course of the games, he was able to accumulate gambling chips worth US\$2.1 million. Petitioner presented as evidence during the trial gambling chips with a face value of US\$1.1 million. Petitioner contends that when he presented the gambling chips for encashment with PAGCOR's employees or agents, PAGCOR refused to redeem them.^[8]

Petitioner brought an action against PAGCOR seeking the redemption of gambling chips valued at US\$2.1 million. Petitioner claims that he won the gambling chips at the Casino Filipino, playing continuously day and night. Petitioner alleges that every time he would come to Manila, PAGCOR would extend to him amenities deserving of a high roller. A PAGCOR official who meets him at the airport would bring him to Casino Filipino, a casino managed and operated by PAGCOR. The card dealers were all PAGCOR employees, the gambling chips, equipment and furnitures belonged to PAGCOR, and PAGCOR enforced all the regulations dealing with the operation of foreign exchange gambling pits. Petitioner states that he was able to redeem his gambling chips with the cashier during his first few winning trips. But later on, the casino cashier refused to encash his gambling chips so he had no recourse but to deposit his gambling chips at the Grand Boulevard Hotel's deposit box, every time he departed from Manila.^[9]

PAGCOR claims that petitioner, who was brought into the Philippines by ABS Corporation, is a junket player who played in the dollar pit exclusively leased by ABS Corporation for its junket players. PAGCOR alleges that it provided ABS Corporation with distinct junket chips. ABS Corporation distributed these chips to its junket players. At the end of each playing period, the junket players would surrender the chips to ABS Corporation. Only ABS Corporation would make an accounting of these chips to PAGCOR's casino treasury.^[10]

As additional information for the junket players playing in the gaming room leased to ABS Corporation, PAGCOR posted a notice written in English and Korean languages which reads:

NOTICE

This GAMING ROOM is exclusively operated by ABS under arrangement with PAGCOR, the former is solely accountable for all PLAYING CHIPS

wagered on the tables. Any financial ARRANGEMENT/TRANSACTION between PLAYERS and ABS shall only be binding upon said PLAYERS and ABS.^[11]

PAGCOR claims that this notice is a standard precautionary measure^[12] to avoid confusion between junket players of ABS Corporation and PAGCOR's players.

PAGCOR argues that petitioner is not a PAGCOR player because under PAGCOR's gaming rules, gambling chips cannot be brought outside the casino. The gambling chips must be converted to cash at the end of every gaming period as they are inventoried every shift. Under PAGCOR's rules, it is impossible for PAGCOR players to accumulate two million dollars worth of gambling chips and to bring the chips out of the casino premises.^[13]

Since PAGCOR disclaimed liability for the winnings of players recruited by ABS Corporation and refused to encash the gambling chips, petitioner filed a complaint for a sum of money before the trial court.^[14] PAGCOR filed a counterclaim against petitioner. Then, trial ensued.

On 6 May 1999, the trial court dismissed the complaint and counterclaim. Petitioner appealed the trial court's decision to the CA. On 27 May 2003, the CA affirmed the appealed decision. On 27 June 2003, petitioner moved for reconsideration which was denied on 7 May 2004.

Aggrieved by the CA's decision and resolution, petitioner elevated the case before this Court.

The Ruling of the Trial Court

The trial court ruled that based on PAGCOR's charter,^[15] PAGCOR has no authority to lease any portion of the gambling tables to a private party like ABS Corporation. Section 13 of Presidential Decree No. 1869 or the PAGCOR's charter states:

Sec. 13. Exemptions -

x x x

(4) Utilization of Foreign Currencies - The Corporation shall have the right and authority, solely and exclusively in connection with the operations of the casino(s), to purchase, receive, exchange and disburse foreign exchange, subject to the following terms and conditions:

(a) A specific area in the casino(s) or gaming pit shall be put up solely and exclusively for players and patrons utilizing foreign currencies;

(b) The Corporation shall appoint and designate a duly accredited commercial bank agent of the Central Bank, to handle, administer and manage the use of foreign currencies in the casino(s);

(c) The Corporation shall provide an office at casino(s) exclusively for the employees of the designated bank, agent of the Central Bank, where the Corporation shall maintain a dollar account which will be utilized exclusively for the above purpose and the casino dollar treasury employees;

(d) Only persons with foreign passports or certificates of identity (for Hong Kong patron only) duly issued by the government or country of their residence will be allowed to play in the foreign exchange gaming pit;

(e) Only foreign exchange prescribed to form part of the Philippine International Reserve and the following foreign exchange currencies: Australian Dollar, Singapore Dollar, Hong Kong Dollar, shall be used in this gaming pit;

(f) The disbursement, administration, management and recording of foreign exchange currencies used in the casino(s) shall be carried out in accordance with existing foreign exchange regulations, and periodical reports of the transactions in such foreign exchange currencies by the Corporation shall be duly recorded and reported to the Central Bank thru the designated Agent Bank; and

(g) The Corporation shall issue the necessary rules and regulations for the guidance and information of players qualified to participate in the foreign exchange gaming pit, in order to make certain that the terms and conditions as above set forth are strictly complied with.

The trial court held that only PAGCOR could use foreign currency in its gaming tables. When PAGCOR accepted only a fixed portion of the dollar earnings of ABS Corporation in the concept of a lease of facilities, PAGCOR shared its franchise with ABS Corporation in violation of the PAGCOR's charter. Hence, the Junket Agreement is void. Since the Junket Agreement is not permitted by PAGCOR's charter, the mutual rights and obligations of the parties to this case would be resolved based on agency and estoppel.^[16]

The trial court found that the petitioner wanted to redeem gambling chips that were specifically used by ABS Corporation at its gaming tables. The gambling chips come in distinctive orange or yellow colors with stickers bearing denominations of 10,000 or 1,000. The 1,000 gambling chips are smaller in size and the words "no cash value" marked on them. The 10,000 gambling chips do not reflect the "no cash value" sign. The senior treasury head of PAGCOR testified that these were the gambling chips used by the previous junket operators and PAGCOR merely continued using them. However, the gambling chips used in the regular casino games were of a different quality.^[17]

The trial court pointed out that PAGCOR had taken steps to warn players brought in by all junket operators, including ABS Corporation, that they were playing under special rules. Apart from the different kinds of gambling chips used, the junket

players were confined to certain gaming rooms. In these rooms, notices were posted that gambling chips could only be encashed there and nowhere else. A photograph of one such notice, printed in Korean and English, stated that the gaming room was exclusively operated by ABS Corporation and that ABS Corporation was solely accountable for all the chips wagered on the gaming tables. Although petitioner denied seeing this notice, this disclaimer has the effect of a negative evidence that can hardly prevail against the positive assertions of PAGCOR officials whose credibility is also not open to doubt. The trial court concluded that petitioner had been alerted to the existence of these special gambling rules, and the mere fact that he continued to play under the same restrictions over a period of several months confirms his acquiescence to them. Otherwise, petitioner could have simply chose to stop gambling.^[18]

In dismissing petitioner's complaint, the trial court concluded that petitioner's demand against PAGCOR for the redemption of the gambling chips could not stand. The trial court stated that petitioner, a stranger to the agreement between PAGCOR and ABS Corporation, could not under principles of equity be charged with notice other than of the apparent authority with which PAGCOR had clothed its employees and agents in dealing with petitioner. Since petitioner was made aware of the special rules by which he was playing at the Casino Filipino, petitioner could not now claim that he was not bound by them. The trial court explained that in an unlawful transaction, the courts will extend equitable relief only to a party who was unaware of all its dimensions and whose ignorance of them exposed him to the risk of being exploited by the other. Where the parties enter into such a relationship with the opportunity to know all of its ramifications, as in this case, there is no room for equitable considerations to come to the rescue of any party. The trial court ruled that it would leave the parties where they are.^[19]

The Ruling of the Court of Appeals

In dismissing the appeal, the appellate court addressed the four errors assigned by petitioner.

First, petitioner maintains that he was never a junket player of ABS Corporation. Petitioner also denies seeing a notice that certain gaming rooms were exclusively operated by entities under special agreement.^[20]

The CA ruled that the records do not support petitioner's theory. Petitioner's own testimony reveals that he enjoyed special accommodations at the Grand Boulevard Hotel. This similar accommodation was extended to players brought in by ABS Corporation and other junket operators. Petitioner cannot disassociate himself from ABS Corporation for it is unlikely that an unknown high roller would be accorded choice accommodations by the hotel unless the accommodation was facilitated by a junket operator who enjoyed such privilege.^[21]

The CA added that the testimonies of PAGCOR's employees affirming that notices were posted in English and Korean in the gaming areas are credible in the absence of any convincing proof of ill motive. Further, the specified gaming areas used only special chips that could be bought and exchanged at certain cashier booths in that area.^[22]