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FIRST DIVISION

[G.R. No. 187972, June 29, 2010]

PHILIPPINE AMUSEMENT AND GAMING CORPORATION (PAGCOR), REPRESENTED BY ATTY. CARLOS R. BAUTISTA, JR., PETITIONER, VS. FONTANA DEVELOPMENT CORPORATION, RESPONDENT.

D E C I S I O N

VELASCO JR., J.:

In this petition for review under Rule 45, the May 19, 2009 Decision of the Court of Appeals (CA) in CA-G.R. SP No. 107247 is questioned for not nullifying the November 18, 2008 Order of the Regional Trial Court (RTC) in Manila in Civil Case No. 08-120338 that issued a temporary restraining order (TRO) against petitioner Philippine Amusement and Gaming Corporation (PAGCOR), barring PAGCOR from committing acts that allegedly violate the rights of respondent Fontana Development Corporation (FDC) under a December 23, 1999 Memorandum of Agreement (MOA).

The antecedents as culled by the CA from the records are:

> Petitioner Philippine Amusement and Gaming Corporation (PAGCOR) is a government owned and controlled corporation created under Presidential Decree (PD) No. 1869 to enable the Government to regulate and centralize all games of chance authorized by existing franchise or permitted by law. Section 10 thereof conferred on PAGCOR a franchise of twenty-five (25) years or until July 11, 2008, renewable for another twenty-five (25) years. Under Section 9 thereof, it was given regulatory powers over persons and/or entities with contract or franchise with it, *viz*:
>
> > SECTION 9. *Regulatory Power*.--The Corporation shall maintain a Registry of the affiliated entities, and shall exercise all the powers, authority and the responsibilities vested in the Securities and Exchange Commission over such affiliated entities mentioned under the preceding section, including but not limited to amendments of Articles of Incorporation and By-Laws, changes in corporate term, structure, capitalization and other matters concerning the operation

> of the affiliating entities, the provisions of the Corporation Code of the Philippines to the contrary notwithstanding, except only with respect to original incorporation.

On March 13, 1992, Republic Act No. 7227 was enacted to provide for the conversion and development of existing military reservations, including former United States military bases in the Philippines, into Special Economic Zones (SEZ). The law also provides for the creation of the Subic Bay Metropolitan Authority (SBMA).

On April 3, 1993, then President Fidel V. Ramos issued Executive Order (EO) No. 80. Under Section 5 thereof, the Clark Special Economic Zone (CSEZ) was given all the applicable incentives granted to Subic Bay Special Economic Zone (SSEZ), *viz*:

> SECTION 5. *Investments Climate in the CSEZ*.--Pursuant to Section 5(m) and Section 15 of RA 7227, the BCDA shall promulgate all necessary policies, rules and regulations governing the CSEZ, including investment incentives, in consultation with the local government units and pertinent government departments for implementation by the CDC.
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> Among others, the CSEZ shall have all the applicable incentives in the Subic Special Economic and Free Port Zone under RA 7227 and those applicable incentives granted in the Export Processing Zones, the Omnibus Investments Code of 1987, the Foreign Investments Act of 1991 and new investments laws which may hereinafter be enacted.
>
> The CSEZ Main Zone covering the Clark Air Base proper shall have all the aforecited investment incentives, while the CSEZ Sub-Zone covering the rest of the CSEZ shall have limited incentives. The full incentives in the Clark SEZ Main Zone and the limited incentives in the Clark SEZ Sub-Zone shall be determined by the BCDA.

On December 23, 1999, PAGCOR granted private respondent Fontana Development Corporation (FDC) (formerly RN Development Corporation) the authority to operate and maintain a casino inside the CSEZ under a Memorandum of Agreement (MOA), stating *inter alia*:

> x x x x

1. RNDC Improvements

x x x x

4. Non-exclusivity, PAGCOR and RNDC agree that **the license granted to RNDC to engage in gaming and amusement operations within CSEZ shall be non-exclusive and co-terminus with the Charter of PAGCOR, or any extension thereof, and shall be for the period hereinabove defined.** (Emphasis supplied.)

x x x x

On April 12, 2000, Clark Development Corporation (CDC) issued Certificate of Registration No. 2000-24. Pursuant to Article VII-11 thereof, the MOA was amended on July 28, 2000, September 6, 2000, December 6, 2001, June 3, 2002, October 13, 2003 and March 31, 2004.

Sometime in 2005, the Coconut Oil Refiners Association challenged before the Supreme Court the constitutionality, among others, of EO No. 80 on the ground that the incentives granted to SSEZ under RA No. 7227 was exclusive and cannot be made applicable to CSEZ by a mere executive order. The case was decided in favor of Coconut Oil Refiners Association and Section 5 aforequoted was declared of no legal force and effect.

On June 20, 2007, RA No. 9487 was enacted, extending PAGCOR's franchise up to July 10, 2033 renewable for another twenty-five (25) years, viz:

SECTION 1. The Philippine Amusement and Gaming Corporation (PAGCOR) franchise granted under Presidential Decree No. 1869, otherwise known as the PAGCOR Charter, is hereby further amended to read as follows:

(1) Section 10, Nature and Term of Franchise, is hereby amended to read as follows:

SEC. 10. *Nature and Term of Franchise*.--Subject to the terms and conditions established in this Decree, the Corporation is hereby granted from the expiration of its original term on July 11, 2008, another period of twenty-five (25) years, the rights, privileges and authority to operate and license gambling casinos, gaming clubs and other similar recreation or amusement places, gaming pools, i.e., basketball, football, bingo, etc. except jai-alai, whether on land or sea, within the territorial jurisdiction of the Republic of the Philippines: Provided, That the corporation shall obtain the consent

of the local government unit that has territorial jurisdiction over the area chosen as the site for any of its operations.

x x x x

On July 18, 2008, PAGCOR informed FDC that it was extending the MOA on a month-to-month basis until the finalization of the renewal of the contract. FDC protested, claiming that the extension of PAGCOR's franchise had automatically extended the MOA: that the SC decisions, including RA Nos. 9400 and 9399, had no effect on the authority of CDC to allow the establishment of a casino inside the CSEZ; and that in *Coconut Oil Refiners Association, Inc.*, the SC did not declare void the entire EO No. 80 but only Section 5 thereof.

On October 6, 2008, after a series of dialogues and exchange of position papers, PAGCOR notified FDC that its [new] standard Authority to Operate shall now govern and regulate FDC's casino operations in place of the previous MOA. FDC moved for the reconsideration of the said decision but the same was denied. On November 5, 2008, PAGCOR instructed FDC to remit its franchise fees in accordance with the Authority to Operate.

On the same date of November 5, 2008, FDC filed before the RTC of Manila the instant complaint for Injunction against PAGCOR, contending that it could not be covered by a month-to-month extension nor by the standard Authority to Operate since the MOA was automatically renewed and extended up to 2033; that the MOA clearly provided that the same was co-terminus with PAGCOR's franchise including any extension thereof; that it had faithfully complied with the conditions under the MOA; that pursuant to the MOA, it had built a hotel-casino complex and put up other investments equivalent to P1 Billion; that it had adopted a marketing strategy to attract high roller casino players from Asia and had scrupulously met all its obligations to PAGCOR and other government agencies; and that the provisions invalidated in *Coconut Oil Refiners Association, Inc.*, principally pertained to tax and customs duty, privileges or incentives which was thereafter restored by the enactment of RA No. 9400. The complaint was docketed as the herein Civil Case No. 08-120338 and raffled to Branch 7.

The RTC summoned PAGCOR and set the hearing on the application for TRO. On November 13, 2008, PAGCOR filed its Special Appearance (for Dismissal of the Petition and the Opposition to the Prayer for a Temporary Restraining Order and/or Writ of Preliminary Injunction), praying that the complaint be dismissed for lack of jurisdiction. PAGCOR contended that its decision to replace the MOA with the Authority to Operate was pursuant to its regulatory powers under Sections 8 and 9 of PD No. 1869; that under the said provisions, it was given all the powers, authority and responsibilities of the Securities and

Exchange Commission (SEC) over corporations engaged in gambling; that consequently, being the SEC of said corporations, the appeal or review of its decision should have been made directly to the SC under PD No. 1869 in relation to the last paragraph of Section 6, PD No. 902-A; PAGCOR argued that administrative agencies are co-equal with RTC's; that application or operation of presidential decrees are appealable to the SC under Article VIII, Section 4(2) of the 1987 Constitution; and that there was no basis for the issuance of TRO/Writ of Preliminary Injunction since the franchise or license granted to FDC was not a property right but was merely a privilege and not a contract.

On November 18, 2008, the RTC issued the first assailed Order denying PAGCOR's motion to dismiss and granting FDC's application for a TRO. The RTC held that the SC had no exclusive jurisdiction over cases involving PAGCOR; that the cases of *Del Mar vs. PAGCOR, Sandoval II vs. PAGCOR, Jaworski vs. PAGCOR* were decided by the SC in the exercise of its discretionary power to take cognizance of cases; that it had jurisdiction over the instant complaint under Section 21(1) of Batas Pambansa (BP) No. 129 in relation to Article VIII, Section 5(1) of the 1987 Constitution and the rule on hierarchy of courts; that although PAGCOR was granted regulatory powers, it was not extended quasi-judicial functions; and that PAGCOR is not an administrative agency but a government owned and controlled corporation. Upon the posting by FDC of the required bond of P500,000.00, the RTC issued on November 19, 2008 the second assailed Order, a TRO enjoining the implementation of the Standard Authority to Operate within a period of twenty (20) days. PAGCOR's motion for reconsideration was denied in the third assailed Order.

On December 8, 2008, the RTC issued an Order likewise denying FDC's application for the issuance of a Writ of Preliminary Injunction. The RTC ruled that FDC failed to present a clear legal right to justify its issuance; that PAGCOR was granted with legislative right to franchise to other entities the operation of gambling casinos; and that since what was granted was a license to operate and not a contract, no vested property right was at stake.

Both PAGCOR and Fontana moved for the reconsideration of the aforesaid Order. Fontana maintained that it was entitled to a Writ of Preliminary Injunction while PAGCOR wanted deleted the finding that it had the authority to issue casino license to FDC under PD No. 1869.[1]

On February 5, 2009, PAGCOR filed a petition for certiorari and prohibition before the CA docketed as CA-G.R. SP No. 107247 entitled *PAGCOR represented by Atty. Carlos R. Bautista, Jr. v. Hon. Ma. Theresa Dolores Estoesta and Fontana Development Corporation*, questioning the November 18, 2008 Order, the November 19, 2008 Order and the December 4, 2008 Order of respondent judge.

Meanwhile, on January 30, 2009, the RTC issued an order, which reconsidered its December 8, 2008 Order and granted the writ of preliminary injunction in favor of FDC. The trial court held that since public interest is not prejudiced, the license issued may not be revoked or rescinded by mere executive action. The *fallo* reads:

> WHEREFORE, having sufficiently established a prima facie proof of violation of its right as a casino licensee under the MOA, **FDC's application for the issuance of a writ of preliminary injunction is GRANTED.**
>
> This reconsiders the Order dated December 8, 2008 insofar as it denied the issuance of a writ of preliminary injunction.
>
> Let a writ of preliminary injunction therefore **ISSUE** to become effective only upon posting of ONE HUNDRED MILLION PESOS (P100,000,000.00).
>
> SO ORDERED.

The Writ of Preliminary Injunction[2] was issued on February 25, 2009.

On February 17, 2009, PAGCOR filed its Motion for Reconsideration and to Dissolve the Preliminary Injunction for Insufficiency of Bond and Irreparable Injury to the Government, which was opposed by FDC. By Order issued on March 31, 2009, the RTC denied PAGCOR's motion for reconsideration of its Order dated January 30, 2009 that granted a writ of preliminary injunction in favor of FDC.

On May 19, 2009, the CA rejected the petition in CA-G.R. SP No. 107247 for lack of merit.

In dismissing PAGCOR's petition, the CA threw out PAGCOR's postulation that the RTC had no jurisdiction over the case and that the proper remedy is an original action before this Court, as the corporation is a body equal to the Securities and Exchange Commission (SEC). The appellate court reasoned that nowhere in Presidential Decree No. (PD) 1869 and Republic Act No. (RA) 9487 does it state that the instant petition can only be filed with this Court. Moreover, under RA 8799, the quasi-judicial powers earlier granted to the SEC under PD 902-A were transferred to the RTC, while the powers retained by the Commission are now subject to appeal to the CA.

An examination of the allegations of the complaint further revealed that it was an original action for injunction, and under *Batas Pampansa Blg*. (BP) 129, the RTC shall exercise original jurisdiction over writs of injunction. Lastly, the CA stressed that the case has been rendered moot and academic, as the TRO issued by Judge Estoesta lapsed on December 9, 2008 and its issuance has ceased to be a justiciable controversy. On the other hand,

PAGCOR did not assail the writ of preliminary injunction issued by Judge Estoesta on February 25, 2009 after the CA petition was filed.

In the instant petition, PAGCOR puts forward the following issues for the consideration of the Court, to wit:

> --The Court *a quo* and the trial court decided the question of substance (*i.e. What is the proper remedy available to a party claiming to be aggrieved by PAGCOR in the exercise of its authority to operate games of chance/gambling and to license and regulate others to operate games of chance/gambling?*) not theretofore determined by the Supreme Court.
>
> --The trial court's TRO and later a Writ of Preliminary Injunction in favor of the private respondent prevented herein Petitioner from implementing the standard Authority to Operate. In issuing such processes the trial court has so far departed from the accepted and usual course of judicial proceedings, as to call for an exercise of the power of supervision.
>
> --The trial court's TRO and later a Writ of Preliminary Injunction in favor of private respondent prevented herein Petitioner from collecting Government revenues in the form of the new license fee from private respondent under the standard Authority to Operate. In issuing such processes the trial court has so far departed from the accepted and usual course of judicial proceedings, as to call for an exercise of the power of supervision.
>
> --The Court *a quo* in declaring moot and academic the question of the TRO issued by the trial court had sanctioned the trial court's departure from the accepted and usual course of judicial proceedings, as to call for an exercise of the power of supervision.
>
> --The trial court in declaring that herein Petitioner issued the license (MOA) to herein private respondent under the authority of PD 1869 and not under E.O. 80, Section 5 decided such question of substance in a way not in accord with law or with the applicable decisions of the Supreme Court.

We synthesize petitioner's issues to two core issues:

(1) Whether the Manila RTC or this Court has jurisdiction over FDC's complaint for injunction and specific performance; and

(2) Did PAGCOR issue the license (MOA) under PD 1869 or under Executive Order No. (EO) 80, Section 5?

On the threshold issue of jurisdiction, PAGCOR insists lack of jurisdiction of the trial court

over the complaint of FDC and, hence, all the processes and writs issued by said court are null and void. It posits that the proper legal remedy of FDC is not through an injunction complaint before the trial court, but a petition for review on purely questions of law before this Court or an appeal to the Office of the President. It heavily relies on Sec. 9 of PD 1869, which states that PAGCOR "shall exercise all the powers, authority and responsibilities vested in the Securities and Exchange Commission," and Sec. 6 of PD 902-A which provides for a petition for review to this Court from SEC's decisions.

We are not convinced.

Jurisdiction of a court over the subject matter of the action is a matter of law and is conferred only by the Constitution or by statute.[3] It is settled that jurisdiction is determined by the allegations of the complaint or the petition irrespective of whether plaintiff is entitled to all or some of the claims or reliefs asserted.[4]

A perusal of FDC's complaint in Civil Case No. 08-120338 easily reveals that it is an action for injunction based on an alleged violation of contract--the MOA between the parties--which granted FDC the right to operate a casino inside the Clark Special Economic Zone (CSEZ). As such, the Manila RTC has jurisdiction over FDC's complaint anchored on Sec. 19, Chapter II of BP 129, which grants the RTCs original exclusive jurisdiction over "all civil actions in which the subject of the litigation is incapable of pecuniary estimation." Evidently, a complaint for injunction or breach of contract is incapable of pecuniary estimation. Moreover, the RTCs shall exercise original jurisdiction "in the issuance of writs of certiorari, prohibition, mandamus, *quo warranto*, habeas corpus and injunction which may be enforced in any part of their respective regions" under Sec. 21 of BP 129.

PAGCOR's claim of jurisdiction of this Court over the complaint in question heavily leans on Sec. 9 of PD 1869, PAGCOR's Charter, which provides:

> Section 9. *Regulatory Power*.--The Corporation shall maintain a Registry of the affiliated entities and shall exercise all the powers, authority and responsibilities vested in the Securities and Exchange Commission over such affiliated entities x x x.

In view of the vestment to PAGCOR by PD 1869 of the powers, authority, and responsibilities of the SEC, PAGCOR concludes that any decision or ruling it renders has to be brought to this Court via a petition for review based on Sec. 6 of SEC's Charter, PD 902-A, which reads:

> The aggrieved party may appeal the order, decision or ruling of the Commission sitting en banc to the Supreme Court by petition for review in accordance with the pertinent provisions of the Rules of Court.

This reasoning is flawed. A scrutiny of PD 1869 demonstrates that it has no procedure for the appeal or review of PAGCOR's decisions or orders. Neither does it make any express reference to an exclusive remedy that can be brought before this Court. Even a review of PD 1869's predecessor laws--PD 1067-A, 1067-B, 1067-C, 1399, and 1632, as well as its amendatory law, RA 9487--do not confer original jurisdiction to this Court to review PAGCOR's actions and decisions.

PAGCOR, however, insists that this Court has jurisdiction over an action contesting its exercise of licensing and regulatory powers, i.e., the revocation of FDC's license to operate a casino in CSEZ and that FDC's complaint is a case of first impression.

PAGCOR's argument is bereft of merit.

A similar factual setting was presented by PAGCOR in *PAGCOR v. Viola*,[5] which involves the controversy between PAGCOR and the Mimosa Regency Casino that operated inside the CSEZ. Mimosa filed a case for injunction and prayed for the issuance of a TRO before the Pampanga RTC when PAGCOR decided to close down the casino. In this case, PAGCOR likewise assailed the jurisdiction of the trial court by claiming that an original action before the CA is the proper remedy.

In *PAGCOR v. Viola*, we ruled that PAGCOR, in the exercise of its licensing and regulatory powers, has no quasi-judicial functions, as Secs. 8 and 9 of PD 1869 do not grant quasi-judicial powers to PAGCOR. As such, direct resort to this Court is not allowed. While we allowed said recourse in *Del Mar v. PAGCOR*[6] and *Jaworski v. PAGCOR*,[7] that is an exception to the principle of hierarchy of courts on the grounds of expediency and the importance of the issues involved. More importantly, we categorically ruled in *PAGCOR v. Viola* that cases involving revocation of a license falls within the original jurisdiction of the RTC, thus:

> Having settled that PAGCOR's revocation of MONDRAGON's authority to operate a casino was not an exercise of quasi-judicial powers **then it follows that the case was properly filed before the Regional Trial Court**. Hence, as the Regional Trial Court had jurisdiction to take cognizance of the case, petitioner's contention that the temporary restraining order and the preliminary injunction by the trial court are void must fail.[8]

Moreover, it is settled that the normal rule is to strictly follow the hierarchy of courts, thus:

> The Supreme Court is a court of last resort, and must so remain if it is to satisfactorily perform the functions assigned to it by the fundamental charter and immemorial tradition. A direct invocation of this Court's original

> jurisdiction to issue said writs should be allowed only when there are special and important reasons therefor, clearly and specifically set out in the petition. This is established policy--a policy that is necessary to prevent inordinate demands upon the Court's time and attention which are better devoted to those matters within its exclusive jurisdiction, and to prevent further over-crowding of the Court's docket.[9]

While it is the trial court that has original jurisdiction over FDC's complaint, PAGCOR nevertheless prays that this Court "suspend the Rules and directly decide the entire controversy in this proceeding instead of remanding the same to the trial court."[10]

In the exercise of its broad discretionary power, we will resolve FDC's complaint on the merits, instead of remanding it to the trial court for further proceedings. Moreover, the dispute between the parties involves a purely question of law--whether the license or MOA was issued pursuant to PD 1869 or Sec. 5, EO 80, in relation to RA 7227, which does not necessitate a full blown trial. Demands of substantial justice and equity require the relaxation of procedural rules.[11] In *Lianga Bay v. Court of Appeals*,[12] the Court held:

> Remand of case to the lower court for further reception of evidence is not necessary where the court is in a position to resolve the dispute based on the records before it. On many occasions, the Court, in the public interest and the expeditious administration of justice, has resolved actions on the merits instead of remanding them to the trial court for further proceedings, such as where the ends of justice would not be subserved by the remand of the case or when public interest demands an early disposition of the case or where the trial court had already received all the evidence of the parties.

The core issue to be resolved is whether the trial court erred in declaring that PAGCOR issued the license (MOA) to FDC under the authority of PD 1869 and not under EO 80, Sec. 5.

PAGCOR maintains that the license it issued to the FDC was based on Sec. 5 of EO 80 and that its charter PD 1869 should be read together with said EO. When Sec. 5 was nullified in *Coconut Oil Refiners Association, Inc. v. Torres*,[13] the MOA it entered into with FDC was consequently voided.

Such postulation must fail.

Sec. 5 of EO 80 provides:

> SECTION 5. *Investments Climate in the CSEZ*.--Pursuant to Section 5(m) and

> Section 15 of RA 7227, the BCDA shall promulgate all necessary policies, rules and regulations governing the CSEZ, including investment incentives, in consultation with the local government units and pertinent government departments for implementation by the CDC.
>
> Among others, the CSEZ shall have all the applicable incentives in the Subic Special Economic and Free Port Zone under RA 7227 and those applicable incentives granted in the Export Processing Zones, the Omnibus Investments Code of 1987, the Foreign Investments Act of 1991 and new investments laws which may hereinafter be enacted.

On the other hand, we quote Sec. 13 of RA 7227 in relation to Sec. 5 of EO 80:

> Sec. 13. *The Subic Bay Metropolitan Authority*.--
>
> (a) *Creation of the Subic Bay Metropolitan Authority.*--A body corporate to be known as the Subic Bay Metropolitan Authority is hereby created as an operating and implementing arm of the Conversion Authority.
>
> (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 function:
>
> 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.

A reading of the aforequoted provisions does not point to any authority granted to PAGCOR to license casinos within Subic, Clark, or any other economic zone. As a matter of fact, Sec. 13 of RA 7227 simply shows that SBMA has no power to license or operate casinos. Rather, said casinos shall continue to be licensed by PAGCOR. Hence, the source of PAGCOR's authority lies in its basic charter, PD 1869, as amended, and neither in RA 7227 nor its extension, EO 80, for the latter merely recognizes PAGCOR's power to license casinos. Indeed, PD 1869 empowers PAGCOR to regulate and control all games of chance within the Philippines, and clearly, RA 7227 or EO 80 cannot be the source of its powers, but its basic charter, PD 1869.

Basco v. PAGCOR[14] points to PD 1869 as the source of authority for PAGCOR to regulate and centralize all games of chance authorized by existing franchise or law, thus:

> P.D. 1869 was enacted pursuant to the policy of the government to "regulate and centralize thru an appropriate institution all games of chance authorized by existing franchise or permitted by law" (1st Whereas Clause, PD 1869). As was subsequently proved, regulating and centralizing gambling operations in one corporate entity - the PAGCOR, was beneficial not just to the Government but to society in general. It is a reliable source of much needed revenue for the cash strapped Government. It provided funds for social impact projects and subjected gambling to "close scrutiny, regulation, supervision and control of the Government" (4th Whereas Clause, PD 1869).

Lastly, only PD 1869, particularly Secs. 8 and 9 and not any other law, requires registration and affiliation of all persons primarily engaged in gambling with PAGCOR. We quote Secs. 8 and 9:

> TITLE III--AFFILIATION PROVISIONS
>
> Section 8. *Registration.--All persons primarily engaged in gambling, together with their allied business, with contract or franchise from the Corporation, shall register and affiliate their businesses with the Corporation.* The Corporation shall issue the corresponding certificates of affiliation upon compliance by the registering entity with the promulgated rules and regulations.
>
> Section 9. *Regulatory Power*.--The Corporation shall maintain a Registry of the affiliated entities, and shall exercise all the powers, authority and the responsibilities vested in the Securities and Exchange Commission over such affiliated entities mentioned under the preceding section, including but not limited to amendments of Articles of Incorporation and By-Laws, changes in corporate term, structure, capitalization and other matters concerning the operation of the affiliating entities, the provisions of the Corporation Code of the Philippines to the contrary notwithstanding, except only with respect to original incorporation.

In the light of the foregoing provisions, it is unequivocal that PAGCOR draws its authority and power to operate and regulate casinos from PD 1869, and neither from Sec. 5 of EO 80 nor from RA 7227. Hence, since PD 1869 remains unaffected by the unconstitutionality of Sec. 5 of EO 80, then PAGCOR has no legal basis for nullifying or recalling the MOA with FDC and replacing it with its new Standard Authority to Operate (SAO). There is no infirmity in the MOA, as it was validly entered by PAGCOR under PD 1869 and remains valid until legally terminated in accordance with the MOA.

The reliance of PAGCOR on *Coconut Oil Refiners Association, Inc.*[15] to buttress its position that the MOA with FDC can be validly supplanted with the 10-year SAO is clearly misplaced. That case cannot be a precedent to the instant case, as it dealt solely with the void grant of tax and duty-free incentives inside CSEZ. The Court ruled in *Coconut Oil Refiners Association, Inc.* that the tax incentives within the CSEZ were an invalid exercise of quasi-legislative powers, thus:

> In the present case, while Section 12 of Republic Act No. 7227 expressly provides for the grant of incentives to the SSEZ, it fails to make any similar grant in favor of other economic zones, including the CSEZ. **Tax and duty-free incentives** being in the nature of tax exemptions, the basis thereof should be categorically and unmistakably expressed from the language of the statute. **Consequently, in the absence of any express grant of tax and duty-free privileges to the CSEZ in Republic Act No. 7227**, there would be no legal basis to uphold the questioned portions of two issuances: Section 5 of Executive Order No. 80 and Section 4 of BCDA Board Resolution No. 93-05-034, which both pertain to the CSEZ. (Emphasis supplied.)

Lastly, the Court has to point out that the issuance of the 10-year SAO by PAGCOR in lieu of the MOA with FDC is a breach of the MOA. The MOA in question was validly entered into by PAGCOR and FDC on December 23, 1999. It embodied the license and authority to operate a casino, the nature and extent of PAGCOR's regulatory powers over the casino, and the rights and obligations of FDC. Thus, the MOA is a valid contract with all the essential elements required under the Civil Code. The parties are then bound by the stipulations of the MOA subject to the regulatory powers of PAGCOR. Well-settled is the rule that a contract voluntarily entered into by the parties is the law between them and all issues or controversies shall be resolved mainly by the provisions thereof.[16]

On the revocation, termination, or suspension of the license or grant of authority to operate a casino, PAGCOR agreed to the following stipulations on the revocation or termination of the MOA, viz:

> VI. REVOCATION/TERMINATION
>
> 1. This grant of authority may be revoked or suspended at any time at the sole option of PAGCOR by giving written notice to RNDC [FDC] of such revocation or suspension stating therein the reason(s) for such revocation or suspension, on any of the following grounds:
>
> a. RNDC makes any default which PAGCOR considers material in the due

and punctual performance or observance of any of the obligations or undertakings contained in the Agreement, and RNDC shall fail to remedy such default, within fifteen (15) working days after notice specifying the default. Should the default consist in the non-remittance of the consideration as hereinabove specified, PAGCOR shall, in addition have the right to proceed against the Surety Bond, unless RNDC was able to cure the default so specified by PAGCOR within seventy-two (72) hours after notice specifying the default. RNDC shall be liable for interest at the prevailing commercial rates on all or portion of the amounts due.

b. There shall be any failure on the part of RNDC which PAGCOR considers material to comply with any provision of the Agreement and RNDC fails to remedy the same within fifteen (15) working days after notice specifying the default;

c. RNDC has become bankrupt;

d. After the RNDC casino shall have formally commenced gaming and amusement operations within the CSEZ, RNDC's continuous cumulative non-operation of the casino for a period of one (1) month except upon lawful order of the Court or force majeure, provided that upon the cessation of such cause or causes, RNDC shall immediately continue its casino operations, otherwise, such continuous non-operation for the period provided above shall be sufficient ground for revocation or suspension;

e. Failure of RNDC to comply with and observe any pertinent law, rule, regulation and/or ordinance promulgated by a competent authority, including PAGCOR, relative to the operation of the casino;

f. Such other situations analogous to the above.[17]

Central to the present controversy is the term or period of effectivity of the MOA, as provided under the definition of terms in Title I and Title II, No. 4, which, for clarity, we reiterate in full:

"**Period**" refers to the period of time **co-terminus with that of the franchise granted to PAGCOR in accordance with Section 10 of Presidential Decree No. 1869 including any extension thereof**;[18]

x x x x

4. **Non-exclusivity**. PAGCOR and RNDC agree that the license granted to RNDC to engage in gaming and amusement operations within the CSEZ shall

be non-exclusive and **co-terminus with the Charter of PAGCOR, or any extension thereof**, and shall be for the period hereinabove defined.[19] (Emphasis supplied.)

As parties to the MOA, FDC and PAGCOR bound themselves to all its provisions. After all, the terms of a contract have the force of law between the parties, and courts have no choice but to enforce such contract so long as they are not contrary to law, morals, good customs, or public policy.[20] A stipulation for the **term or period** for the effectivity of the MOA to be **co-terminus with term of the franchise of PAGCOR including any extension** is not contrary to law, morals, good customs, or public policy.

It is beyond doubt that PAGCOR did not revoke or terminate the MOA based on any of the grounds enumerated in No. 1 of Title VI, nor did it terminate it based on the period of effectivity of the MOA specified in Title I and Title II, No. 4 of the MOA. Without explicitly terminating the MOA, PAGCOR simply informed FDC on July 18, 2008 that it is giving the latter an extension of the MOA on a month-to-month basis in gross contravention of the MOA. Worse, PAGCOR informed FDC only on October 6, 2008 that the MOA is deemed expired on July 11, 2008 without an automatic renewal and is replaced with a 10-year SAO. Clearly it is in breach of the MOA's stipulated effectivity period which is co-terminus with that of the franchise granted to PAGCOR in accordance with Sec. 10 of PD 1869 **including any extension**. Hence, PAGCOR's disregard of the MOA is without legal basis and must be nullified. PAGCOR has to respect the December 23, 1999 MOA it entered into with FDC, especially considering the huge investment poured into the project by the latter in reliance and pursuant to the MOA in question.

WHEREFORE, the petition is hereby **DENIED** for lack of merit. The Decision dated May 19, 2009 of the CA in CA-G.R. SP No. 107247 affirming the Orders dated November 18, 2008 and December 4, 2008 of the RTC, Branch 7 in Manila is hereby **AFFIRMED**. The writ of injunction issued on February 25, 2009 by the trial court pursuant to the January 30, 2009 Order in Civil Case No. 08-120338 is hereby made **PERMANENT**. PAGCOR is ordered to honor and comply with the stipulations of the MOA dated December 23, 1999, as amended, that it executed with FDC.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and *Perez, JJ.*, concur.

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[1] *Rollo*, pp. 74-83.

[2] Id. at 748-749.

[3] *Sevilleno v. Carilo*, G.R. No. 14654, September 14, 2007.

[4] *Philippine Stock Exchange v. Manila Banking Corporation*, G.R. No. 147778, July 23, 2008, 559 SCRA 352, 359; *Republic v. Court of Appeals*, G.R. No. 155450, August 6, 2008, 561 SCRA 160, 171-172, citing *Erectors, Inc. v. National Labor Relations Commission*, G.R. No. 104215, May 8, 1996, 256 SCRA 629.

[5] G.R. No. 136445, March 27, 2001 (First Division Resolution). *Rollo*, pp. 945-950.

[6] G.R. Nos. 138298 & 138982, November 29, 2000, 346 SCRA 485.

[7] G.R. No. 144463, January 14, 2004, 419 SCRA 317.

[8] Supra note 5. *Rollo*, p. 950.

[9] *Chong v. dela Cruz*, G.R. No. 184948, July 21, 2009.

[10] *Rollo*, p. 12.

[11] *City Treasurer of Quezon City v. ABS-CBN*, G.R. No. 166408, October 6, 2008.

[12] No. L-37783, January 28, 1988.

[13] G.R. No. 132527, July 29, 2005.

[14] G.R. No. 91649, May 14, 1991.

[15] Supra note 12.

[16] *Metro Manila Transit Corporation v. D.M. Consortium, Inc.*, G.R. No. 147594, March 7, 2007, 517 SCRA 632, 640.

[17] *Rollo*, pp. 248-249.

[18] Id. at 244.

[19] Id. at 246.

[20] *Co Chien v. Sta. Lucia Realty and Development, Inc.*, G.R. No. 162090, January 31, 2007, 513 SCRA 570, 582.