

EN BANC

G.R. No. 207118 – REPUBLIC OF THE PHILIPPINES AND THE CITY OF BAGUIO, Petitioners, v. THE ASSOCIATION OF BARANGAY COUNCILS, represented by its President, RUFINO M. PANAGAN, Respondent.

Promulgated:

April 22, 2025

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DISSENTING OPINION

INTING, J.:

The *ponencia* relies on Section 10 of Presidential Decree No. 1869, as amended by Republic Act No. 9487, as basis for its conclusion that Bingo sa Barangay is not within the jurisdiction of the Philippine Amusement and Gaming Corporation (PAGCOR).<sup>1</sup> The said provision of law states that the authority and power of PAGCOR to authorize, license and regulate games of chance, games of cards and games of numbers shall not extend to games of chance, games of cards and games of numbers like cockfighting, authorized, licensed and regulated by local government units, viz.:

The authority and power of the PAGCOR to authorize, license and regulate games of chance, games of cards and games of numbers shall not extend to: (1) games of chance authorized, licensed and regulated by, in, and under existing franchises or other regulatory bodies; (2) games of chance, games of cards and games of numbers authorized, licensed, regulated by, in, and under special laws such as Republic Act No. 7922; and (3) *games of chance, games of cards and games of numbers like cockfighting, authorized, licensed and regulated by local government units*. The conduct of such games of chance, games of cards and games of numbers covered by existing franchises, regulatory bodies or special laws, *to the extent of the jurisdiction and powers granted under such franchises and special laws*, shall be outside the licensing authority and regulatory powers of the PAGCOR. (Emphasis supplied)

The *ponencia* cites Section 391(11) of Republic Act No. 7160 or the Local Government Code of 1991 (LGC) as basis to conclude that Bingo sa Barangay is “authorized, licensed and regulated by local

<sup>1</sup> *Ponencia*, p. 9.

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government units,” which therefore takes it out of the jurisdiction of PAGCOR.<sup>2</sup> Section 391(11) of the LGC reads:

SECTION 391. *Powers, Duties, and Functions.* — (a) The sangguniang barangay, as the legislative body of the barangay, shall:

....

(11) *Hold fund-raising activities for barangay projects without the need of securing permits from any national or local office or agency.* The proceeds from such activities shall be tax-exempt and shall accrue to the general fund of the barangay: *Provided, That in the appropriation thereof, the specific purpose for which such fund-raising activity has been held shall be first satisfied: Provided, further, That no fund-raising activities shall be held within a period of sixty (60) days immediately preceding and after a national or local election, recall, referendum, or plebiscite: Provided, finally, That said fund-raising activities shall comply with national policy standards and regulations on morals, health, and safety of the persons participating therein. The sangguniang barangay, through the punong barangay, shall render a public accounting of the funds raised at the completion of the project for which the fund-raising activity was undertaken[.]*

I respectfully disagree with the *ponencia*. In my view, a barangay cannot conduct bingo as a fund-raising activity in the absence of any authority from PAGCOR or other pertinent laws.

It is the policy of the State to centralize and integrate the right and authority to operate and conduct games of chance into one corporate entity, i.e., PAGCOR, which is controlled, administered and supervised by the Government.<sup>3</sup> The principle espoused by the Legislature is that games of chance must be *strictly* managed and made subject to close scrutiny, regulation, supervision and control by the State.<sup>4</sup>

In line with the foregoing, PAGCOR was granted regulatory powers over businesses primarily engaged in gambling operations with respect to their operation, capitalization, and organizational structure.<sup>5</sup> Section 8<sup>6</sup> of Presidential Decree No. 1869 thus requires all persons primarily engaged in gambling, together with their allied business, with

<sup>2</sup> *Id.* at 12.

<sup>3</sup> Presidential Decree No. 1869, Section 1(a).

<sup>4</sup> *Id.*, Fourth Whereas Clause.

<sup>5</sup> *Id.*, Sixth Whereas Clause.

<sup>6</sup> 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 thereon, approved on April 2, 2004.

contract or franchise from PAGCOR, to register and affiliate their businesses with PAGCOR. Games of chance, such as bingo, that are not authorized by PAGCOR or other relevant laws, are *illegal* under Presidential Decree No. 1602<sup>7</sup> and Republic Act No. 9287.<sup>8</sup>

In other words, the policy behind Presidential Decree No. 1869, as amended by Republic Act No. 9487, is for PAGCOR to be the *only* entity in the Philippines that could operate, or authorize the operation of gambling casinos, gaming clubs and other similar recreation or amusement places, and gaming pools, including bingo.<sup>9</sup> However, Section 10 of Presidential Decree No. 1869, as amended by Republic Act No. 9487, recognizes *exceptions* to the regulatory authority of PAGCOR, to wit: (1) games of chance authorized, licensed and regulated by, in, and under existing franchises or other regulatory bodies; (2) games of chance, games of cards and games of numbers authorized, licensed, regulated by, in, and under special laws such as Republic Act No. 7922; and (3) games of chance, games of cards and games of numbers like cockfighting, authorized, licensed and regulated by local government units.

In relation thereto, it is settled that under the rules of statutory construction, a provision of law that provides *exceptions* should be *strictly* but reasonably construed, as a general rule.<sup>10</sup> The exceptions –

extend only so far as their language fairly warrants, and all doubts should be resolved in favor of the general provisions rather than the exception. Where a general rule is established by statute, the court will not curtail the former nor add to the latter by implication.<sup>11</sup>

Given the foregoing, and with due respect to the *ponente*, I cannot subscribe to the view that the power of barangays to conduct fund-raising activities under Section 391(11) of the LGC may be considered as an exception to the regulatory powers of PAGCOR based on Section 10 of Presidential Decree No. 1869, as amended, i.e., games of chance, games of cards and games of numbers like cockfighting, authorized, licensed and regulated by local government units.

<sup>7</sup> Prescribing Stiffer Penalties on Illegal Gambling.

<sup>8</sup> An Act Increasing the Penalties for Illegal Numbers Games, Amending Certain Provisions of Presidential Decree No. 1602, and for other purposes.

<sup>9</sup> Minutes of the Deliberations of the House of Representatives dated December 16, 2004, House Bill No. 3409 entitled, "An Act Further Amending Presidential Decree No. 1869, Otherwise Known as the PAGCOR Charter," pp. 85-86.

<sup>10</sup> *Aquino v. Aquino*, 918 Phil. 371, 395 (2021); *Republic v. Dayot*, 573 Phil. 553, 571 (2008); *Pimentel III v. Commission on Elections*, 571 Phil. 571, 624 (2008).

<sup>11</sup> *Samson v. Court of Appeals*, 230 Phil. 59, 64 (1986).

In my view, the exception cited by the *ponencia* must be strictly construed against the barangays. The exception clearly refers to a situation where the local government unit (LGU) has been granted the power to authorize, license, and regulate games of chance, cards, and numbers. For instance, Sections 447(3)(v) and 458(3)(v)<sup>12</sup> of the LGC empower the Sangguniang Bayan and Sangguniang Panlungsod, respectively, to “authorize and license the establishment, operation, and maintenance of cockpits, and regulate cockfighting and commercial breeding of gamecocks.” This authority of the concerned LGU over cockfighting, a game of chance, is therefore outside the regulatory jurisdiction of PAGCOR.

On the other hand, there is nothing in Section 391(11) of the LGC that grants to the barangay the power to authorize, license, and regulate any game of chance, cards, or numbers. In my humble opinion, construing “fund-raising activities” as being inclusive of games of chance, cards, or numbers would unduly expand the exceptions enumerated in Section 10 of Presidential Decree No. 1869, as amended, contrary to the rule in statutory construction that such exceptions must be strictly construed. The Court would improperly add an exception to the regulatory authority of PAGCOR by mere implication and through a strained interpretation of the relevant laws, which should not be done.

It should also be pointed out that Section 391(11) of the LGC categorically states that barangay fund-raising activities “shall comply with national policy standards and regulations on morals, health, and safety of the persons participating therein.” To my mind, allowing barangays to hold bingo as a fund-raising activity without prior authorization by PAGCOR would *contravene* the national policy espoused in Presidential Decree No. 1869 for games of chance to be *strictly* managed and made subject to the close scrutiny, regulation, supervision and control by the State, through PAGCOR.

The *ponencia* posits that because Bingo sa Barangay was authorized by the barangays subject of the present case, then the activity

<sup>12</sup> Sections 447 and 458 of the LGC grant the following authority to the Sangguniang Bayan and Panlungsod:

(3) Subject to the provisions of Book II of this Code, grant franchises, enact ordinances authorizing the issuance of permits or licenses, or enact ordinances levying taxes, fees and charges upon such conditions and for such purposes intended to promote the general welfare of the inhabitants of the municipality, and pursuant to this legislative authority shall:

....  
(v) Any law to the contrary notwithstanding, authorize and license the establishment, operation, and maintenance of cockpits, and regulate cockfighting and commercial breeding of gamecocks: *Provided*, That existing rights should not be prejudiced.

was “authorized, licensed and regulated by local government units,” thereby taking it out of the regulatory authority of PAGCOR.<sup>13</sup> With due respect to the *ponencia*, this reasoning is absurd. Following the *ponencia*’s conclusion, any game of chance that is authorized by an LGU, despite the absence of an express grant of authority to do so under the relevant laws, would be outside PAGCOR’s regulatory jurisdiction. For instance, even cockfighting and the operation of slot machines would be deemed outside of PAGCOR’s jurisdiction as long as it is “authorized” by a barangay, even though the latter has no authority to do so under the LGC or other laws.

The *ponencia*’s conclusion is also contrary to the categorical statement in Section 10 of Presidential Decree No. 1869, as amended by Republic Act No. 9487, which provides that the limitation to the regulatory authority of PAGCOR refers to “such games of chance, games of cards and games of numbers *covered by existing franchises, regulatory bodies or special laws, to the extent of the jurisdiction and powers granted under such franchises and special laws.*” The provision of law is clear: the gambling activities that are outside the jurisdiction of PAGCOR pertain only to those which have already been granted to other bodies under their respective franchises or special laws. Again, there is nothing in the LGC that authorizes a barangay to license bingo; hence, the Bingo sa Barangay without any authority from PAGCOR is illegal.

The *ponencia* submits that the foregoing qualification in Section 10 of Presidential Decree No. 1869, as amended by Republic Act No. 9487, applies only to items (1) and (2) of the law, i.e., (1) those authorized, licensed and regulated or to be authorized, licensed and regulated by, in, and under existing franchises or other regulatory bodies, and (2) those authorized, licensed, regulated by, in, and under special laws such as Republic Act No. 7922, and not to item (3) of the law, i.e., (3) those authorized, licensed and regulated by local government units.<sup>14</sup> I respectfully disagree.

There is nothing in Section 10 that limits the foregoing qualification only to those pointed out by the *ponencia*. Had this been the intention of the Legislature, then it would have specifically limited the qualification by excluding LGUs from its application.

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<sup>13</sup> *Ponencia*, p. 10.

<sup>14</sup> *Ponencia*, p. 11.

Besides, with due respect, the *ponencia* ignores the principle that the LGC is a special law insofar as gambling is concerned.<sup>15</sup> As distinguished from a general law, which applies “to *all* of the people of the state or to all of a particular class of persons in the state,” a special law “*applies to particular individuals in the state or to a particular section or portion of the state only.*”<sup>16</sup> Obviously, where licensing of gambling activities is concerned, Presidential Decree No. 1869, as amended, is the general law as it applies to *all* games of chance, cards, and numbers, while the charters of other offices and the LGC are deemed as special laws because they apply only to a particular class of gambling that may be authorized by regulatory agencies other than PAGCOR.

Thus, both Sections 447(3)(v) and 458(3)(v) of the LGC state that the power to license cockfighting is granted to the LGU concerned, “[a]ny law to the contrary notwithstanding.” This is an unequivocal recognition by the Legislature that the LGC is a special law insofar as the licensing of games of chance, games of cards, and games of numbers is involved, as it creates an exemption from the general regulatory authority of PAGCOR over such games. It is therefore erroneous to conclude that the LGC cannot be considered as a “special law” in the context of Section 10 of Presidential Decree No. 1869, as amended.

Still, I emphasize that to be considered a game of chance, the players must part with their money or property, or some portion thereof, on a naked chance to win.<sup>17</sup> It must involve a game or operation in which the operators obtain something for which they have given nothing except a naked chance.<sup>18</sup> There must be (a) a consideration to enter the game; (b) a chance to win; and (c) a prize or some advantage or any inequality in amount or value which is in the nature of a prize.<sup>19</sup> Provided that all the foregoing elements are present in the Bingo sa Barangay conducted by the barangay-members of respondent, then the said activity cannot be conducted by the concerned barangay without prior authorization by law or by PAGCOR.

In view of the foregoing, I vote to: (1) **GRANT** the Petition; (2) **REVERSE** and **SET ASIDE** the Decision dated May 18, 2012 and

<sup>15</sup> See *Provincial Assessor of Agusan Del Sur v. Filipinas Palm Oil Plantation, Inc.*, 796 Phil. 547, 571 (2016), where the LGC was deemed as special law insofar as the imposition of real property tax is concerned.

<sup>16</sup> *U.S. v. Serapio*, 23 Phil. 584, 591–592 (1912).

<sup>17</sup> *U.S. v. Olsen*, 36 Phil. 395, 396 (1917).

<sup>18</sup> *Id.* at 399.

<sup>19</sup> *U.S. v. Baguio*, 39 Phil. 962, 967 (1919).

Resolution dated April 22, 2013 of the Court of Appeals in CA-G.R. CV No. 90980; and (3) **ENTER** a new judgment holding that barangays cannot conduct "Bingo sa Barangay" without prior authorization by law or by the Philippine Amusement and Gaming Corporation.

  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*