



Republic of the Philippines
Supreme Court
Baguio City

EN BANC

JOVENCIO H. EVANGELISTA,
Petitioner,

G.R. No. 228234

- versus -

PHILIPPINE AMUSEMENT AND
GAMING CORPORATION
(PAGCOR); ANDREA D.
DOMINGO; ALFREDO C. LIM;
CARMEN N. PEDROSA;
REYNALDO E. CONCORDIA; and
GABRIEL S. CLAUDIO,

Respondents.

X-----X
MIGUEL DANIEL C. CRUZ, in his
personal capacity and as the
representative of UNION FOR
NATIONAL DEVELOPMENT AND
GOOD GOVERNANCE-
PHILIPPINES (UNILAD-
Philippines),

Petitioner,

G.R. No. 228315

- versus -

PHILIPPINE AMUSEMENT AND
GAMING CORPORATION
(PAGCOR) and ANDREA D.
DOMINGO, in her capacity as the
Chief Executive Officer (CEO) and
Chairperson of the Board of Directors
of the PAGCOR,

Respondents.

X-----X
ANTI-TRAPO MOVEMENT OF
THE PHILIPPINES, INC.,
represented by its Founding
Chairperson, LEON ESTRELLA
PERALTA, and LEON ESTRELLA
PERALTA,

Petitioners,

- versus -

PHILIPPINE AMUSEMENT AND
GAMING CORPORATION,
represented by ANDREA D.
DOMINGO, Chairperson of the
Board of Directors, PAGCOR, and
JOHN and JANE DOES of PAGCOR
(Unnamed Public Officers of the
PAGCOR),

Respondents.

G.R. No. 230080

Present:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,*
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,*
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and
SINGH, JJ.

Promulgated:

April 25, 2023

DECISION

LOPEZ, J., J.

This Court resolves the consolidated Petitions for Prohibition and/or *Certiorari*¹ assailing the constitutionality of the Rules and Regulations for Philippine Offshore Gaming Operations (*RR-POGO*) approved by the Board of Directors of the Philippine Amusement and Gaming Corporation (*PAGCOR*) on September 1, 2016.

In the Resolution² dated November 26, 2017, this Court ordered the consolidation of G.R. Nos. 228234, 228315, and 230080.

* On leave.

¹ *Rollo* (G.R. No. 228234), Vol. I, pp. 3-29; *Rollo* (G.R. No. 228315), Vol. I, pp. 3-25; *Rollo* (G.R. No. 230080), Vol. I, pp. 3-23.

² *Rollo* (G.R. No. 228234), Vol. I, p. 378.

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The RR-POGO outlines the procedure for the licensing, accreditation, and registration of offshore gaming operators, offshore gaming agents, and other auxiliary service providers. Petitioners allege, in substance, that the RR-POGO is unconstitutional because PAGCOR has no authority to operate and regulate online or offshore gaming operations. Ultimately, they pray that the RR-POGO be struck down as unconstitutional, and that respondents be permanently enjoined from implementing the provisions thereof.

History of PAGCOR

PAGCOR is a government owned and controlled corporation³ initially created by Presidential Decree (P.D.) No. 1067-A⁴ on January 1, 1967. Its establishment was impelled by the need to tap potential resources to finance infrastructure and socio-economic development projects, particularly within the Metropolitan Manila area; to complement the development of tourist industry in the country by providing more amusement and recreation places; and to prevent the proliferation of illegal casino/s and or club/s conducting games of chance.⁵

PAGCOR was tasked to implement the State's policy of centralizing and integrating all games of chance not theretofore authorized by existing franchises or permitted by law to attain two objectives: (1) to centralize and integrate the right and authority to operate and conduct games of chance to be controlled, administered, and supervised by the government; and (2) to establish and operate clubs and casinos, sports, gaming pools and others for amusement and recreation, including games of chance, which may be allowed within the territorial jurisdiction of the Philippines.⁶

On January 1, 1977, P.D. No. 1067-B⁷ was issued, granting PAGCOR, for a period of 25 years, and renewable for another 25 years, the right, privilege, and authority to operate and maintain gambling casinos, clubs, and other recreation or amusement places, sports, gaming pools, whether on land or sea, within the territorial jurisdiction of the Philippines. Subsequent

³ *Yun Kwan Byung v. Philippine Amusement and Gaming Corporation*, 623 Phil. 23, 28 (2009).

⁴ CREATING THE PHILIPPINE AMUSEMENTS AND GAMING CORPORATION, DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR, AND FOR OTHER PURPOSES.

⁵ Whereas Clauses of P.D. No. 1067-A.

⁶ Section 1, P.D. No. 1067-A.

⁷ GRANTING THE PHILIPPINE AMUSEMENTS AND GAMING CORPORATION A FRANCHISE TO ESTABLISH, OPERATE, AND MAINTAIN GAMBLING CASINOS ON LAND OR WATER WITHIN THE TERRITORIAL JURISDICTION OF THE REPUBLIC OF THE PHILIPPINES.

amendments to P.D. No. 1067-A and P.D. No. 1067-B were then made through P.D. No. 1067-C,⁸ P.D. No. 1399,⁹ and P.D. No. 1632.¹⁰

On July 11, 1983, P.D. No. 1869 was issued consolidating and amending P.D. No. 1067-A, P.D. No. 1067-B, P.D. No. 1067-C, P.D. No. 1399, and P.D. No. 1632, relative to the franchise and powers of PAGCOR into a single statute.

The whereas clauses of P.D. No. 1869 state:

WHEREAS, Presidential Decree No. 1067-A, 1067-B, 1067-C, 1399 and 1632, relative to the Franchise and Powers of the Philippine Amusement and Gaming Corporation (PAGCOR), were enacted to enable the Government to regulate and centralized thru an appropriate institution all games of chance authorized by existing franchise or permitted by law;

WHEREAS, to facilitate the enforcement and application of the above-mentioned Presidential Decrees, it is imperative to consolidate them into one statute;

WHEREAS, since its creation in 1977, PAGCOR has demonstrated its reliability as a source of income for the Government, particularly for the funding of government infrastructure projects, such that, as of December 1982, PAGCOR has generated gross revenue of [P]1.677 Billion, contributing [P]956 Million as the 60% share of the Government plus [P]83 Million in the form of 5% franchise tax;

WHEREAS, PAGCOR's operation has enabled the Government to identify the potential sources of additional revenue, provided games of chances are strictly managed and made subject to close scrutiny, regulation, supervision and control by the Government;

WHEREAS, to make it more dynamic and effective in its tasks, PAGCOR should now be reorganized by (a) increasing the participation of the private sector in the subscription of the authorized capital stock of PAGCOR and by adjusting the share of the Government in the gross earning to 50%; provided, that the annual income of the Government is not less than [P]150 Million and, if it is less, then the share of the Government shall be 60% of the gross earnings; (b) providing for a settlement of the portion of the Government's share that was utilized for the stabilization of casino

⁸ Extended the term of the PAGCOR for twenty-five years, renewable for another twenty-five years, and made its franchise exclusive in character, except existing franchises and games of chance theretofore permitted by law.

⁹ AMENDING CERTAIN SECTIONS OF PRESIDENTIAL DECREE NO. 1067-A DATED JANUARY 1, 1977, ENTITLED "CREATING THE PHILIPPINE AMUSEMENTS AND GAMING CORPORATION, DEFINING ITS POWERS AND FUNCTIONS, PROVIDING FUNDS THEREFOR AND FOR OTHER PURPOSES," AND PRESIDENTIAL DECREE NO. 1067-B DATED JANUARY 1, 1977, ENTITLED, "GRANTING THE PHILIPPINE AMUSEMENTS AND GAMING CORPORATION A FRANCHISE TO ESTABLISH, OPERATE, AND MAINTAIN GAMBLING CASINOS ON LAND OR WATER WITHIN THE TERRITORIAL JURISDICTION OF THE REPUBLIC OF THE PHILIPPINES."

¹⁰ RESERVING AND ESTABLISHING AS AGRO-FOREST DEVELOPMENT PILOT PROJECT CERTAIN PARCELS OF LAND OF THE PUBLIC DOMAIN SITUATED IN THE MUNICIPALITIES OF SAN JOSE AND RIZAL, PROVINCE OF MINDORO OCCIDENTAL, ISLAND OF MINDORO.

operations, and (c) providing for greater flexibility in operation by limiting governmental audit only to the determination of the 5% franchise tax and the Government's share of 50% of the gross earnings;

WHEREAS, in order to make PAGCOR's regulatory powers more effective, it is necessary that businesses primarily engaged in gambling operations be affiliated with PAGCOR, and become subject to its regulatory powers with respect to operation, capitalization and organizational structure;

WHEREAS, under Presidential Decree No. 1416, as amended, the President of the Philippines is authorized to reorganize the administrative structure of government offices[.]

P.D. No. 1869 reiterated the authority of PAGCOR to operate and maintain gambling casinos, gaming clubs, and other similar recreation or amusement places, gaming pools, on land and on sea, within the territorial jurisdiction of the Philippines. Section 10 of P.D. No. 1869 provides:

SEC. 10. Nature and Term of Franchise. — Subject to the terms and conditions established in this Decree, the Corporation is hereby granted for a period of twenty-five (25) years, renewable for another twenty-five years, the rights, privileges and authority to operate and maintain gambling casinos, clubs and other recreation or amusement places, sports, gaming pools, *i.e.*, basketball, football, lotteries, etc. whether on land or sea, within the territorial jurisdiction of the Republic of the Philippines.

P.D. No. 1869 also required the registration of all persons primarily engaged in gambling and their allied business with PAGCOR, which shall exercise regulatory power over these affiliated entities:

SEC. 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.

SEC. 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 June 20, 2007, Republic Act (R.A.) No. 9487¹¹ was enacted into law, amending Section 10 of P.D. No. 1869 with respect to the nature and term of PAGCOR's franchise, Section 1 of which reads:

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, renewable for another 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.

"The operation of slot machines and other gambling paraphernalia and equipment, shall not be allowed in establishments open or accessible to the general public unless the site of these operations are three-star hotels and resorts accredited by the Department of Tourism authorized by the corporation and by the local government unit concerned.

"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 or to be 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." (Underscoring supplied)

Aside from extending its franchise for another 25 years, R.A. No. 9487 gave PAGCOR the authority not only to operate but also to license gambling casinos, gaming clubs, and other similar recreation and amusement places, with the exception of *jai-alai*. Meanwhile, the law already required

¹¹ AN ACT FURTHER AMENDING PRESIDENTIAL DECREE NO. 1869, OTHERWISE KNOWN AS PAGCOR CHARTER.

PAGCOR to obtain the consent of the local government unit that has territorial jurisdiction over the area where it chooses to operate in.

R.A. No. 9487 also stated that PAGCOR's authority and power to regulate games of chance, games of cards, and games of numbers do not extend to: (1) games of chance authorized, licensed and regulated or to be 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 R.A. No. 7922; and (3) games of chance, games of cards and games of numbers, like cockfighting, authorized, licensed and regulated by local government units. Verily, these exceptions are expressly mandated to be outside PAGCOR's licensing authority and regulatory powers.

The Issuance of the RR-POGO

On September 1, 2016, the Board of Directors of PAGCOR approved the RR-POGO. The objectives for its issuance were enumerated in Section 2 thereof:

Section 2. *Licensing Objectives*— PAGCOR is mandated under P.D. 1869, to centralize and integrate all games of chance, and granted under the same law with corporate powers, to do anything and everything necessary, proper, desirable, convenient or suitable for the accomplishment of any of the purposes or the attainment of any of the objects or the furtherance of any its powers, hence in furtherance thereof, these regulations are issued with the following objectives:

- a.) Curtail the proliferation of illegal online games operating within the territorial jurisdiction of the Philippines whether on land or sea;
- b.) Ensure that online games are properly regulated and monitored, especially those which operate under the guise of a valid franchise but are in fact operating outside the territorial limits of its franchisor/regulator;
- c.) Provide an avenue for these operators, who are wanting to operate within legal bounds but are without recourse because of the absence of a regulating body, willing and legally capable to issues them franchises;
- d.) Safeguard the welfare of the Filipino people by ensuring that no Filipino, whether minor or of age, are able to place bets on or are being exploited by these online games; and
- e.) Be able to monitor that these online games are not being used as a means of committing crimes, or used as schemes to circumvent anti-money-laundering laws[.]

Under the RR-POGO, Philippine Offshore Gaming Operators are entities that provide and participate in offshore gaming services, or that which

provide the games to players, takes bets, and pays the player's winnings.¹² These operators must obtain a license from, and must be duly authorized by PAGCOR to provide offshore gaming services.¹³

In this regard, offshore gaming was defined in the RR-POGO as:

Section 4. *Definition of Terms* - When used in this regulation the following terms are to be understood as:

x x x x

b.) Offshore Gaming – refers to the offering by a licensee of PAGCOR authorized online games of chance *via* the internet using a network and software program, exclusively to offshore authorized players excluding Filipinos abroad, who have registered and established an online gaming account with the licensee. Offshore gaming shall have three components as follows:

b.1.) prize consisting of money or something else of value which can be won under the rules of the game.

b.2.) a player who:

b.2.a.) being located outside of the Philippines and not a Filipino citizen, enters the game remotely or takes any step in the game by means of a communication device capable of accessing an electronic communication network such as the internet.

¹² RR-POGO, Sec. 4(c).

¹³ RR-POGO, Secs. 8 and 26 provide:

Section 8. *Requirements*. – The applicant for Offshore Gaming License must meet the following requirements:

- a.) Duly constituted business enterprise organized in the Philippines or any foreign country; if organized in any country other than the Philippines, must have a POGO Gaming Agent;
- b.) Compliance with the regulator's licensing process and requirements which includes the following elements:
 - b.1.) Probity check to be conducted by a third party checker on applicant's identity or each of key officials of the corporate applicant; finances, integrity, competence and criminality.
 - b.2.) Review of applicant's business plan;
 - b.3.) Review of applicant's statutory and operational documentations;
 - b.4.) Review of applicant's gaming system which shall be aptly certified by a PAGCOR accredited gaming laboratory.

c.) Must have been issued a Letter of No Objection (LONO) from the LGU on which the offshore gaming operations shall be conducted[.]

Section 26. *Qualifications of Licensee* - The Board shall not grant a license unless it is satisfied that the applicant meets the following eligibilities, as applicable:

- (a) Of good repute, considering character, honesty and integrity;
- (b) Not associated to any person who, in the opinion of the Board, is not of good repute considering character, honesty, and integrity or has undesirable or unsatisfactory financial resources;
- (c) Sufficient experience and ability to establish and manage offshore gaming operations;
- (d) Not among those excluded from engaging in gaming under this regulation or any other law on the matter; and
- (e) In the case of an artificial person, of stable financial standing and satisfactory corporate structure[.]

- b.2.b.) gives or undertakes to give a monetary payment or other valuable consideration to enter in the course of, or for, the game; and
- b.3.) the winning of a prize is decided by chance.

An Offshore Gaming License may be issued to: (1) a Philippine-based operator, or one which is a duly constituted business enterprise organized in the Philippines; or (2) an Offshore-based operator, a duly constituted business enterprise organized in any foreign country but who will engage the services of a PAGCOR-accredited service or support provider for its online gaming activity.¹⁴

Other auxiliary service providers, such as Gaming Software/Platform Providers,¹⁵ Gaming Support Providers,¹⁶ Business Process Outsourcing units,¹⁷ and Data/Content Streaming Providers,¹⁸ are likewise required to

¹⁴ RR-POGO, Sec. 6.

¹⁵ Sections 13 and 14 of RR-POGO state:

Section 13. *Gaming Software/Platform Provider Registration.* - To be issued to Service Providers of gaming systems or platforms to be leased by the offshore gaming operator.

Section 14. *Requirements* - The Gaming Software or Platform Provider of the offshore gaming operator in the country must be a duly constituted business enterprise, and compliant with the latter's licensing process and requirements which include the following elements:

- a.) Probity check on applicant's identity or each of key officials of the corporate applicant; finances, integrity, competence and criminality
- b.) Review of applicant's statutory and operational documentations.

¹⁶ Sections 16 and 17 of RR-POGO state:

Section 16. *Gaming Support Provider Registration.* - To be issued to the provider of other gaming products sourced separately by the Operator which are not part of its leased gaming system such as payment solutions, player registration system, *inter alia*.

Section 17. *Requirements.* - The Gaming Support Provider of the offshore gaming operator in the country must be a duly constituted business enterprise, and compliant with the latter's licensing process and requirements which include the following elements:

- a.) Probity check on applicant's identity or each of key officials of the corporate applicant; finances, integrity, competence and criminality
- b.) Review of applicant's statutory and operational documentations.

¹⁷ RR-POGO, Secs. 19 and 20 state:

Section 19. *Business Process Outsourcing (BPO) Registration* - Those providing call center services to the operator shall likewise be registered,

Section 20. *Requirements.* - Applicant for registration shall submit and comply with the following:

- a) Must be duly constituted business enterprise in the Philippines;
- b) Compliance with the requirements for application as an accredited or registered enterprise of the regulator which includes the following elements:
 - b.1.) Probity check on applicant's identity or each of key officials of the corporate applicant; finances, integrity, competence and criminality;
 - b.2.) Review of applicant's statutory and operational documentations.
- c) Duly executed Service Agreement with a licensed Offshore Gaming Operator, when applicable.

¹⁸ RR-POGO, Secs. 22 and 23 state:

Section 22. *Data/Content Streaming Provider* - Those providing real time streaming of casino games from a live dealer gaming studio set-up to the operator shall likewise be registered and shall be required to obtain a Permit to Posses of their gaming equipment and paraphernalia.

The Permit to Posses ("PTP") is a certificate issued by PAGCOR to providers of a studio gaming set-up. The PTP allows said provider to import, store, transfer/move, ship-out and operate gaming equipment and/or gaming paraphernalia in its gaming studio for the sole purpose of video streaming footages of live gaming action in conjunction with the operation of offshore gaming as contemplated in these regulations. Taxes and duties levied on the importation of any gaming equipment and/or paraphernalia brought into the country by the provider shall be for its sole account. The PTP is site specific and issued on a per venue basis.

Section 23. *Requirements* - Applicant for registration as Data/Content Streaming Provider shall submit and comply with the following:

register with PAGCOR under the RR-POGO before they can render service to the Philippine Offshore Gaming Operators.

Once issued, an Offshore Gaming License covers the following game offerings: (1) Electronic Casino (*e-casino*), or Random Number Generator-based or “live” dealer games, including table games, slots, other card, wheel and dice games, skill games, and arcade type games; and (2) sports betting.

According to PAGCOR, there are a total of 33 Philippine Offshore Gaming Operators already approved and licensed in accordance with the RR-POGO, two of which have no authority to resume operations.¹⁹

The Petitions Before this Court

Following the issuance of the RR-POGO are the consolidated Petitions filed before this Court by petitioners Jovencio H. Evangelista (*Evangelista*), Miguel Daniel C. Cruz (*Cruz*), Chairperson of the Union for National Development and Good Governance-Philippines, and the Anti-Trapo Movement of the Philippines, Inc., represented by its Founding Chairperson, Leon Estrella Peralta, all assailing the constitutionality and legality of PAGCOR’s power and authority to issue licenses to and approve the registration of Philippine Offshore Gaming Operators.

Procedurally, Evangelista and Cruz argued that they have the position to question the constitutionality of the RR-POGO since the issue involved is of transcendental importance. In any case, they assert that they have standing as taxpayers since the implementation of the RR-POGO will entail unnecessary expenses for the government, particularly with the creation of various committees thereunder.²⁰ Cruz also argued that given that the issue

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- a) Duly accomplished Application for Permit to Possess (OG Form No.)
 - b) Copy of the Registration Certificates issued by either the Department of Trade and Industry (DTI) or the Securities and Exchange Commission (SEC), whichever is applicable.
 - c) Photocopy of the Mayor’s Permit or Business Permit
 - d) Compliance with the requirements for application as an accredited or registered enterprise of the regulator which includes the following elements:
 - d.1.) Probity check on applicant’s identity or each of key officials of the corporate applicant, finances, integrity, competence and criminality;
 - d.2.) Review of applicant’s statutory and operational documentations[.]
 - e) Duly executed Service Agreement with a licensed Offshore Gaming Operator.

¹⁹ List of Approved Philippine Offshore Gaming Operations (<https://www.pagcor.ph/regulatory/pdf/offshore/List-of-Approved-Philippine-Offshore-Gaming-Operators.pdf>), last accessed January 11, 2022.

²⁰ *Rollo* (G.R. No. 228234), Vol. I, pp. 3–4; *Rollo* (G.R. No. 228315), Vol. I, pp. 6–7.

raised in the present case is of transcendental importance, a direct resort to this Court *via* Rule 65 of the Rules of Court is proper.²¹

On the merits, Evangelista argued that the RR-POGO is unconstitutional since PAGCOR has no authority to operate and regulate online gambling under its charter. He maintained that P.D. No. 1869, issued on July 11, 1983, could not have envisioned online gaming and/or gambling since the internet was not yet existing at the time. Nevertheless, he pointed out that R.A. No. 9487, which amended Section 10 of P.D. No. 1869, and which was approved on June 20, 2007 when the internet was already widely used, still did not mention online gambling as within the authority and jurisdiction of PAGCOR.²²

Evangelista further argued that Section 10 of P.D. No. 1869, as amended, excluded from the power and authority of PAGCOR those games of chance, games of cards, or games of numbers already licensed, regulated by, in, and under special laws, such as R.A. No. 7922.²³ In this regard, Section 6(f)²⁴ of R.A. No. 7922, Section 13 (b)(7)²⁵ of R.A. No. 7227,²⁶ and R.A. Act No. 7916²⁷ empowered the respective economic zones they created to directly or indirectly operate gambling and casinos within its jurisdiction. Thus, assuming that PAGCOR may issue license to any entity who wants to operate an offshore gaming activity, it cannot do so in the areas covered by the economic zones.²⁸

²¹ *Rollo* (G.R. No. 228315), Vol. I, p. 7.

²² *Rollo* (G.R. No. 228234), Vol. I, pp. 18–19.

²³ “An Act Establishing a Special Economic Zone and Free Port in the Municipality of Santa Ana and the Neighboring Islands in the Municipality of Aparri, Province of Cagayan, Providing Funds Therefor, and for Other Purposes. Also known as the “Cagayan Special Economic Zone Act of 1995.” Approved: February 24, 1995.

²⁴ Sec. 6. *Powers and Functions of the Cagayan Economic Zone Authority.* – the Cagayan Economic Zone Authority shall have the following powers and functions:

(f) To operate on its own, either directly or through a subsidiary entity, or license to others, tourism-related activities including games, amusements, recreational and sports facilities such as horse racing, dog racing, gambling casinos, golf courses, and others, under priorities and standards set by the CEZA;

²⁵ SECTION 13. *The Subic Bay Metropolitan 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 functions:

(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.

²⁶ “An Act Accelerating the Conversion of Military Reservations into Other Productive Uses, Creating the Bases Conversion and Development Authority for The Purpose, Providing Funds Therefor and For Other Purposes.” Also known as “Bases Conversion and Development Act of 1992.” Approved: March 13, 1992.

²⁷ “An Act Providing for the Legal Framework and Mechanisms for the Creation, Operation, Administration, and Coordination of Special Economic Zones in the Philippines, Creating For This Purpose, The Philippine Economic Zone Authority (PEZA), and For Other Purposes.” Also known as “The Special Economic Zone Act of 1985. Approved: February 24, 1995.

²⁸ *Rollo* (G.R. No. 228234), Vol. I, pp. 23–26.

On the other hand, Cruz added that PAGCOR is not authorized under its legislative franchise to operate and regulate gambling on the internet catering to foreign-based players and gamblers that are physically outside the Philippines. He argued that for PAGCOR to have authority and jurisdiction, three elements are required: (1) the game of chance must be done on either land or sea; (2) it must be within the territorial jurisdiction of the Philippines; and (3) it must not be regulated by other regulatory bodies or governed by special laws.²⁹

Finally, the Anti-Trap Movement of the Philippines, Inc. argued that PAGCOR is not allowed under its charter to relinquish or share its franchise, much less grant a veritable franchise to another entity. Moreover, there is no other authority under existing laws that is explicitly granted the mandate to issue online gaming licenses and regulate the same, other than the Aurora Pacific Economic Zone and Freeport Authority under Section 12(f)³⁰ of R.A. No. 9490,³¹ as amended by R.A. No. 10083.

Petitioners prayed that the RR-POGO be declared null and void for being unconstitutional.³²

Respondents PAGCOR, Andrea D. Domingo, Alfredo C. Lim, Carmen N. Pedrosa, Reynaldo E. Concordia, and Gabriel S. Claudio, through the Office of the Government Corporate Counsel, filed a Consolidated Comment³³ to the Petitions of Evangelista and Cruz, maintaining the validity of the RR-POGO and the authority of PAGCOR to regulate online offshore gambling.

Subsequently, the Office of the Solicitor General, on behalf of respondents, similarly filed a Consolidated Comment³⁴ to the Petitions of Evangelista and Cruz and a Comment³⁵ to the Petition of Anti-Trap Movement of the Philippines, Inc.

²⁹ *Rollo* (G.R. No. 228315), Vol. I, p. 8.

³⁰ SEC. 12. *Powers and Functions of the Aurora Pacific Economic Zone and Freeport Authority (APECO)*. — The APECO shall have the following powers and functions:

(f) To operate on its own, either directly or through a subsidiary entity, or concession or license to others, tourism-related activities, including games, amusements and nature parks, recreational and sports facilities such as casinos, online game facilities, golf courses and others under priorities and standards set by the APECO.

³¹ “An Act Establishing the Aurora Special Economic Zone in the Province Of Aurora, Creating for the Purpose the Aurora Special Economic Zone Authority, Appropriating Funds Therefor, and For Other Purposes.” Also known as the “Aurora Special Economic Zone Act of 2007.” Approved: June 29, 2007.

³² *Rollo* (G.R. No. 228234), Vol. I, p. 27; *Rollo* (G.R. No. 228315), Vol. I, p. 21; *Rollo* (G.R. No. 230080), Vol. I, p. 15.

³³ Consolidated Comment dated March 20, 2017; *Rollo* (G.R. No. 228315), Vol. I, pp. 122–157.

³⁴ Consolidated Comment dated April 20, 2017; *Rollo* (G.R. No. 228234), Vol. I, pp. 164–222.

³⁵ Comment dated June 6, 2017; *Rollo* (G.R. No. 228234), Vol. I, pp. 308–353.

Respondents argued that the remedies of *certiorari* and prohibition under Rule 65 of the Rules of Court are improper to question the constitutionality of the RR-POGO since it was not issued by PAGCOR in a judicial or quasi-judicial capacity. The proper remedy, it insisted, is a petition for declaratory relief under Section 1, Rule 63 of the Rules of Court. Respondents also contended that petitioners do not have the *locus standi* to file the present Petitions because they are not real parties-in-interest who will suffer any injury resulting from the implementation of the RR-POGO. Petitioners also did not aver that public funds will be illegally disbursed pursuant to the said Rules.³⁶

On the substantive issues, respondents argued that it has the authority to issue the RR-POGO under its charter. Under P.D. No. 1869, as amended by R.A. No. 9487, PAGCOR has the authority to operate all games of chance within the territorial jurisdiction of the Philippines, except only: (1) *jai alai*; (2) those authorized, licensed, and regulated by, in, and under existing franchises, or other regulatory bodies; (3) those authorized, licensed, regulated by, in, and under special laws, such as R.A. No. 7922; and (4) those authorized, licensed, and regulated by local government units.³⁷

Respondents insisted that all games of chance are centralized and integrated for its regulation, including those already existing at the time of the creation of its charter, and those that may thereafter be invented, such as online gambling.³⁸

Respondents contended that contrary to the position of petitioners, the situs of offshore gaming operations is within the Philippine territorial jurisdiction. It stated that while the offshore gaming is offered to persons located outside the Philippines, the gaming activities are administered by Philippine-based operators or by offshore-based operators that engage the services of a support provider that is located in the country.³⁹

Respondents also argued that the CEZA, the SBMA, and the PEZA cannot operate and license online gambling or offshore gaming within their territorial jurisdiction in the absence of an authority or license from it. Their respective charters limit their franchise to operate and license gambling establishments to tourism-oriented only gaming.⁴⁰

Respondents thus prayed that the consolidated Petitions be denied for lack of merit.

³⁶ Id. at 172–184.

³⁷ Id. at 189.

³⁸ Id. at 190–191.

³⁹ Id. at 199.

⁴⁰ Id. at 204–209.

This Court's Ruling

Propriety of the remedies of certiorari and prohibition

Petitioners seek to declare as unconstitutional the RR-POGO through the vehicles of *certiorari* and prohibition under Rule 65 of the Rules of Court. Respondents, for their part, argue that *certiorari* and prohibition are improper remedies since the RR-POGO was not issued by PAGCOR in a judicial or quasi-judicial capacity.

Acts of administrative agencies reviewable by this Court are made in either quasi-legislative or quasi-judicial capacity.⁴¹ In *The Provincial Bus Operators Association of the Philippines, et al. v. Department of Labor and Employment, et al.*,⁴² We discussed these two concepts, thus:

As the name implies, quasi-legislative or rule-making power is the power of an administrative agency to make rules and regulations that have the force and effect of law so long as they are issued “within the confines of the granting statute.” The enabling law must be complete, with sufficient standards to guide the administrative agency in exercising its rule-making power. As an exception to the rule on non-delegation of legislative power, administrative rules and regulations must be “germane to the objects and purposes of the law, and be not in contradiction to, but in conformity with, the standards prescribed by law.”

x x x x

On the other hand, quasi-judicial or administrative adjudicatory power is “the power to hear and determine questions of fact to which the legislative policy is to apply and to decide in accordance with the standards laid down by the law itself in enforcing and administering the same law.”⁴³

Here, the RR-POGO was issued in the exercise of PAGCOR’s quasi-legislative powers. Particularly, the RR-POGO outlines the procedure for the licensing, accreditation, and registration of offshore gaming operators, offshore gaming agents, and other auxiliary service providers. This is pursuant to PAGCOR’s power under Section 8 of P.D. No. 1869 to promulgate rules and regulations relevant to the registration of persons engaged in gambling, thus:

SEC. 8. REGISTRATION. — All persons primarily engaged in gambling, together with their allied business, with contract or franchise from

⁴¹ *The Provincial Bus Operators Association of the Philippines, et al. v. Department of Labor and Employment, et al.*, 836 Phil. 205, 233 (2018).

⁴² 836 Phil. 205 (2018).

⁴³ *Id.* at 233–234. (Citations omitted)

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.

Strictly speaking, the remedies of *certiorari* and prohibition under Rule 65 of the Rules of Court are appropriate to question the acts or proceedings of a tribunal, board, or officer exercising judicial, quasi-judicial, or ministerial functions attended with grave abuse of discretion. Sections 1 and 2 of Rule 65 of the Rules of Court state:

SECTION 1. *Petition for certiorari.* — When any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings of such tribunal, board or officer, and granting such incidental reliefs as law and justice may require.

The petition shall be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

SECTION 2. *Petition for prohibition.* — When the proceedings of any tribunal, corporation, board, officer or person, whether exercising judicial, quasi-judicial or ministerial functions, are without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal or any other plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent to desist from further proceedings in the action or matter specified therein, or otherwise granting such incidental reliefs as law and justice may require.

The petition shall likewise be accompanied by a certified true copy of the judgment, order or resolution subject thereof, copies of all pleadings and documents relevant and pertinent thereto, and a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46.

In its traditional sense, the writs of *certiorari* and prohibition are considered “supervisory writs,” used by superior courts to keep lower courts within the confines of their granted jurisdictions to the end of ensuring orderliness in the rulings of the lower courts.⁴⁴

⁴⁴ *Association of Medical Clinics for Overseas Workers, Inc. (AMCOW) v. GCC Approved Medical Centers Association, Inc., et al.*, 802 Phil. 116, 136 (2016).

Nevertheless, this Court, in many cases,⁴⁵ has allowed the use of a petition for *certiorari* and/or prohibition under Rule 65 of the Rules of Court to invoke our expanded judicial power under the Section 1, Article VIII, 1987 Constitution –

SECTION 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.

In *Francisco, Jr. v. The House of Representatives*,⁴⁶ We emphasized that this power, also called the “expanded *certiorari* jurisdiction” of this Court, was engraved into block letter law, for this first time in history, in Section 1, Article VIII of the 1986 Constitution “[t]o ensure the potency of the power of judicial review to curb grave abuse of discretion by ‘any branch or instrumentalities of the government.’”⁴⁷

On this note, We held in *Araullo, et al. v. Pres. Aquino III, et al.*⁴⁸ that, with respect to this Court, the remedies of *certiorari* and prohibition are necessarily broader in scope and reach. Thus, it is now settled that —

the writ of *certiorari* or prohibition may be issued to correct errors of jurisdiction committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions but also to set right, undo and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, *even if the latter does not exercise judicial, quasi-judicial or ministerial functions.*⁴⁹

As the present Petitions allege that the issuance of the RR-POGO was attended with grave abuse of discretion and violates the Constitution, they make a *prima facie* case for *certiorari* and prohibition.

⁴⁵ *Kilusang Mayo Uno, et al. v. Aquino III*, 850 Phil. 1168 (2019); *Private Hospitals Association of the Philippines, Inc. v. Exec. Sec. Medialdea, et al.*, 842 Phil. 747 (2018); *Araullo, et al. v. Pres. Aquino III, et al.*, 752 Phil. 716 (2014); *Sps. Imbong v. Hon. Ochoa, Jr.*, 732 Phil. 1 (2014); *Belgica v. Hon. Exec. Sec. Ochoa, Jr.*, 721 Phil. 416 (2013); *Magallona v. Hon. Ermita*, 671 Phil. 243 (2011); *Province of North Cotabato v. The Government of the Republic of the Philippines Peace Panel on Ancestral Domain (GRP)*, 589 Phil. 387 (2008).

⁴⁶ 460 Phil. 830 (2003).

⁴⁷ *Id.* at 883. (Emphasis in the original)

⁴⁸ *Supra* note 45.

⁴⁹ *Id.* at 806, see Separation Opinion of Associate Justice Arturo D. Brion.

*The doctrine of hierarchy of courts; when
direct resort to this Court is warranted*

While this Court's expanded judicial power may be invoked through the vehicles of *certiorari* and prohibition under Rule 65 of the Rules of Court, this does not give the parties the unbridled right to directly seek redress from this Court.

This Court, the Court of Appeals, and the Regional Trial Court have concurrent original jurisdiction over petitions for *certiorari* and prohibition.⁵⁰ The doctrine of hierarchy of courts mandates that "recourse must first be made to the lower-ranked court exercising concurrent jurisdiction with a higher court."⁵¹ The doctrine is meant to guarantee this Court's status as the court of last resort so that it can "satisfactorily perform the functions assigned to it by the fundamental charter and immemorial tradition."⁵² Stated otherwise, giving due course to all petitions where original jurisdiction over the matter is shared with lower courts will unnecessarily clog this Court's docket and exhaust resources that may be better utilized to resolve more pressing concerns.⁵³

Nevertheless, this Court has emphasized that the doctrine of hierarchy of courts is not an iron-clad rule.⁵⁴ In *The Diocese of Bacolod, et al. v. Commission on Elections, et al.*,⁵⁵ We stated that it has never been the purpose of the doctrine to emasculate this Court's role to interpret the Constitution and act in order to protect constitutional rights when these become exigent. Thus, it was held that direct resort to this Court is allowed in the following instances: (1) there are genuine issues of constitutionality that must be addressed at the most immediate time; (2) when the issues involved are of transcendental importance; (3) the case is of first impression; (4) the constitutional issues raised are better decided by this Court; (5) the time element present in the case cannot be ignored; (6) the petition reviews the act of a constitutional organ; (7) petitioners rightly claim that they had no other plain, speedy, and adequate remedy in the ordinary course of law; and (8) the petition includes questions that are dictated by public welfare and the advancement of public policy, or demanded by the broader interest of justice, or the orders complained for were found to be patent nullities, or the appeal was considered as clearly an inappropriate remedy.⁵⁶

⁵⁰ Constitution, Art. VIII, Sec. 2, par. (1) and Batas Pambansa Blg. 129, Secs. 9(1) and 2(1).

⁵¹ *Private Hospitals Association of the Philippines, Inc. v. Exec. Sec. Medialdea, et al.*, *supra* note 45, at 779–780.

⁵² *The Provincial Bus Operators Association of the Philippines, et al. v. Department of Labor and Employment, et al.*, *supra* note 42, at 238–239.

⁵³ *Santos v. Gabaen*, G.R. No. 195638, March 22, 2022.

⁵⁴ *The Diocese of Bacolod v. Commission on Elections et al.*, 751 Phil. 301, 330 (2016).

⁵⁵ 751 Phil. 301 (2016).

⁵⁶ *Id.* at 331–335. (Citations omitted)

To justify a direct resort to this Court, the parties must clearly and specifically allege in their petitions the special and important reasons therefor.⁵⁷ More importantly, We emphasized in *GIOS-SAMAR, Inc. v. Department of Transportation and Communications, et al. (GIOS-SAMAR)*,⁵⁸ that to invoke this Court's original jurisdiction, only questions of law must be involved. This Court is not a trier of facts; it is not equipped to receive and evaluate evidence in the first instance. Our duty is to apply the law based on previously established facts presented before Us.⁵⁹

Here, Cruz alleges that the direct resort to this Court is justified because the issue raised is of transcendental importance. Aside from the mere invocation of the words "transcendental importance," Cruz failed to substantiate his claim. This Court has recognized that the standard of transcendental importance is "vague, open-ended and value-laden," which should be limited in its use as an exemptions to the doctrine of hierarchy of courts.⁶⁰ In his Concurring Opinion in *GIOS-SAMAR*, Senior Associate Justice Marvic M.V.F. Leonen also opined that when invoking transcendental importance, the elements, supported by the facts of an actual case, as well as the imperative of this Court's role within a specific cultural or historic context, must be clear and properly pleaded.⁶¹

Unfortunately, petitioners failed to show exceptionally compelling reasons to justify direct resort to this Court. Petitioners were not able to clearly explain why preventing PAGCOR from regulating and requiring the registration of offshore gaming operations is of transcendental importance, warranting the immediate attention of this Court and a deviation from the doctrine of hierarchy of courts. Questions on the validity and constitutionality of the RR-POGO, to be sure, may have well been passed upon by the Court of Appeals, which similarly has jurisdiction over the subject matter and whose writs are likewise nationwide in scope.⁶²

For non-observance of the doctrine of hierarchy of courts alone, the consolidated Petitions may be dismissed.

The requisites for judicial review

⁵⁷ *The Provincial Bus Operators Association of the Philippines, et al. v. Department of Labor and Employment, et al.*, *supra* note 42, at 239.

⁵⁸ 849 Phil. 120 (2019).

⁵⁹ *Id.* at 180.

⁶⁰ *Association of Medical Clinics for Overseas Workers, Inc. (AMCOW) v. GCC Approved Medical Centers Association, Inc., et al.*, *supra* note 44, at 159.

⁶¹ Concurring Opinion of Senior Associate Justice Marvic M.V.F. Leonen in *GIOS-SAMAR, Inc. v. Department of Transportation and Communication, et al.*, *supra* note 58, at 194.

⁶² *The Provincial Bus Operators Association of the Philippines, et al. v. Department of Labor and Employment, et al.*, *supra* note 42, at 243.

Even assuming that the direct invocation of this Court's original jurisdiction is justified, the consolidated Petitions are nonetheless dismissible for not being justiciable.

This Court's exercise of its power of judicial review is subject to four well-settled limitations:

- (1) an actual case or controversy calling for the exercise of judicial power;
- (2) the person challenging the act must have 'standing' to challenge; he or she must have a personal and substantial interest in the case such that he or she has sustained, or will sustain, direct injury as a result of this enforcement;
- (3) the question on constitutionality must be raised at the earliest possible opportunity; and
- (4) the issue of constitutionality must be the very *lis mota* of the case.⁶³

This Court shall focus on the first and second elements, the third and the fourth not being disputed in this case.

The requirement of an actual case or controversy is explicit in Section 1, Article VIII of the Constitution, defining judicial power to include the courts' duty "to settle actual controversies involving rights that are legally demandable and enforceable."

In *Kilusang Mayo Uno, et al. v. Aquino III, et al.*,⁶⁴ this Court explained the concept of an actual case or controversy in more detail:

There is an actual case or controversy if there is a "conflict of legal right, an opposite legal claims susceptible of judicial resolution." A petitioner bringing a case before this Court must establish that there is a legally demandable and enforceable right under the Constitution. There must be a real and substantial controversy, with definite and concrete issues involving the legal relations of the parties, and admitting of specific relief that courts can grant.⁶⁵ (Citations omitted)

The requirement of an actual case or controversy prevents academic exercises from this Court and the issuance of decisions with no practical use or value.⁶⁶ Thus, the constitutionality of a statute will be passed upon by this Court "only if, and to the extent that, it is directly and necessarily involved in a justiciable controversy and is essential to the protection of the rights of the parties concerned."⁶⁷

⁶³ *Francisco, Jr. v. The House of Representatives*, *supra* note 46, at 892.

⁶⁴ *Supra* note 42.

⁶⁵ *Id.* at 1188.

⁶⁶ *Kilusang Magbubukid ng Pilipinas (KMP) v. Aurora Pacific Economic Zone and Freeport Authority*, G.R. No. 198688, November 24, 2020. (Citations omitted)

⁶⁷ *Id.*, citing *Provincial Bus Operators Association of the Philippines, et al. v. Department of Labor and Employment, et al.*, *supra* note 42, at 244.

Inextricably related to the requirement of an actual case or controversy is the element of ripeness, that is, whether the constitutional questions raised before the court are ripe for adjudication. In dealing with ripeness, this Court has consistently inquired into whether the act being challenged had a direct adverse effect on the individual challenging it.⁶⁸ In *Atty. Lozano, et al. v. Speaker Nograles*,⁶⁹ this Court said that whether a case is ripe for adjudication is determined by an evaluation of two aspects: “*first*, the fitness of the issues for judicial decision; and *second*, the hardship to the parties entailed by withholding court consideration.”⁷⁰

In *Aguinaldo v. New Bilibid Prison*,⁷¹ petitioner therein assailed Resolution No. 9371, or the Rules and Regulations on Persons Deprived of Liberty (PDL) Registration and Voting in Connection with the May 13, 2013 National and Local Elections and Subsequent Elections Thereafter issued by the Commission on Elections, arguing that the Resolution did not undergo prior public consultations, violated the equal protection clause, and failed to address certain operational and logistical blind spots. This Court dismissed the petition, holding that there is no actual case or controversy presented. We said that the existence of actual clash between legal rights brought about by the assailed act is required before this Court may exercise the power of judicial review.⁷² On this score, “for there to be a real conflict between the parties, there must exist actual facts from which courts can properly determine *whether there has been a breach of constitutional text*.”⁷³ In that case, petitioner failed to show the effect of the assailed Resolution on him and how it may have diminished his legal rights, facts that would support the alleged unconstitutionality of the act of the Commission on Elections.

Similarly, in this case, petitioners failed to allege, must less show, how they will be adversely affected by the issuance of the RR-POGO. They failed to specify which of their legal and constitutional rights are supposedly infringed by the regulation of offshore gaming operations by PAGCOR. To be sure, it is not the mere passage of a law that determines whether a particular case attacking its constitutionality is justiciable.⁷⁴ Where the constitutionality of a law is being assailed, more than the passage or effectivity of the law, the petitioners “must assert a specific and concrete legal claim, or show the law’s direct adverse effect on them.”⁷⁵ Without a definite showing of any clear right

⁶⁸ *Belgica v. Hon. Exec. Sec. Ochoa, Jr.*, *supra* note 42, at 519.

⁶⁹ 607 Phil. 334 (2009).

⁷⁰ *Id.* at 341.

⁷¹ G.R. No. 221201, March 29, 2022.

⁷² *Id.*

⁷³ *Id.*, citing *Provincial Bus Operators v. Association of the Philippines, et al. v. Department of Labor and Employment, et al.*, *supra* note 42, at 246.

⁷⁴ *Joint Ship Manning Group, Inc. v. Social Security System*, G.R. No. 247471, July 7, 2020.

⁷⁵ *Lagman v. Exec. Sec. Ochoa, Jr.*, G.R. Nos. 197422 & 197950, November 3, 2020. (Citations omitted)

of petitioners supposedly violated by the issuance and implementation of the RR-POGO, there is no actual case or controversy for this Court to resolve.

Indeed, petitioners' failure to establish their rights and how they will be materially affected by the issuance and implementation of the RR-POGO also affects their legal standing to bring the present case.

Evangelista and Cruz argue that they have standing as taxpayers to question the constitutionality of the RR-POGO since the implementation of the RR-POGO will entail unnecessary expenses for the government. They also assert that in any case, since the issue involved is of transcendental importance, the requirement on standing may be relaxed.

Locus standi, or legal standing, means "personal and substantial interest in a case such that the party has sustained or will sustain direct injury as a result of the governmental act that is being challenged."⁷⁶ In *Agan, Jr. v. Philippine International Air Terminals Co., Inc.*,⁷⁷ this Court elaborated on the requirement of legal standing:

The question on legal standing is whether such parties have "alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for illumination of difficult constitutional questions." Accordingly, it has been held that the interest of a person assailing the constitutionality of a statute must be direct and personal. He must be able to show, not only that the law or any government act is invalid, but also that he sustained or is in imminent danger of sustaining some direct injury as a result of its enforcement, and not merely that he suffers thereby in some indefinite way. It must appear that the person complaining has been or is about to be denied some right or privilege to which he is lawfully entitled or that he is about to be subjected to some burdens or penalties by reason of the statute or act complained of.⁷⁸ (Citations omitted)

As a rule, therefore, a party assailing the constitutionality of a governmental act must prove the following: "(1) the suing party has personally suffered some actual or threatened injury because of the allegedly illegal conduct of the government; (2) the injury is fairly traceable to the challenged action; and (3) the injury is likely to be redressed by the remedy being sought."⁷⁹

⁷⁶ *Confederation for Unity, Recognition and Advancement of Government Employees v. Abad*, G.R. No. 200418, November 10, 2020, citing *Galicto v. Aquino III*, 683 Phil. 141 (2012).

⁷⁷ 450 Phil. 744 (2003).

⁷⁸ *Id.* at 802.

⁷⁹ *Del Rosario, et al. v. Commission on Elections, et al.*, G.R. No. 247610, March 10, 2020; In *Atty. Lozano, et al. v. Speaker Nograles*, *supra* note 66, at 342.

In *Prof. David v. Pres. Macapagal-Arroyo*,⁸⁰ however, this Court recognized that parties not claiming direct injury may still be accorded standing to sue, provided:

- (1) the cases involve constitutional issues;
- (2) for taxpayers, there must be a claim of illegal disbursement of public funds or that the tax measure is unconstitutional;
- (3) for voters, there must be a showing of obvious interest in the validity of the election law in question;
- (4) for concerned citizens, there must be a showing that the issues raised are of transcendental importance which must be settled early; and
- (5) for legislators, there must be a claim that the official action complained of infringes upon their prerogatives as legislators.⁸¹ (Emphasis omitted)

Nevertheless, We emphasized in *Falcis v. Civil Registrar General*,⁸² that even for these exceptional suers, a claim of some kind of injury-in-fact to the party must still be made. Thus, for taxpayers, they must “show sufficient interest in preventing the illegal expenditure of money raised by taxation”⁸³ and that they “would sustain a direct injury as a result of the enforcement of the questioned statute or contract.” Mere general interest common to all members of the public is not sufficient.⁸⁴

Here, petitioners have not shown any direct and personal interest in the enforcement of the RR-POGO. There is no indication that they have sustained or are in imminent danger of sustaining some direct injury as a result of its implementation. As things stand, petitioners failed to show what affirmative relief they seek from PAGCOR or the respondents that would redound to their personal benefit or gain. Obviously, they have no legal standing to file the present case.

To be clear, petitioners’ mere invocation of the alleged transcendental importance of the issue involved in the case does not automatically clothe them with the required legal standing.

This Court has held that in determining whether a matter is of transcendental importance, it must be guided by the presence of three factors:

⁸⁰ 522 Phil. 705 (2006).

⁸¹ Id. at 760.

⁸² 861 Phil. 388 (2019).

⁸³ Id. at 533.

⁸⁴ *Francisco, Jr. v. The House of Representatives*, *supra* note 46, at 896.

(1) the character of the funds or other assets involved in the case; (2) the presence of a clear case of disregard of a constitutional or statutory prohibition by the public respondent agency or instrumentality of the government; and (3) the lack of any other party with a more direct and specific interest in the questions being raised.⁸⁵

Here, all the elements are conspicuously absent. First, it must be noted that the RR-POGO is not a tax disbursement measure and does not involve the expenditure of public funds *per se*. Second, petitioners failed to specify which Constitutional or legal provision was violated by PAGCOR in issuing the RR-POGO. Finally, the parties with the more direct and specific interest in the issue involved, *i.e.*, the offshore gaming operators and other auxiliary providers, exist but not joined as petitioners in the present case. Verily, the supposed transcendental importance of the questions raised in the case was not sufficiently established.

All told, in view of petitioners' failure to observe the doctrine of hierarchy of courts and sufficiently establish the elements of judicial review, this Court shall refrain from discussing the constitutionality and legality of the RR-POGO.

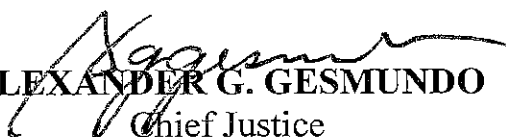
With regard to their prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction, petitioners failed to show that there was an invasion of a clear material and substantial right, or an urgent and paramount necessity to prevent serious damage.⁸⁶ Consequently, their prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction is denied.

ACCORDINGLY, the Consolidated Petitions in G.R. Nos. 228234, 228315 and 230080 are **DISMISSED**. Petitioners' prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction is **DENIED**.

SO ORDERED.


JHOSEP Y. LOPEZ
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice

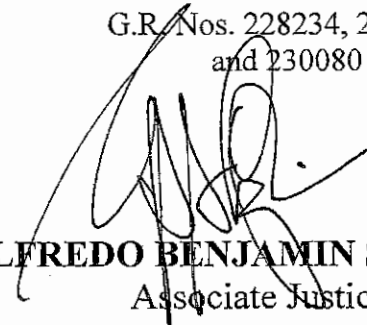
⁸⁵ *Chamber of Real Estate and Builder's Association, Inc. v. Energy Regulatory Commission (ERC), et al.*, 638 Phil. 542, 556-557 (2010), citing *Senate of the Philippines v. Ermita*, 522 Phil. 1, 31 (2006).

⁸⁶ *The City Government of Baguio, et al. v. Atty. Masweng, et al.*, 835 Phil. 501, 514 (2018).

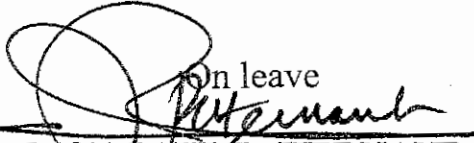
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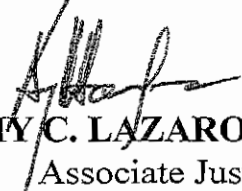
MARVIC M.V.F. LEONEN
Senior Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

On leave


RAMON PAUL L. HERNANDO
Associate Justice



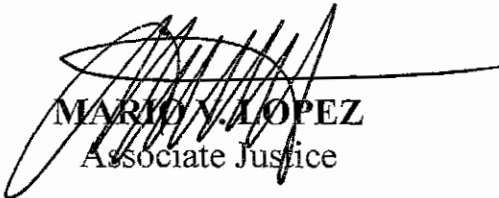
AMY C. LAZARO-JAVIER
Associate Justice



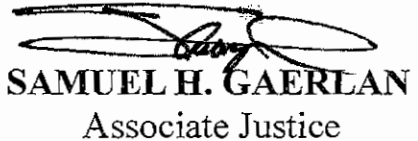
HENRI JEAN PAUL B. INTING
Associate Justice



RODIL V. ZALAMEDA
Associate Justice



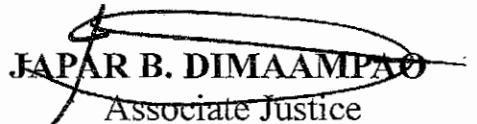
MARIO V. LOPEZ
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

On leave


RICARDO R. ROSARIO
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice



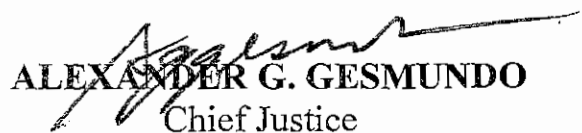
ANTONIO T. KHO, JR.
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court.



ALEXANDER G. GESMUNDO
Chief Justice