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warrant the imposition of death penalty; it is distinct from and should not be denominated as moral damages which is based on different jural foundations and assessed by the court in the exercise of sound discretion.[26]

WHEREFORE, the decision of the Regional Trial Court of Rizal, Branch 76, in Criminal Case No. 3498-98, convicting accused-appellant of the crime of rape is *AFFIRMED*. Accused-appellant Robert Ayungon is hereby sentenced to suffer the penalty of *reclusion perpetua* and to pay private complainant the amount of ₱50,000.00 as civil indemnity in addition to the amount of ₱50,000.00 as moral damages. Costs against accused-appellant.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and *Pardo, JJ.*, concur.

EN BANC

[G.R. No. 138298. June 19, 2001]

RAOUL B. DEL MAR *petitioner, vs.* **PHILIPPINE AMUSEMENT AND GAMING CORPORATION,** *respondent.*

[G.R. No. 138982. June 19, 2001]

FEDERICO SANDOVAL II, ET AL. *petitioner, vs.* **PHILIPPINE AMUSEMENT AND GAMING CORPORATION** *respondent,* **JUAN MIGUEL ZUBIRI,** *intervenor.*

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[26] *People v. Marabillas*, 303 SCRA 352, 360 [1999]; citing *People v. Prades*, 293 SCRA 411 [1998].

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SYLLABUS

PUNO, *J.*, *separate opinion:*

1. **CONSTITUTIONAL LAW; LEGISLATIVE DEPARTMENT; FRANCHISE; TERMS AND CONDITIONS THEREOF ARE SPECIFICALLY PRESCRIBED BY CONGRESS; UNIVERSAL PRINCIPLE IN THE GRANT OF FRANCHISE.—** A "franchise" is a special privilege and its terms and conditions are specifically prescribed by Congress. Thus, the manner of granting the franchise, to whom it may be granted, the mode of conducting the business, the character and quality of the service to be rendered and the duty of the grantee to the public in exercising the franchise are defined in clear and unequivocal language by the legislature. These conditionalities are made more stringent when the franchise involves the operation of a game played for bets, such as jai-alai, which is conceded as a menace to morality. Franchises are granted in accord with this universal principle.

2. **ID.; ID.; ID.; LEGISLATIVE FRANCHISE TO OPERATE JAI-ALAI IS IMBUED WITH HIGH PUBLIC INTEREST; STATUTE WHICH SEEKS TO LEGALIZE AN ILLEGAL GAMBLING ACTIVITY MUST BE STRICTLY CONSTRUED.** — We have always proceeded from the orientation that a legislative franchise to operate jai-alai is imbued with high public interest and is not lightly granted in view of gambling's corrupting effects on the morals of society. What is claimed in the cases at bar is an alleged legislative grant of a gambling franchise, *i.e.,* to operate jai-alai. *A statute which seeks to legalize an otherwise illegal gambling activity punishable by law must therefore be strictly construed and every reasonable doubt must be resolved to limit the powers and rights claimed under its authority. Gambling can bring a lot of money to the government but no self- respecting government can operate and hope to succeed on earnings from gambling.*

3. **ID.; ID.; ID.; FRANCHISE TO OPERATE JAI-ALAI; STANDARD TERMS AND CONDITIONS ON OPERATION OF JAI-ALAI IMPOSED UPON FRANCHISEE.—** To determine whether an entity has been given a legislative franchise to operate the game of jai-alai need not be a guessing endeavor. Jai-alai is a different game, hence, *the terms and conditions imposed on the franchisee are spelled out in a form different from that of*

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gambling casinos. A perusal of past laws and executive orders granting corporations a franchise to operate jai-alai will readily disclose that *standard terms and conditions* are imposed by the franchising authorities. *P.D. 1869 will show that it does not have these standard terms and conditions* found under P.D. 810 or E.O. 135 which are prior laws granting franchises to operate jai-alai. P.D. 1869 is replete with provisions pertinent alone to the operation of gambling casinos. It does not have the standard provisions with regard to the operation of jai-alai such as: the licensing of pelotaris, judges and referees; installation of automatic electric totalizator; sale of betting tickets; computation and payment of dividends based on ticket sales; distribution of wager funds; and rules and regulations governing the pelotaris, games and personnel of the fronton. Without these standard yet necessary provisions, PAGCOR cannot successfully maintain that it was granted a franchise to operate jai-alai frontons.

4. **ID.; ID.; ID.; GAMBLING FRANCHISE; GAMBLING CAN ONLY BE ALLOWED BY EXPRESS MANDATE OF CONGRESS; ILLEGAL ACT CANNOT BE LEGALIZED BY MERE IMPLICATION OF LAW.**— *Our moral fiber is in tatters*. There is greater reason to insist on the principle that gambling can only be allowed by *express* mandate of Congress. The world over, gambling is recognized as a vice and a social ill which government must minimize, if not eradicate, in pursuit of social and economic development. In all its forms, gambling is generally proscribed as offensive to the public morals and the public good. In contending that jai-alai is impliedly included in Section 10 of the law, *the respondents are suggesting that an illegal act may be legalized by mere implication of law*. This novel step is difficult to accept. All these years, Congress has been very strict in recognizing gambling as a necessary evil. Starting with Articles 195-197 of the Revised Penal Code and the subsequent laws such as P.D. 1602 (Prescribing stiffer penalties on illegal gambling), P.D. 449 (Cockfighting Law of 1974), R.A. 309 (An Act to Regulate Horse-Racing in the Philippines), R.A. 1169 (An Act Providing for Charity Sweepstakes, Horse Races and Lotteries), C.A. 485 (An Act to Permit Betting on the Game of Basque Pelota), and P.D. 810, the policy has been to punish gambling and in exceptional cases where it is allowed, to strictly control its franchise.

5. **ADMINISTRATIVE LAW; PAGCOR; PAGCOR FRANCHISE; P.D. 1869; NOT A FRANCHISE TO OPERATE JAI-ALAI.**—

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The parameters of P.D. 1869 can best be understood by looking at its history. P.D. 1067-B, the predecessor of P.D. 1869, is aptly titled "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." Beyond debate, P.D. 1067-B is a franchise to maintain gambling casinos alone. Section 10 of P.D. 1869 merely reiterated the nature and scope of PAGCOR's existing franchise to maintain gambling casinos and no legal hat trick can be pulled to show that it is a franchise to operate jai-alai.

6. **ID.; ID.; NOT EMPOWERED TO OPERATE JAI-ALAI IN COMPETITION WITH EXISTING JAI-ALAI FRANCHISEE; PROLIFERATION OF GAMBLING NOT A LEGISLATIVE POLICY.**— The creation of PAGCOR did not empower it to operate jai-alai in competition with the existing jai-alai franchisee. P.D. 1067-A established PAGCOR for the specific purpose of centralizing and integrating "all games of chance *not heretofore authorized by existing franchises* x x x." Likewise, P.D. 1067-C expressly provided that PAGCOR's franchise "shall become exclusive in character, *subject only to the exception of existing franchises* and games of chance heretofore permitted by law x x x." It is an uncontested fact that at the time PAGCOR was established, the Philippine Jai-alai and Amusement Corporation had an existing franchise to operate jai-alai. It could not have been the intent of Congress to grant franchises to operate jai-alai to two entities within the same jurisdiction. The proliferation of gambling is not the legislative policy, then as it is now.

7. **ID.; ID.; ID.; PAGCOR CHARTER; DOES NOT INCLUDE GAMES OF CHANCE COVERED BY EXISTING FRANCHISE; DOES NOT INCLUDE OPERATION OF JAI-ALAI.**— It cannot be overstressed that PAGCOR was created in light of the State policy "to centralize and integrate all games of chance *not heretofore authorized by existing franchises or permitted by law*" (Section 1 of P.D. 1869). It is clear from the PAGCOR Charter that it does not include those games of chance covered by an existing franchise. *At the time P.D. 1869 was decreed in 1983, the Philippine Jai-Alai and Amusement Corporation had a subsisting franchise to operate, construct and maintain a fronton for basque pelota or jai-alai which was granted under P.D. 810 enacted on October 16, 1975.* As correctly observed by petitioners,

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P.D. 1869 was passed at a time when "jai-alai was already very popular and it was no secret that the franchise holder at that time, PJAC, was raking huge profits out of its operation. It could not have escaped the notice of the author of the law. Its omission can only mean a deliberate intention to exclude "jai-alai" from the PAGCOR charter."

8. **ID.; ID.; NEVER VESTED WITH AUTHORITY TO OPERATE AND MANAGE JAI-ALAI GAMES; REPEAL OF P.D. 810 DID NOT HAVE ANY EFFECT ON FRANCHISE OF PAGCOR.**— Undaunted by the import of the clear language of the law, respondents argue that with the repeal of P.D. 810, the restriction in the PAGCOR Charter on existing franchises was removed and hence, PAGCOR could now exercise its authority to operate and manage jai-alai games. *The fallacy in this argument is that it presupposes that PAGCOR had the power to operate and manage jai-alai except that the exercise thereof was suspended while the PJAC franchise was still subsisting.* To begin with, PAGCOR was never vested with such authority. The phrase "not heretofore authorized by existing franchises" *imposes an exception, not merely a restriction*, on PAGCOR's franchise. Consequently, the repeal of P.D. 810 did not have any effect whatsoever on the franchise of PAGCOR. It must be noted that then President Aquino repealed P.D. 810 with the intention not to grant any franchise for jai-alai. The Aquino government was grounded on a strong sense of morality and was very much against gambling. *It would have been quite illogical for the Aquino government to repeal P.D. 810 on the ground that it is contrary to public morals and in the same breath allow PAGCOR, which is under the Office of the President, to conduct exactly the same activity which it abhorred.* The moral standing of the government in its repeated avowals against illegal gambling is fatally flawed and becomes untenable when it itself engages in the very activity it seeks to eradicate. Perforce, with the repeal of P.D. 810, it is necessary, before PAGCOR can conduct jai-alai, that a law be passed allowing the same. Respondents have not shown that such a law exists.

9. **STATUTORY CONSTRUCTION; PLAIN MEANING RULE; NOT APPLICABLE TO CASE AT BAR.** — *The respondents cannot seek sanctuary in the plain meaning rule of statutory construction.* The plain meaning rule rests on the assumption that there is no ambiguity or obscurity in the language of the law. The fact, however, that P.D. 1869 admits of different interpretations

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is the best evidence that it suffers from the vice of vagueness. If it were true that the language of the law is plain and clear, it is incomprehensible why PAGCOR had to seek the legal opinions of not just one but several government agencies, namely, the Department of Justice, the Office of the Solicitor General, and the Office of the Government Corporate Counsel, to ascertain its alleged authority to operate jai-alai under its charter. With due respect, these solicited opinions could hardly be expected to be dissonant.

VITUG, *J.,* *separate opinion:*

CONSTITUTIONAL LAW; LEGISLATIVE DEPARTMENT; FRANCHISE; GRANT THEREOF IS A PURELY LEGISLATIVE ACT AND CANNOT BE DELEGATED TO PAGCOR; PAGCOR HAS NO AUTHORITY TO SHARE ITS FRANCHISE TO ANY ONE.— I most humbly reiterate my separate opinion, promulgated on 29 November 2000 (along with the ponencia sought to be reconsidered), to the effect that — the authority of PAGCOR under its charter "to establish and operate clubs and casinos for amusement and recreation, including games of chance," *is broad enough to allow PAGCOR to operate all kinds of sports and gaming pools, inclusive of jai-alai, but not in joint venture with Belle Jai-Alai Corporation ("BELLE") and Filipinas Gaming Entertainment Totalizator Corporation ("FILGAME") which are not themselves holders of any legislative franchise.* While PAGCOR is permitted under its charter to enter into various agreements in its authorized operations, that power, nevertheless, cannot be so construed as empowering it to pass on or share its franchise to anyone else. The grant of a franchise is a purely legislative act that cannot be delegated to PAGCOR without violating the Constitution. The thesis rests on the *maxim potestas delegata non delegari potest. Without a congressional franchise of its own, neither BELLE nor FILGAME, in fine, can lawfully engage in active endeavor with PAGCOR in conducting jai-alai games.*

MELO, *J.,* *dissenting opinion:*

1. **STATUTORY CONSTRUCTION; A CONSTRUCTION THAT WOULD RENDER A PROVISION INOPERATIVE SHOULD BE AVOIDED.—** One need hardly be reminded of the rule that in construing a statute, courts "have to take the thought conveyed

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by the statute as a whole; construe the constituent parts together; ascertain the legislative intent from the whole act; consider each and every provision thereof in the light of the general purpose of the statute; *and endeavor to make every part effective, harmonious and sensible*" (*Republic vs. Reyes*, 17 SCRA 170 [1966]). To consider the franchise granted to PAGCOR as allowing only the operation of casinos would, I respectfully submit, render nugatory the provisions of Presidential Decree No.1869 allowing the PAGCOR to operate and maintain other recreation or amusement places, sports, gaming pools, *i.e.* basketball, football, lotteries, etc. *Interpretate fienda est res valeat quam pereat.* A law should be interpreted with a view to upholding rather than destroying it. One portion of a statute should not be construed to destroy the other. A construction that would render a provision inoperative or ineffective should be avoided.

2. **ID.; STATUTE MUST BE GIVEN ITS LITERAL MEANING AND APPLIED WITHOUT ATTEMPTED INTERPRETATION IF THE SAME IS CLEAR, PLAIN, AND FREE FROM AMBIGUITY.**— Considering the inclusion of games of skill like basketball, football, etc. in Sections 1 (b) and 10 of Presidential Decree No. 1869, it is incontrovertible that the franchise granted to PAGCOR is broad enough for it to operate jai-alai, a game of skill not unlike basketball and football. If a statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. *Verba legis non est recedendum.* From the words of a statute there should be no departure (*Agpalo,* Statutory Construction, p. 95).

3. **POLITICAL LAW; TAXPAYERS SUIT; TO PROSPER, PETITIONERS MUST HAVE LOCUS STANDI; CASE AT BAR.**— More importantly, petitioners have brought the present suit in their capacity as taxpayers and legislators. It has long been my consistent stand that in order for a taxpayer's suit to prosper, the petitioners therein must have *locus standi* (see *Kilosbayan, Inc. vs. Morato*, 232 SCRA 110 [1994]; *Tatad vs. Garcia*, 243 SCRA 436 [1995]; *Bagatsing vs. COP*, 246 SCRA 334 [1995]; *Kilosbayan, Inc. vs. Morato*, 246 SCRA 540 [1995]; *Kilosbayan, Inc. vs. Morato*, 250 SCRA 130 [1995]; *Tatad vs. Secretary of Energy*, 281 SCRA 330 [1997]). In the instant case, it is undisputed that the spending powers of Congress are not involved. Nor is there an allegation of illegal disbursement of public funds. Hence, petitioners' right to sue as taxpayers or concerned citizens cannot

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be sustained. Neither may petitioners take refuge in their status as members of Congress. In *Kilosbayan, Inc. vs. Morato* (246 SCRA 540 [1995]), we held that members of Congress may properly challenge the validity of an official act of any department of the government only upon showing that the assailed official act affects or impairs their rights and prerogatives as legislators. Parenthetically, the issue before the Court is whether or not the franchise of PAGCOR includes the operation of jai-alai. It would thus be most awkward to conclude that the power to grant franchises, which undisputably belongs to Congress, is impaired by PAGCOR's operation of jai-alai, seeing that Congress' power to modify, amend, or even repeal PAGCOR's franchise remains undiminished and plenary. Neither does PAGCOR's operation of jai-alai prevent Congress, if it is so minded, from granting a rival franchise to any other entity.

DE LEON, JR., *J.*: *dissenting opinion:*

1. **ADMINISTRATIVE LAW; PAGCOR; PRESIDENTIAL DECREE NO. 1869; CONSTRUED.**— Section 10 of P. D. No.1869 defining the extent and nature of PAGCOR's franchise is couched in language so broad that literally all kinds of sports and gaming pools, including jai-alai, are covered therein. A sport is defined as "a game or contest especially when involving individual skill or prowess on which money is staked." Gaming, on the other hand, is defined as "the act or practice of playing games for stakes." P.D. No.1869 has made express mention of basketball and football as example of gaming pools. Basketball and football, however, like jai-alai are games of skills. Considering that under Section 10 of P.D. No.1869, games of skill like basketball and football have been lumped together with the word "lotteries" just before the word "etc." and after the words "gaming pools," it may be deduced from the wording of the law that when bets or stakes are made in connection with games of skill, they may be classified as games of chance under the coverage of PAGCOR's franchise.

2. **STATUTORY CONSTRUCTION; CARDINAL RULE; PHRASE "ET CETERA," CONSTRUED.**— The meaning of the phrase "*et cetera*" or its abbreviation "etc." depends largely on the context of the instrument, description and enumeration of the matters preceding the term and subject matter to which it is applied, and when used in a statute, the words should be given their usual and

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natural signification. Consequently, jai-alai, otherwise known as "game of Basque pelota," while in itself is not *per se* a game of chance, may be categorized as a game of chance when bets are accepted as a form of gambling. It is a cardinal rule of statutory construction that when words and phrases of a statute are clear and unequivocal, their meaning must be determined from the language employed and the statute must be taken to mean exactly what it says.

3. **ID.; WORD "ETC.", CONSTRUED; CONSTRUCTION WHICH WILL GIVE MEANING TO EVERY PART AND PROVISION OF THE STATUTTE MUST BE ADOPTED.**— The language of the law defining the scope of PAGCOR's franchise, as earlier mentioned, is broad enough to include the operations of jai-alai. The abbreviation "etc." ordinarily refers to others of the like kind, and the rest, and so on, and so forth, being used to point out that other things which could be mentioned are understood. Bearing in mind that the law was created to maximize potential sources of additional revenue for the government, it would have been incongruous to expect an enumeration of all the possible games or activities that could be covered by the scope of PAGCOR's franchise. To adopt the petitioners' stance that there should have been an express mention of jai-alai as among the games or activities which PAGCOR can operate and manage under its franchise, would limit the scope of PAGCOR's franchise to games or activities which have been expressly mentioned under P.D. No. 1869 and render ineffective the use of the word "etc." in said law. It is a universal rule of application that a construction of a statute is to be favored, and must be adopted if reasonably possible, which will give meaning to every word, clause, and sentence of the statute and operation and effect to every part and provision of it.

4. **ID.; INQUIRY INTO LEGISLATIVE'S MOTIVES NOT PROPER EXCEPT WHEN SUCH MOTIVES ARE DISCLOSED BY THE STATUTE ITSELF.**— We need only say that in the interpretation of statutes, it is not proper or permissible to inquire into the motives which influenced the legislative body, except insofar as such motives are disclosed by the statute itself. *The magnitude of the consideration, political or financial, which may operate upon the legislative mind as an inducement for grants and franchises conferred by statute, do not change the character of the legislation, or vary the rule of construction by which the rights of the grantees must be measured.* Given the broad language

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of P.D. 1869 defining the scope of PAGCOR's franchise, we find no reason why the operations of jai-alai cannot be deemed as included in its franchise. The subsequent repeal of P.D. Nos. 810 and 1124 in 1986 by Executive Order (E.O.) No. 169 only meant that PJAC was no longer entitled to exercise its rights under its former franchise. E.O. No.169, otherwise known as 'Repealing Presidential Decree No. 810 entitled "An act granting the Philippine Jai-alai and Amusement Corporation a franchise to operate, construct and maintain a fronton for Basque Pelota and similar games of skill in the Greater Manila Area as amended" and 'Accordingly Revoking and Cancelling the Right, Privilege and Authority granted therein' in itself did not delimit the scope of the franchise of PAGCOR especially since E.O. No.169 was specific enough to identify the repeal of the particular law (P.D. No. 810) granting a certain franchise, *i.e.*' PJAC's franchise.

5. **CONSTITUTIONAL LAW; LEGISLATIVE DEPARTMENT; FRANCHISE; STRICT LEGAL SIGNIFICATION THEREOF IS NOT ALWAYS CONFINED TO EXCLUSIVE RIGHTS.**— The fact that there was an existing jai-alai franchise in favor of PJAC the time P.D. No. 1869 went into effect does not necessarily mean jai-alai can never be the subject of PAGCOR's franchise upon repeal of PJAC's franchise. Monopoly is not an essential feature of a franchise and the strictly legal signification of the term franchise is not always confined to exclusive rights. The Declaration of Policy stated in Section 1 of P.D. No. 1869 should be read in conjunction with the purpose of the law, *i.e.,* to generate sources of additional revenue for governmental projects. PAGCOR was created primarily to maximize potential sources of revenue for the government by integrating into just one entity the operation and management of all games of chance. To attain this objective, the legislature saw it fit to couch the scope and nature of PAGCOR's franchise in a broad language.

6. **ID.; STATUTES; SHOULD BE GIVEN CONSTRUCTION AS WILL ADVANCE THE OBJECT, SUPPRESS THE MISCHIEF AND SECURE THE BENEFITS INTENDED.**— Statutes should be construed in the light of the object to be achieved and the evil or mischief to be suppressed and they should be given such construction as will advance the object, suppress the mischief and secure the benefits intended. A statute should therefore be read with reference to its leading idea, and its general purpose and intention should be gathered from the whole act, and this

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predominant purpose will prevail over the literal import of particular terms or clauses, if plainly apparent, operating as a limitation upon some and as a reason for expanding the signification of others, so that the interpretation may accord with the spirit of the entire act, and so that the policy and object of the statute as a whole may be made effectual and operative to the widest possible extent.

7. **ID.; NO LIMITATION IS TO BE INFERRED OR IMPLIED WHICH WOULD HAVE THE EFFECT OF DEFEATING THE OBJECT OF THE LAW.**— Considering that the intent of the law is to regulate and centralize all games of chance thru an appropriate institution which would enable the government to identify potential sources of additional revenue, it would be impracticable for the law to provide in detail for the manner in which each possible game covered by the franchise is to be maintained and operated by PAGCOR. Significantly, the law has not provided for a set of guidelines as to how basketball and football shall be managed and operated by PAGCOR. Yet, because of the express provision of the law, one could not contend that such games are to be excluded from the scope of the franchise. If we use the presence or absence of a set of guidelines in the law as to how each possible game should be managed and operated by PAGCOR, as a standard for their inclusion in the scope of PAGCOR's franchise, then we render ineffective the object of the law to maximize potential sources of revenue by integrating all games of chance into just one entity since all games of chance which might have otherwise been covered by the all encompassing word "etc." also do not have a set of guidelines regarding their operation and management by PAGCOR. Such strained interpretation violates the rule of statutory construction that no limitation is to be inferred or implied which would have the effect of defeating the object of the law.

8. **REMEDIAL LAW; COURTS; CANNOT PASS UPON QUESTIONS OF WISDOM, JUSTICE OR EXPEDIENCY OF LEGISLATION; EXCEEDED ITS AUTHORITY IF IT ATTEMPTS TO MOULD THE EXPRESSION OF THE LEGISLATIVE WILL INTO THE SHAPE WHICH THE COURT THINKS IT OUGHT TO BEAR.**— As regards the issue that jai-alai, as a form of gambling, is "universally regarded to be a threat to the moral fiber of the society," we need only reiterate the oft quoted principle that courts do not pass upon questions of wisdom, justice or expediency of legislation, for it

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is not within their province to supervise legislation and keep it within the bounds of propriety or common sense. Whether or not a given law is the best that could have been enacted on the subject; whether or not it is calculated to accomplish its avowed object; whether or not it accords with what is understood to be the general policy of legislation in the particular jurisdiction —these are questions which do not fall within the province of the courts. A court exceeds its proper office and authority if it attempts, under the guise of construction, to mould the expression of the legislative will into the shape which the court thinks it ought to bear.

9. **CIVIL CODE; PARTNERSHIP; JOINT VENTURE; GOVERNED BY THE LAW ON PARTNERSHIPS.**— A joint venture is an association of persons or companies jointly undertaking some commercial enterprise —generally, all contribute assets and share risks. It requires a community of interests in the performance of the subject matter, a right to direct and govern the policy connected therewith, and duty, which may be altered by agreement to share both in profit and losses. In this jurisdiction, a joint venture is a form of partnership and is thus governed by the law on partnerships.

10. **ADMINISTRATIVE LAW; PAGCOR; P.D. 1869; POWERS AND FUNCTIONS OF PAGCOR; PAGCOR HAS POWER TO ENTER INTO A JOINT VENTURE AGREEMENT WITH PRIVATE CORPORATIONS.**— Section 3 of P.D. No.1869 enumerates the following powers and functions of PAGCOR: xxx *h) to enter into, make, perform, and carry out contracts of every kind and for any lawful purpose pertaining to the business of the Corporation, or in any manner incident thereto, as principal, agent or otherwise, with any person, firm, association or corporation. l) 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 of the powers herein stated, either alone or in association with other corporations, firms or individuals, and to do every other act or thing incidental, pertaining to, growing out of, or connected with, the aforesaid purposes, objects or powers, or any part thereof.* Clearly, the powers granted to PAGCOR are broad enough to include the power to enter into a joint venture agreement with private corporations like BELLE and FILGAME relating to the operation, management and conduct not only of gambling casinos but also of those relating to jai-alai as legalized gambling.

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Where the language of the statute is clear, it is the duty of the court to enforce it according to the plain meaning of the word. There is no occasion to resort to other means of interpretation.

11. **ID.; ID.; ID.; GRANTED PAGCOR THE POWER TO ENTER INTO JOINT VENTURE AGREEMENT WITH PRIVATE CORPORATIONS.**— Under the maxim *potestas delegata non delegari potest* a delegated power cannot be delegated. This is based upon the ethical principle that such delegated power constitutes not only a right but a duty to be performed by the delegate by the instrumentality of his own judgment acting immediately upon the matter of legislation and not through the intervening mind of another. It should be noted, however, that the legislative grant of franchise to PAGCOR has not accorded unto the latter legislative powers nor quasi-legislative powers. The joint venture agreement entered into by PAGCOR with FILGAME and BELLE was made pursuant to the powers granted under P.D. No. 1869 to PAGCOR to "enter into, make, perform, and carry out contracts of every kind and for any purpose pertaining to the business of the corporation x x x with any person, firm or corporation." Under the joint venture agreement, BELLE and FILGAME will provide financial requirements and technical assistance to PAGCOR in connection with the use of their operational facilities. *PAGCOR however shall still manage, regulate and control all aspects of jai-alai operations.* PAGCOR has entered into a joint venture agreement with the two (2) corporations for the simple reason that without the collaboration of the private sector, it is not financially capable of undertaking the resumption of the operation of jai-alai games which will require massive financial outlay. Hence, the joint venture agreement is in consonance with the powers granted to PAGCOR that it may "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 of the powers herein stated, either alone or in association with other corporations, firms or individuals x x x."

12. **POLITICAL LAW; TAXPAYERS SUIT; TO PROSPER, PETITIONERS MUST HAVE *LOCUS STANDI*; PETITIONERS HAVE NO RIGHT TO SUE AS TAXPAYERS IN CASE AT BAR.**— The petitioners filed the present suits in their capacity as taxpayers and legislators. However, for a taxpayer's suit to prosper, the petitioners therein must have *locus*

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standi. In these instant petitions, it is undisputed that the spending powers of Congress are not involved. There is no allegation of illegal disbursement of public funds. Hence, petitioners' right to sue as taxpayers or concerned citizens cannot be sustained. Neither is there any showing that the assailed official acts of PAGCOR affect the rights and prerogatives of petitioners as members of Congress.

APEARANCES OF COUNSEL

Herrera Teehankee & Faylona for Belle Jai-Alai Corp. & Filipinas Gaming Entertainment Totalizator Corp.

Policarpio Concepcion Sison & Mendoza for F. Sandoval, II.

Manolito A. Manalo for J.M. Zubiri.

Acting on the motions for reconsideration filed by public respondent Philippine Amusement and Gaming Corporation (PAGCOR) and private respondents Belle Jai-Alai Corporation, (BELLE) and Filipinas Gaming Entertainment Totalizator Corporation (FILGAME), seeking to reverse the court's Decision dated November 29, 2000, only seven (7) justices, namely, Josue Bellosillo, Jose Melo, Santiago Kapunan, Leonardo Quisumbing, Consuelo Y. Santiago, Sabino de Leon and Angelina Gutierrez voted to grant the motions. For lack of the required number of votes, the said motions for reconsideration are denied. The opinions of Justices Puno, Melo, Vitug and De Leon are herewith made part of this resolution.

PUNO, *J., separate opinion*:

Before the Court for resolution are the Motions for Reconsideration filed by public respondent Philippine Amusement and Gaming Corporation (PAGCOR), and private respondents Belle Jai-Alai Corporation (BELLE) and Filipinas Gaming Entertainment Totalizator Corporation (FILGAME), seeking to reverse our decision dated November 29, 2000 which enjoined the respondents from managing, maintaining and operating jai-alai games, and from enforcing the agreement entered into by them for that purpose.

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In its motion for reconsideration, PAGCOR raised the following grounds:

"I

P.D. 1869, otherwise known as the PAGCOR franchise, is not merely a consolidation of P.D. Nos. 1067-A, 1067-B, 1067-C, 1399 and 1622 but is an express amendment of the latter.

II

The provisions of P.D.1869, taken in their totality, do not limit PAGCOR's franchise to the operation of gambling casinos.

III

Regardless of the fact that the exercise of PAGCOR's franchise to operate and manage gambling casinos and other games of chance affect public morals and notwithstanding any perceived bias against the martial law powers of former President Marcos, it remains that P.D. 1869 has the force and effect of law whose wisdom cannot be validly inquired into by the courts.

IV

The jai-alai games as introduced in the Philippine context or setting has never been associated with or appreciated as a game of skill but as a betting game or gambling activity.

V

Pursuant to the agreement of PAGCOR with BELLE/FILGAME, PAGCOR under a joint venture scheme will be the one to manage and operate the jai-alai games.

VI

The difference in tax treatment between jai-alai and other gaming activities is not crucial as would preclude PAGCOR from operating jai-alai games."[1]

On the other hand, private respondents BELLE and FILGAME averred that:

"A.

The Honorable Court's reading of the franchise granted under Presidential Decree No. 1869 makes meaningless most of Section 10 of the law,

[1] Motion for Reconsideration of PAGCOR; *Rollo*, pp. 499-500.

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which is specifically meant to express the nature of the Philippine Amusement and Gaming Corporation's franchise, and which categorically confers upon it the "rights, privilege and authority to operate and maintain" not only "gambling casinos," but also "clubs, and other recreation or amusement places, sports, gaming pools x x x basketball, football, lotteries, etc.," which plainly includes gaming pools on jai-alai.

B.

By construing Presidential Decree No.1869 as granting only the right to own and operate gambling casinos, this Honorable Court defeats its plainly expressed intent to "centralize and integrate all games of chance x x x," and fails to consider that the broad "right and authority to operate and conduct games of chance" was not granted to a mere private business corporation, but to a "corporate entity to be controlled, administered and supervised by the government," meant to regulate gaming activities and earn funding for socio-economic projects for the public good."[2]

Petitioners Federico S. Sandoval II and Michael T. Defensor and intervenor Juan Miguel Zubiri vigorously opposed the Motions for Reconsideration.

Respondents reiterate in the main that Sections 1 and 10 of P.D. 1869, which define the nature and term of PAGCOR's franchise, are broad enough to cover the right to manage and operate jai-alai. They insist that a plain text interpretation of the terms "lotteries, etc." and "gaming pools" as used under Section 10 of the law necessarily includes jai-alai. They allege that P.D. 1869 did not merely incorporate all the laws relating to, but actually enlarged, the powers conferred on PAGCOR. They again submit that to strictly construe the PAGCOR charter as a grant only of a franchise to operate gambling casinos would render nugatory the other provisions of the law. They point out that under Section 11 of the law, the operation of gambling casinos is merely "in addition to the rights and privileges granted it in" Section 10.

I

Respondents' motions for reconsideration are *merely a rehash* of the arguments raised in their previous pleadings. *They failed*

[2] Motion for Reconsideration of Private Respondents; *ibid.*, p. 464.

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to refute the following substantive points stated in our decision, to wit:

1. A "franchise" is a special privilege and its terms and conditions are specifically prescribed by Congress. Thus, the manner of granting the franchise, to whom it may be granted, the mode of conducting the business, the character and quality of the service to be rendered and the duty of the grantee to the public in exercising the franchise are defined in clear and unequivocal language by the legislature. These conditionalities are made more stringent when the franchise involves the operation of a game played for bets, such as jai-alai, which is conceded as a menace to morality. Franchises are granted in accord with this universal principle.

2. The parameters of P.D. 1869 can best be understood by looking at its history. P.D. 1067-B, the predecessor of P.D. 1869, is aptly titled "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." Beyond debate, P.D. 1067-B is a franchise to maintain gambling casinos alone. Section 10 of P.D.1869 merely reiterated the nature and scope of PAGCOR's existing franchise to maintain gambling casinos and no legal hat trick can be pulled to show that it is a franchise to operate jai-alai.

3. The creation of PAGCOR did not empower it to operate jai-alai in competition with the existing jai-alai franchisee. P.D. 1067-A established PAGCOR for the specific purpose of centralizing and integrating "all games of chance *not heretofore authorized by existing franchises* x x x." Likewise, P.D. 1067-C expressly provided that PAGCOR's franchise "shall become exclusive in character, *subject only to the exception of existing franchises* and games of chance heretofore permitted by law x x x." It is an uncontested fact that at the time PAGCOR was established, the Philippine Jai-alai and Amusement Corporation had an existing franchise to operate jai-alai. It could not have been the intent of Congress to grant franchises to operate jai-alai to two entities within the same jurisdiction. The proliferation of gambling is not the legislative policy, then as it is now.

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4. To determine whether an entity has been given a legislative franchise to operate the game of jai-alai need not be a guessing endeavor. Jai-alai is a different game, hence, *the terms and conditions imposed on the franchisee are spelled out in a form different from that of gambling casinos*. A perusal of past laws and executive orders granting corporations a franchise to operate jai-alai will readily disclose that *standard terms and conditions* are imposed by the franchising authorities. *P.D. 1869 will show that it does not have these standard terms and conditions* found under P.D. 810 or E.O. 135 which are prior laws granting franchises to operate jai-alai. P.D. 1869 is replete with provisions pertinent alone to the operation of gambling casinos. It does not have the standard provisions with regard to the operation of jai-alai such as: the licensing of pelotaris, judges and referees; installation of automatic electric totalizator; sale of betting tickets; computation and payment of dividends based on ticket sales; distribution of wager funds; and rules and regulations governing the pelotaris, games and personnel of the fronton. Without these standard yet necessary provisions, PAGCOR cannot successfully maintain that it was granted a franchise to operate jai-alai frontons.

5. We have always proceeded from the orientation that a legislative franchise to operate jai-alai is imbued with high public interest and is not lightly granted in view of gambling's corrupting effects on the morals of society. What is claimed in the cases at bar is an alleged legislative grant of a gambling franchise, *i.e.*, to operate jai-alai. *A statute which seeks to legalize an otherwise illegal gambling activity punishable by law must therefore be strictly construed and every reasonable doubt must be resolved to limit the powers and rights claimed under its authority. Gambling can bring a lot of money to the government but no self-respecting government can operate and hope to succeed on earnings from gambling.*

6. *The respondents cannot seek sanctuary in the plain meaning rule of statutory construction.* The plain meaning rule rests on the assumption that there is no ambiguity or obscurity in the language of the law. The fact, however, that P.D. 1869 admits of different interpretations is the best evidence that it suffers from the vice of vagueness. If it were true that the language of the law

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is plain and clear, it is incomprehensible why PAGCOR had to seek the legal opinions of not just one but several government agencies, namely, the Department of Justice, the Office of the Solicitor General, and the Office of the Government Corporate Counsel, to ascertain its alleged authority to operate jai-alai under its charter. With due respect, these solicited opinions could hardly be expected to be dissonant.

II

It cannot be overstressed that PAGCOR was created in light of the State policy "to centralize and integrate all games of chance *not heretofore authorized by existing franchises or permitted by law*" (Section 1 of P.D. 1869). It is clear from the PAGCOR Charter that it does not include those games of chance covered by an existing franchise. *At the time P.D. 1869 was decreed in 1983, the Philippine Jai-Alai and Amusement Corporation had a subsisting franchise to operate, construct and maintain a fronton for basque pelota or jai-alai which was granted under P.D. 810 enacted on October 16, 1975.* As correctly observed by petitioners, P.D. 1869 was passed at a time when "jai-alai was already very popular and it was no secret that the franchise holder at that time, PJAC, was raking huge profits out of its operation. It could not have escaped the notice of the author of the law. Its omission can only mean a deliberate intention to exclude "jai-alai" from the PAGCOR charter."[3]

Undaunted by the import of the clear language of the law, respondents argue that with the repeal of P.D. 810, the restriction in the PAGCOR Charter on existing franchises was removed and hence, PAGCOR could now exercise its authority to operate and manage jai-alai games. *The fallacy in this argument is that it presupposes that PAGCOR had the power to operate and manage jai- alai except that the exercise thereof was suspended while the PJAC franchise was still subsisting.* To begin with, PAGCOR was never vested with such authority. The phrase "not heretofore authorized by existing franchises" *imposes an exception, not merely a restriction*, on PAGCOR's franchise. Consequently, the repeal

[3] Comment/Opposition on the Motion for Reconsideration, p. 5; *Rollo*, p. 559.

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of P.D. 810 did not have any effect whatsoever on the franchise of PAGCOR. It must be noted that then President Aquino repealed P.D. 810 with the intention not to grant any franchise for jai-alai. The Aquino government was grounded on a strong sense of morality and was very much against gambling. *It would have been quite illogical for the Aquino government to repeal P.D. 810 on the ground that it is contrary to public morals and in the same breath allow PAGCOR, which is under the Office of the President, to conduct exactly the same activity which it abhorred.* The moral standing of the government in its repeated avowals against illegal gambling is fatally flawed and becomes untenable when it itself engages in the very activity it seeks to eradicate.[4] Perforce, with the repeal of P.D. 810, it is necessary, before PAGCOR can conduct jai-alai, that a law be passed allowing the same. Respondents have not shown that such a law exists.

III

Our moral fiber is in tatters. There is greater reason to insist on the principle that gambling can only be allowed by *express* mandate of Congress. The world over, gambling is recognized as a vice and a social ill which government must minimize, if not eradicate, in pursuit of social and economic development.[5] In all its forms, gambling is generally proscribed as offensive to the public morals and the public good.[6]

In contending that jai-alai is impliedly included in Section 10 of the law, *the respondents are suggesting that an illegal act may be legalized by mere implication of law.* This novel step is difficult to accept. All these years, Congress has been very strict in recognizing gambling as a necessary evil. Starting with Articles 195-197 of the Revised Penal Code and the subsequent laws such as P.D. 1602 (Prescribing stiffer penalties on illegal gambling), P.D. 449 (Cockfighting Law of 1974), R.A. 309 (An Act to Regulate

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[4] See Concurring Opinion of Justice Padilla in *Basco, et al. vs. PAGCOR*, 197 SCRA 52 (1991).

[5] *Lim vs. Pacquing, et al.*, 240 SCRA 649 (1995).

[6] See Separate Opinion of Justice Kapunan in *Lim vs. Pacquing, et al., supra.*

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Horse-Racing in the Philippines), R.A. 1169 (An Act Providing for Charity Sweepstakes Horse Races and Lotteries), C.A. 485 (An Act to Permit Betting on the Game of Basque Pelota), and P.D. 810, the policy has been to punish gambling and in exceptional cases where it is allowed, to strictly control its franchise.

It cannot be gainsaid that jai-alai is equally, if not more, pernicious than gambling casinos because whereas the latter is confined to a few persons and select places, the former infests the whole community; jai-alai frontons have mushroomed in every nook and corner of the country, and are accessible to everyone, specially the marginalized sector of society; gambling casinos cater more to the middle and upper classes of society. It would seem illogical and absurd for the lawmaking authority to provide strict safeguards and guidelines in its grant of a franchise to PAGCOR to operate gambling casinos and at the same time clothe it with unrestrained authority in the operation of jai-alai. *Indeed, the respondents would grant PAGCOR an unlimited authority to engage in all kinds of gambling activities which are presently prohibited by law.*

I vote to deny the motions for reconsideration.

Reynato S. Puno
Associate Justice

MELO, *J., dissenting opinion*:

On the basic issue herein presented as to whether or not the Philippine Amusement and Gaming Corporation has a franchise to operate jai-alai, I am constrained, after studied reflection, to change my position and to dissent from the majority opinion. The *ponencia* of Mr. Justice Puno, well-written as it is, involves, upon further appraisal, a restricted view of the scope of the franchise granted to PAGCOR. The majority opinion, after undertaking a historical study of legislation covering the creation, growth, and development of PAGCOR, concluded that right from the beginning, PAGCOR was simply granted a franchise to maintain gambling casinos and that Section 10 of Presidential Decree No.1869 never meant to confer PAGCOR a franchise to operate jai-alai. To hew to such an interpretation would, however, disregard several

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provisions of Presidential Decree No. 1869, the law consolidating and amending Presidential Decrees No. 1067-A, 1067-B, 1067-C, 1399, and 1632 relative to the franchise and power of the PAGCOR.

Section 1 (b) of Presidential Decree No.1869 pertinently provides:

Section 1. *Declaration of Policy.*— It is hereby declared to be the policy of the State to centralize and integrate all games of chance not heretofore authorized by existing franchises or permitted by law in order to attain the following objectives:

x x x x x x x x x

(b) To establish and operate clubs and casinos, for amusement and recreation, *including sports, gaming pools (basketball, football, lotteries, etc.) and such other forms of amusement and recreation* including games of chance, which may be allowed by law within the territorial jurisdiction of the Philippines...

Likewise, Section 10 of Presidential Decree No.1869 provides:

Section 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 (25) 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.

One need hardly be reminded of the rule that in construing a statute, courts "have to take the thought conveyed by the statute as a whole; construe the constituent parts together; ascertain the legislative intent from the whole act; consider each and every provision thereof in the light of the general purpose of the statute; *and endeavor to make every part effective, harmonious and sensible*" (*Republic vs. Reyes*, 17 SCRA 170 [1966]). To consider the franchise granted to PAGCOR as allowing only the operation of casinos would, I respectfully submit, render nugatory the above provisions of Presidential Decree No.1869 allowing the PAGCOR to operate and maintain other recreation or amusement places, sports, gaming pools, *i.e.*, basketball, football, lotteries, etc.

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Interpretate fienda est res valeat quam pereat. A law should be interpreted with a view to upholding rather than destroying it. One portion of a statute should not be construed to destroy the other. A construction that would render a provision inoperative or ineffective should be avoided.

Considering the inclusion of games of skill like basketball, football, etc. in Sections 1 (b) and 10 of Presidential Decree No.1869, it is incontrovertible that the franchise granted to PAGCOR is broad enough for it to operate jai-alai, a game of skill not unlike basketball and football. If a statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. *Verba legis non est recedendum.* From the words of a statute there should be no departure (*Agpalo, Statutory Construction*, p. 95).

More importantly, petitioners have brought the present suit in their capacity as taxpayers and legislators. It has long been my consistent stand that in order for a taxpayer's suit to prosper, the petitioners therein must have *locus standi* (see *Kilosbayan, Inc. vs. Morato*, 232 SCRA 110 [1994]; *Tatad vs. Garcia,*243 SCRA 436 [1995]; *Bagatsing vs. COP*, 246 SCRA 334 [1995]; *Kilosbayan, Inc. vs. Morato*, 246 SCRA 540 [1995]; *Kilosbayan, Inc. vs. Morato*, 250 SCRA 130 [1995]; *Tatad vs. Secretary of Energy*, 281 SCRA 330 [1997]). As early as 1994, in a dissenting opinion in *Kilosbayan, Inc. vs. Guingona, Jr.* (232 SCRA 110 [1994]), I stated that:

> Any effort to infuse personality on petitioners by considering the present case as a "taxpayer's suit" could not cure the lack of *locus standi* on the part of petitioners. As understood in this jurisdiction, a "taxpayer's suit" refers to a case where the act complained of directly involves the illegal disbursement of public funds derived from taxation. It cannot be overstressed that no public fund raised by taxation is involved in this case. In fact, it is even doubtful if the rentals which the PCSO will pay to the lessor for its operation of the lottery system may be regarded as public fund.

In the instant case, it is undisputed that the spending powers of Congress are not involved. Nor is there an allegation of illegal disbursement of public funds. Hence, petitioners' right to sue as taxpayers or concerned citizens cannot be sustained. Neither may

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petitioners take refuge in their status as members of Congress. In *Kilosbayan, Inc. vs. Morato* (246 SCRA 540 [1995]), we held that members of Congress may properly challenge the validity of an official act of any department of the government only upon showing that the assailed official act affects or impairs their rights and prerogatives as legislators. Parenthetically, the issue before the Court is whether or not the franchise of PAGCOR includes the operation of jai-alai. It would thus be most awkward to conclude that the power to grant franchises, which undisputably belongs to Congress, is impaired by PAGCOR 's operation of jai-alai, seeing that Congress' power to modify, amend, or even repeal PAGCOR's franchise remains undiminished and plenary. Neither does PAGCOR's operation of jai-alai prevent Congress, if it is so minded, from granting a rival franchise to any other entity.

FOR ALL THE FOREGOING REASONS, I vote to grant the motion for reconsideration filed by respondents.

Jose A.R. Melo
Associate Justice

VITUG, *J., separate opinion*:

I most humbly reiterate my separate opinion, promulgated on 29 November 2000 (along with the *ponencia* sought to be reconsidered), to the effect that —the authority of PAGCOR under its charter "to establish and operate clubs and casinos for amusement and recreation, including games of chance,"[1] *is broad enough to allow PAGCOR to operate all kinds of sports and gaming pools, inclusive of jai-alai, but not in joint venture with Belle Jai-Alai Corporation ("BELLE") and Filipinas Gaming Entertainment Totalizator Corporation ("FILGAME") which are not themselves holders of any legislative franchise.* While PAGCOR is permitted under its charter to enter into various agreements in its authorized operations, that power, nevertheless, cannot be so construed as empowering it to pass on or share its franchise to anyone else.

[1] Sec. 1(b), P.D. No. 1869; *People vs. Quijada*, 259 SCRA 191 citing *Victoria vs. COMELEC*, 299 SCRA 269 and *Libanan vs. Sandiganbayan*, 233 SCRA 163.

[2] Secs.1 and 24, Art. VI, Constitution.

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The grant of a franchise is a purely legislative act that cannot be delegated to PAGCOR without violating the Constitution.[2] The thesis rests on the maxim *potestas delegata non delegari potest. Without a congressional franchise of its own, neither BELLE nor FILGAME, in fine, can lawfully engage in active endeavor with PAGCOR in conducting jai-alai games.*

ACCORDINGLY, I still vote (a) to the grant of the petitions insofar as they seek to enjoin respondent Philippine Amusement and Gaming Corporation (PAGCOR) from operating jai-alai or basque pelota games through respondents Belle Jai-Alai Corporation (BELLE) and/or Filipinas Gaming Entertainment Totalizator Corporation (FILGAME), or through any other agency for that matter, but (b) to deny the same petitions to the extent that they further seek to prohibit PAGCOR from itself managing or operating those games.

Jose C. Vitug
Associate Justice

DE LEON, JR., *J., dissenting opinion*:

The twin motions for reconsideration before us concern the issue as to whether the Philippine Amusement and Gaming Corporation (PAGCOR) has the requisite franchise to manage and/or operate jai-alai or Basque pelota games, by itself or with the infrastructure facilities of co-respondents Belle Jai-Alai Corporation (hereinafter called BELLE) and Filipinas Gaming Entertainment Totalizator Corporation (hereinafter called FILGAME).

On November 29, 2000, this Court rendered a decision, holding that the management and operation of jai-alai games is not covered by the franchise granted to PAGCOR under Presidential Decree No.1869. Thus, the dispositive portion of said decision reads as follows:

***WHEREFORE**, the petitions are GRANTED. Respondents PAGCOR, Belle Jai-alai Corporation and Filipinas Gaming Entertainment Totalizator Corporation are ENJOINED from managing, maintaining and operating jai-alai games, and from enforcing the agreement entered into by them for that purpose.*

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SO ORDERED.

On December 29, 2000, PAGCOR, through the Government Corporate Counsel, filed its Motion for Reconsideration dated December 26, 2000. Movant PAGCOR argues that:

I. P.D. 1869, otherwise known as the PAGCOR franchise, is not merely a consolidation of P.D. Nos. 1067-A, 1067-B, 1067-C, 1399 and 1622 but is an express amendment of the latter.

II. The provisions of P.D. 1869, taken in their totality, do not limit PAGCOR 's franchise to the operation of gambling casinos.

III. Regardless of the fact that the exercise of PAGCOR 's franchise to operate and manage gambling casinos and other games of chance affect public morals and notwithstanding any perceived bias against the martial law powers of former President Marcos, it remains that P.D. 1869 has the force and effect of law, whose wisdom cannot be validly inquired into by the courts.

IV. The jai-alai games as introduced in the Philippine context or setting has never been associated with or appreciated as a game of skill but as a betting game or gambling activity.

V. Pursuant to the agreement of PAGCOR with BELLE/FILGAME, PAGCOR under a joint venture scheme will be the one to manage and operate jai-alai games.

VI. The difference in tax treatment between jai-alai and other gaming activities is not crucial as would preclude PAGCOR from operating jai-alai games.

On December 26, 2000, private respondents BELLE and FILGAME filed their motion for reconsideration dated December 22,2000 based on the following grounds:

I. This Honorable Court's reading of the franchise granted under Presidential Decree No. 1869 makes meaningless most of Section 10 of the law, which is specifically meant to express the nature of the Philippine Amusement and Gaming Corporation's franchise, and which categorically confers upon it the "rights, privilege and authority to operate and maintain" not only "gambling casinos", but also "clubs and other recreation or amusement places, sports, gaming pools x x x basketball, football, lotteries, etc, " which plainly includes gaming pools on jai-

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alai."

II. By construing Presidential Decree No.1869 as granting only the right to own and operate gambling casinos, this Honorable Court defeats its plainly expressed intent to "centralize and integrate all games of chance x x x," and fails to consider that the broad "right and authority to operate and conduct games of chance "was not granted to a mere private business corporation, but to a corporate entity to be controlled, administered and supervised by the government, meant to regulate gaming activities and earn funding for socio-economic projects for public good.

On February 1 and 2, 2001, petitioners, filed their respective comments/opposition to the motion for reconsideration filed by respondents alleging, in essence, that:

I. Since there was no mention of the word "Jai- alai" in the PAGCOR charter, although the legislative authority could have easily included the same, jai-alai is deemed to have been excluded from the activities falling within the scope of PAGCOR 's franchise to operate and manage.

II. PAGCOR does not have the franchise to operate and manage jai-alai games in the absence of specific rules and guidelines given by the legislative authority for the operation of a game played for bets.

We find merit in the twin motions for reconsideration before us and hold that PAGCOR has the requisite franchise to manage and operate jai- alai games and to enter into a joint venture agreement with BELLE and FILGAME.

FIRST. Section 10 of P. D. No.1869 defining the extent and nature of PAGCOR's franchise is couched in language so broad that literally all kinds of sports and gaming pools, including jai-alai, are covered therein.

Section 10 of P.D. No.1869 reads:

Section 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 (25) years, the rights, privilege, and authority to operate and maintain gambling casinos, clubs, and other recreation or amusement places,

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sports, **gaming pools**, *i.e., basketball, football, lotteries,* **etc.** *whether on land or sea, within the territorial jurisdiction of the Republic of the Philippines. [underscoring supplied]*

A sport is defined as "a game or contest especially when involving individual skill or prowess on which money is staked."[1] Gaming, on the other hand, is defined as "the act or practice of playing games for stakes."[2] P.D. No.1869 has made express mention of basketball and football as example of gaming pools. Basketball and football, however, like jai-alai are games of skills. Considering that under Section 10 of P.D. No.1869, games of skill like basketball and football have been lumped together with the word "lotteries" just before the word "etc." and after the words "gaming pools," it may be deduced from the wording of the law that when bets or stakes are made in connection with games of skill, they may be classified as games of chance under the coverage of PAGCOR's franchise.

The meaning of the phrase "*et cetera*" or its abbreviation "etc." depends largely on the context of the instrument, description and enumeration of the matters preceding the term and subject matter to which it is applied, and when used in a statute, the words should be given their usual and natural signification.[3] Consequently, jai-alai, otherwise known as "game of Basque pelota," while in itself is not *per se* a game of chance, may be categorized as a game of chance when bets are accepted as a form of gambling.

It is a cardinal rule of statutory construction that when words and phrases of a statute are clear and unequivocal, their meaning must be determined from the language employed and the statute must be taken to mean exactly what it says.

SECOND. Petitioners contend that jai-alai does not fall within the scope of PAGCOR's franchise inasmuch as there is no specific mention of jai-alai as among the games which PAGCOR can operate under P.D. No.1869.

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[1] Webster's *Third New International Dictionary* (Unabridged), 1993 Ed.

[2] *Ibid.*

[3] *Wright v. People*, 181 P. 2d 447, 450, 116 Colo. 306.

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The language of the law defining the scope of PAGCOR's franchise, as earlier mentioned, is broad enough to include the operations of jai-alai. The abbreviation "etc." ordinarily refers to others of the like kind, and the rest, and so on, and so forth, being used to point out that other things which could be mentioned are understood.[4] Bearing in mind that the law was created to maximize potential sources of additional revenue for the government, it would have been incongruous to expect an enumeration of all the possible games or activities that could be covered by the scope of PAGCOR's franchise.

To adopt the petitioners' stance that there should have been an express mention of jai-alai as among the games or activities which PAGCOR can operate and manage under its franchise, would limit the scope of PAGCOR's franchise to games or activities which have been expressly mentioned under P.D. No. 1869 and render ineffective the use of the word "etc." in said law.

It is a universal rule of application that a construction of a statute is to be favored, and must be adopted if reasonably possible, which will give meaning to every word, clause, and sentence of the statute and operation and effect to every part and provision of it.[5]

THIRD. Petitioners maintain that the operations of jai-alai was already the subject of a legislative grant by then President Marcos to the Philippine Jai-Alai and Amusement Corporation (PJAC), a corporation controlled by his in-laws, the Romualdezes, by virtue of P.D. Nos. 810[6] and 1124.[7] Hence, it could not have been his

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[4] *Osternberg v. Section 30 Development Co.*, 200 N.W. 738, 739, 160 Minn. 497; *Fleck v. Hamstad*, 155 A. 875, 877, 304 Pa. 302, 77 ALR 874.

[5] H.C. Black, *HANDBOOK ON THE CONSTRUCTION AND INTERPRETATION OF THE LAWS* 322 (2nd Ed, 1971).

[6] entitled "An Act granting the Philippine Jai-alai and Amusement Corporation a franchise to operate, construct and maintain a fronton for Basque Pelota and similar games of skill in the Greater Manila Area."

[7] entitled "Amending Presidential Decree No. 810 dated October 16, 1975 entitled 'An Act granting the Philippine Jai-alai and Amusement Corporation a franchise to operate, construct and maintain a fronton for Basque Pelota and similar games of skill in the Greater Manila Area.'"

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no franchises have been granted at the time that P.D. No.1869 went into effect on July 11, 1983. To bolster their claim, petitioners cite Section 1 of P.D. No.1869 which reads:

Section 1. Declaration of policy. – It is hereby the policy of the State to centralize and integrate all games of chance not heretofore authorized by existing franchises or permitted by law in order to attain the following objectives." (underscoring supplied)

The fact that there was an existing jai-alai franchise in favor of PJAC the time P.D. No.1869 went into effect does not necessarily mean jai-alai can never be the subject of PAGCOR's franchise upon repeal of PJAC's franchise. Monopoly is not an essential feature of a franchise and the strictly legal signification of the term franchise is not always confined to exclusive rights.[10]

The Declaration of Policy stated in Section 1 of P.D. No.1869 should be read in conjunction with the purpose of the law, *i.e.* to generate sources of additional revenue for governmental projects. PAGCOR was created primarily to maximize potential sources of revenue for the government by integrating into just one entity the operation and management of all games of chance. To attain this objective, the legislature saw it fit to couch the scope and nature of PAGCOR's franchise in a broad language.

Statutes should be construed in the light of the object to be achieved and the evil or mischief to be suppressed and they should be given such construction as will advance the object, suppress the mischief and secure the benefits intended. A statute should therefore be read with reference to its leading idea, and its general purpose and intention should be gathered from the whole act, and this predominant purpose will prevail over the literal import of particular terms or clauses, if plainly apparent, operating as a limitation upon some and as a reason for expanding the signification of others, so that the interpretation may accord with the spirit of the entire act, and so that the policy and object of the statute as a whole may be made effectual and operative to the widest possible extent.[11]

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[10] 36 Am Jur 2d, Franchises § 29.

[11] H. Black, *Op. Cit*, note 5 at 320-321.

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FIFTH. Petitioners maintain that the legislative authority could not have intended to include jai-alai in the scope of PAGCOR's franchise in the absence of specific guidelines laid down in P.D. No. 1869 as to how PAGCOR shall conduct the operation and management of jai-alai games.

Considering that the intent of the law is to regulate and centralize all games of chance thru an appropriate institution which would enable the government to identify potential sources of additional revenue, it would be impracticable for the law to provide in detail for the manner in which each possible game covered by the franchise is to be maintained and operated by PAGCOR. Significantly, the law has not provided for a set of guidelines as to how basketball and football shall be managed and operated by PAGCOR. Yet, because of the express provision of the law, one could not contend that such games are to be excluded from the scope of the franchise.

If we use the presence or absence of a set of guidelines in the law as to how each possible game should be managed and operated by PAGCOR, as a standard for their inclusion in the scope of PAGCOR's franchise, then we render ineffective the object of the law to maximize potential sources of revenue by integrating all games of chance into just one entity since all games of chance which might have otherwise been covered by the all encompassing word "etc." also do not have a set of guidelines regarding their operation and management by PAGCOR. Such strained interpretation violates the rule of statutory construction that no limitation is to be inferred or implied which would have the effect of defeating the object of the law.

SIXTH. As regards the issue that jai-alai, as a form of gambling, is "universally regarded to be a threat to the moral fiber of the society," we need only reiterate the oft quoted principle that courts do not pass upon questions of wisdom, justice or expediency of legislation, for it is not within their province to supervise legislation and keep it within the bounds of propriety or common sense. Whether or not a given law is the best that could have been enacted on the subject; whether or not it is calculated to accomplish its avowed object; whether or not it accords with what is understood to be the general policy of legislation in the particular jurisdiction

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—these are questions which do not fall within the province of the courts. A court exceeds its proper office and authority if it attempts, under the guise of construction, to mould the expression of the legislative will into the shape which the court thinks it ought to bear.[12]

Petitioners, who are members of the legislature, should perhaps be reminded that it is their office which, in fact, has the prerogative to correct what it deems to be excesses or omissions in the legislation.

SEVENTH. Petitioners contend that PAGCOR may not enter into a joint venture agreement with private corporations, in this case with BELLE and FILGAME, to operate, manage and conduct jai-alai games as well as supervise betting activities both at the fronton site and selected off-fronton betting stations.

Petitioners maintain that PAGCOR's right to enter into management contracts is limited only to those relating to the efficient operation of gambling casinos under Section 11 of P.D. No.1869 which reads:

> *Sec. 11. Scope of Franchise. – In addition to the rights and privileges granted it under the preceding Section, this Franchise shall entitle the corporation to do and undertake the following:*
>
> *(1) enter into operating and/or managing contracts with any registered and accredited company possessing the knowledge, skill, expertise and facilities to insure the efficient operation of gambling casinos x x x.*

We are not convinced.

A joint venture is an association of persons or companies jointly undertaking some commercial enterprise—generally, all contribute assets and share risks. It requires a community of interests in the performance of the subject matter, a right to direct and govern the policy connected therewith, and duty, which may be altered by agreement to share both in profit and losses.[13] In this jurisdiction, a joint venture is a form of partnership and is thus governed by the law on partnerships.

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[12] *Id.*, at 11.

[13] *Kilosbayan, Incorporated v. Guingona, Jr.*, 232 SCRA 110, 144 [1994].

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Section 3 of P.D. No.1869 enumerates the following powers and functions of PAGCOR:

x x x

h) to enter into, make, perform, and carry out contracts of every kind and for any lawful purpose pertaining to the business of the Corporation, or in any manner incident thereto, as principal, agent or otherwise, with any person, firm, association or corporation.

x x x

l) 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 of the powers herein stated, either alone or in association with other corporations, firms or individuals, and to do every other act or thing incidental, pertaining to, growing out of, or connected with, the aforesaid purposes, objects or powers, or any part thereof.

Clearly, the powers granted to PAGCOR are broad enough to include the power to enter into a joint venture agreement with private corporations like BELLE and FILGAME relating to the operation, management and conduct not only of gambling casinos but also of those relating to jai-alai as legalized gambling.

Where the language of the statute is clear, it is the duty of the court to enforce it according to the plain meaning of the word. There is no occasion to resort to other means of interpretation.

EIGHTH. Finally, it is contended that PAGCOR cannot enter into a joint venture agreement with BELLE and FILGAME because to do so would grant the two (2) corporations a veritable franchise to operate jai-alai games in violation of the principle that the grant of a franchise is a purely legislative act which cannot be delegated without violating the Constitution under the maxim *potestas delegata non delegari potest.*

Under the maxim *potestas delegata non delegari potest* a delegated power cannot be delegated. This is based upon the ethical principle that such delegated power constitutes not only a right but a duty to be performed by the delegate by the instrumentality of his own judgment acting immediately upon the matter of legislation and not through the intervening mind of another.[14]

[14] *United States v. Barrias,* 11 Phil. 327, 330 [1908].

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It should be noted, however, that the legislative grant of franchise to PAGCOR has not accorded unto the latter legislative powers nor quasi- legislative powers. The joint venture agreement entered into by PAGCOR with FILGAME and BELLE was made pursuant to the powers granted under P.D. No. 1869 to PAGCOR to "enter into, make, perform, and carry out contracts of every kind and for any purpose pertaining to the business of the corporation x x x with any person, firm or corporation." Under the joint venture agreement, BELLE and FILGAME will provide financial requirements and technical assistance to PAGCOR in connection with the use of their operational facilities. *PAGCOR however shall still manage, regulate and control all aspects of jai-alai operations*. PAGCOR has entered into a joint venture agreement with the two (2) corporations for the simple reason that without the collaboration of the private sector, it is not financially capable of undertaking the resumption of the operation of jai-alai games which will require massive financial outlay. Hence, the joint venture agreement is in consonance with the powers granted to PAGCOR that it may "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 of the powers herein stated, either alone or in association with other corporations, firms or individuals x x x."

NINTH. The petitioners filed the present suits in their capacity as taxpayers and legislators. However, for a taxpayer's suit to prosper, the petitioners therein must have *locus standi*. In these instant petitions, it is undisputed that the spending powers of Congress are not involved. There is no allegation of illegal disbursement of public funds. Hence, petitioners' right to sue as taxpayers or concerned citizens cannot be sustained. Neither is there any showing that the assailed official acts of PAGCOR affect the rights and prerogatives of petitioners as members of Congress.

I therefore vote to grant the subject twin Motions for Reconsideration filed by respondents PAGCOR, BELLE and FILGAME.

Sabino R. de Leon, Jr.
Associate Justice