



**REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY**

FIFTH DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

SB-13-CRM-0124

-vs-

SEVERO A. PALANCA

Mayor (SG 30)

Res. Add.: Goriville Subd., Brgy. XIII
Victorias City, Negros Occidental

RAMSEY D. PANES

Executive Assistant, Office of the
City Mayor,
OIC Permits and Licenses Division
Res. Add.: Goriville Subd., Brgy. XIII
Victorias City, Negros Occidental

Accused.

Present:

LAGOS, J.,

Chairperson,

MENDOZA-ARCEGA, J.,

and CRUZ*, J.

Promulgated:

June 27, 2017 *led*

* Sitting as special member pursuant to Administrative Order No. 025-2017 dated 1 February 2017.

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DECISION

MENDOZA-ARCEGA, J.:

Accused, Severo A. Palanca (Palanca), a former Mayor of the City of Victorias, Negros Occidental, and Ramsey D. Panes (Panes), Officer-in-Charge of the Permits and Licenses Division, are charged with violation of Section 3 (j) of Republic Act No. 3019, in an Information, the accusatory portion of which reads:

On or about 23 June 2010, or sometime prior or subsequent thereto, in the City of Victorias, Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, SEVERO A. PALANCA and RAMSEY D. PANES, public officers being then the Mayor and the Officer-in-Charge of the Permits and Licenses Division, respectively, having the authority to issue permits in the City of Victorias, in abuse of their official positions, conspiring and confederating with one another, did then and there willfully, unlawfully, and criminally grant a business permit for the operation of a Jai-Alai betting station in the City of Victorias to Gaudencio P. Corona, despite fully knowing that said Corona or the company he was representing had no legislative franchise and other legal requirements to operate the said Jai-Alai betting station.

Contrary to law.

On March 4, 2013, the Court, after assessment of the records, documents and other evidence submitted, found probable cause and ordered the issuance of a warrant of arrest against the accused.¹ Thereafter, a Hold Departure order was issued against the accused on March 6, 2013.²

On April 4, 2013, the Court received the cash bail bonds of both accused.

On April 15, 2013, the accused filed a Motion to Defer Proceedings³, stating that they were not convinced with the resolution of the Office of the Ombudsman, which declared the finding of probable cause against them for violation of Sec. 3 (j) of R.A. 3019. Also, the Office of the Ombudsman has yet to rule on their Motion for Reconsideration, which was timely filed. The Court, in its Order⁴ dated 19 April 2013, granted the said motion of the accused.

¹ Records, Vol. 1, p. 110.

² Records, Vol. 1, p. 112.

³ Records, Vol. 1, p. 153.

⁴ Records, Vol. 1, p. 167.

On January 27, 2014, accused Panes, after having been informed of the nature and cause of accusation against him and after the Information was read to him, pleaded not guilty to the offense charged,⁵ while accused Palanca, moved for the resetting of his arraignment because he was indisposed due to a Community Acquired Pneumonia.

On March 24, 2014, accused Palanca and his counsel failed to appear at the scheduled arraignment, thus, the Court ordered the issuance of a warrant of arrest and his cash bond for his temporary liberty was forfeited in favor of the government. Thereafter, the arraignment of the said accused was rescheduled on May 22, 2014.

In response, the accused and his counsel filed a Motion for Reconsideration with Compliance to the Show Cause Order dated 24 March 2014, stating among others that their failure to appear on the scheduled date of hearing was due to miscommunication, misunderstanding and sheer inadvertence. Finding merit in the explanation of the accused and his counsel, the Court granted the same in its Order dated May 2 2014. Accordingly, the warrant of arrest issued was ordered recalled and the cash bond of accused Palanca was reinstated.

On July 7, 2014, accused Palanca, assisted by counsel, after having been informed of the nature and cause of accusation against him and after the Information was read to him, pleaded not guilty to the offense charged.

In the Pre-Trial Order dated July 9 2014⁶, the prosecution admitted that the Business Permit was issued on June 23, 2010 and the subject Business Permit, on order of accused Palanca, was cancelled on July 15, 2010. On the other hand, the defense admitted the following: identity of the accused and the jurisdiction of the court; the names and positions of the accused; and the authenticity and genuineness and due execution of the common exhibits.

EVIDENCE FOR THE PLAINTIFF

The prosecution presented the following witnesses: James Francis Anthony Suncuanco Garcia; Miguel D. Carreon; and Wilfredo Ismael Picaso III.

On September 31. 2014, **James Francis Anthony Suncuanci Garcia**, 52 years old, married, farmer and a resident of No. 11 Lopez Street, Valderama Subdivision, Victoria City, testified in Court as follows:

⁵ Records, Vol. 1, p. 216.

⁶ Records, Vol. 1, p. 292.

He executed the letter-complaint which initiated the present case. He stated therein that Gaudencio P Corona was given a Mayor's Business Permit, although he was not the owner or operator of Dalisay Amusement Games and Recreation Station (Dalisay), upon recommendation of respondent Ramsey D. Panes, Executive Assistant and Officer-in-Charge of the Permit and Licenses Division of the Mayor's Office." He came up with said accusations based on reports and documents from the Provincial Police Office and also from the documents admitted in the Counter-Affidavit of the respondents. To be specific, he based his accusations on the Certifications from Atty. Diamante, Meridien Vista Gaming Corporation (Meridien) and Dalisay. He presented copies of a Business Permit of Gaudencio Corona, a Certification from Dalisay Enriquez Tampus⁷, a Certification from Pedro Diamante⁸, a Certification from Diamante with regard to Dequina, a Securities and Exchange Commission Certification and Certificate of Incorporation of Maridien⁹, and a DTI Permit of Dalisay in the name of Dalisay Enriquez Tampus¹⁰. The witness, having applied for a business permit in the City of Victorias, narrated the procedure on how to obtain a Mayor's Business Permit, as follows: First is to inform the Permit and Licenses Office as to the intention of securing a business permit. A checklist will be given by the said office containing the instructions to secure clearances and other requirements. After securing all the necessary documents, they will have to submit the same to the Permit and Licenses Office, which will then endorse or recommend the same to the Office of the Mayor for approval. The whole process, up to the approval of the applications, would take about a week.

Moreover, he also presented a Business Permit in the name of Gaudencio Corona, with business name Dalisay Amusement Games and Recreation Station, wherein it indicates the payment of fees in the amount of Php1,7550, on June 23, 2010. However, Dalisay is owned by Dalisay Enriquez Tampus as reflected on the DTI permit and the Certificate of Business Name Registration issued in Makati City on May 27, 2010.¹¹ On the other hand, Exhibit "B"-Business Permit of Corona states that its place of business is No. 18 Gonzaga Street, Victorias City, which is owned by Renato Kasiple, who is a very close friend of the late father of the witness. After the issuance of the Business Permit to Mr. Corona, after June 23, 2010, he never saw an office erected on the said address.

Notwithstanding the discrepancies, he was aware that Mr. Corona operated the Jai-Alai Betting Station. The said fact was corroborated by news when the operators and *cobradors* were apprehended. Some of them were Jenard Dequiña, Gonzales and Segaya Balerra. The incident was also recorded in the Police Blotter.¹² After two (2) to three (3) days from the apprehension of the operators and *cobradors*, he went to the Provincial Police office wherein he asked Dequiña, Balerra and Gonzales for copies of their Counter-Affidavit, which became an

⁷ Exhibit "D-5"

⁸ Exhibit "D-6"

⁹ Exhibit "D-4"

¹⁰ Exhibit "D-1"

¹¹ Exhibit "D-2"

¹² Exhibit "C"

attachment to his Complaint. As proof that Dequiña, Balerra and Gonzales were connected with Mr. Corona, he went to the Regional Trial Court of Silay City, where a case against Dequiña was filed. He requested copies of the Inquest Report. Witness also presented the aforementioned Counter-Affidavit as proof that indeed the apprehended persons were connected with Mr. Corona, specifically in paragraph 2 of their Counter-Affidavit, which stated that “Dequiña was the Operation Manager of the Branch Operator, Mr. Gaudencio P. Corona together with Rey Gonzales, designated as runner and Zandro Balerra assigned as Totalizer/Grosser.”¹³ In addition, paragraph 5 of the same document states: “(T)hat after making pronouncement that we were making illegal activities by conducting Jai Alai in the City I tried to explain to them that they are mistaken because this gaming activities is duly authorized by the City Mayor and by issuing the aforesited sited business permit, plus further authorized by the Meridien which was granted exclusive franchise by the Cagayan Economic Zone Authority (CEZA) which was issued on February 9, 2009, a Certification to secure a Mayor’s Permit in order to comply with the requirements.”¹⁴

On cross, he testified that he is the nephew of accused Palanca, while Corona is his cousin. As cousin of Corona, he was aware that Corona applied for a business permit to operate a Jai Alai Betting Station and that it is placed in Victoria City. The witness stated that the application for business permit was processed, necessary fees were paid and that the same was approved by Palanca, after accused Panes evaluated all the documents, being the head of the Permits and Licensing Section. He alleged that as a condition to the issuance of a business permit, a betting machine must be installed. However, the Jai Alai operated in the absence of a betting machine and the *cobradors* collected fees in exchange for a stub indicating the number and the name of the bettor. The business permit was later cancelled after the apprehension of the operator and *cobradors*.

On redirect, the witness testified that before he filed a case against the accused’s older sister, who was the Mayor in 2003, they were a very close family. Despite such fact, he opted to file against his uncle because the City of Victorias was donated by his great grandfather so he does not want to tarnish the good family name with the commission of some infractions against the government. He said that there was some sort of “accommodation” in favor of Gaudencio Corona in the processing of the business permit because they applied for and secured the permit on the same day, which is unusual. Normally it would take four to five days to secure a permit due to the required inspection which is being scheduled. On July 14, 2010, the business permit was cancelled¹⁵ upon verification of the application of Dalisay, it was found out that the applicant lacks the necessary documents for the operation of Jai-Alai and, therefore, the operation is illegal. Such Revocation Order came from accused Palanca upon the recommendation of accused Panes.

¹³ Exhibit “H-1”

¹⁴ Exhibit “H-2”

¹⁵ Exhibit “E”

On May 12, 2015, the testimony of prosecution witness **Miguel D. Carreon**, the Chairperson of Meridien, was dispensed with after the stipulation on the existence and due execution of Exhibit "G," which is the provisional authority issued to Dalisay.

On September 1, 2015, likewise the testimony of witness **Wilfredo Ismael Picaso III**, Trade and Industry Development Specialist, Project Management Technology Business Registration, Department of Trade and Industry, was dispensed with considering that the parties agreed to enter into stipulations on the following:

Witness is the Post-Evaluator of the Business Management Team for Business Registration of the Department of Trade and Industry and that he is the authorized representative of the director of the said office pursuant to a Certification issued thereon and that he is going to testify on the genuineness and due execution of the DTI Certificate previously marked as Exhibit "E-1" during the pre-trial, used by Dalisay in the application for business permit for the operation of a jai Alai Betting Station in Victorias City, which was also marked by the defense as common exhibit.

After presenting all its witnesses, the prosecution made the formal offer of its documentary evidence as follows:

Exhibit

- A - Original copy of the Complaint docketed as OMB-V-C-10-0337-H dated July 28, 2010 consisting of 3 pages;
- A-1 - Signature of complainant James Francis Anthony S. Garcia;
- B - Business Permit No. 2010004197 dated June 23, 2010, approved and signed by accused City Mayor Severo A. Palanca, with the recommending approval of accused Ramsey D. Panes;
- B-1 - The amount paid by Gaudencio Corona for his business permit application;
- B-2 - The date when the payment was made by Gaudencio Corona;
- B-3 - The date of the application for business permit;
- B-4 - The date when the business permit was issued;
- B-5 - The name and signature of accused Ramsey D. Panes;
- & B-6
- C - Police Report dated July 19, 2010, prepared by Johnny A. Makilan, Police Officer 3, Duty Desk Officer and noted by Jomil John S, Trio, PESE, (Original Copy);
- D - Counter Affidavit of accused Ramsey D. Panes, consisting of 4 pages (Original Copy);

- D-1 - Certificate of Business Name Registration under Dalisay Amusement Games and Recreation Station;
- D-2 - Certificate of Registration from Cagayan Economic Zone Authority, signed by Sec. Jose Mari B. Ponce;
- D-3 - Certificate of Incorporation of Meridien Vista gaming corporation from the Securities and Exchange Commission;
- D-4 - Certificate of Filing of Amended Articles of Incorporation of Meridien Vista Gaming Corporation from the Securities and Exchange Commission, dated June 10, 2008, signed by Director Benito A. Cataran;
- D-5 - Certification dated June 14, 2010, appointing Mr. Louie Anthony E. Tampus as General Manager of Dalisay Amusement Games and Recreation Station signed by Dalisay Enriquez Tampus;
- D-6 - Certification of Atty. Pedro S. Diamante appointed as Regional Representative of Dalisay Amusement Games and Recreation Station dated June 16, 2010, signed by Dalisay Enriquez Tampus;
- D-7 - Certification of Mr. Gaudencio P. Corona, Jr. dated June 20, 2010 signed, by Atty. Pedro S. Diamante, Regional Representative;
- D-8 - The Department of Trade and Industry (DTI) Certificate issued in Makati City;
- D-9 - The address of Dalisay Amusement Games and Recreation Station in Pasay City;
- D-10 - The note stating that the DTI Certificate is valid only at the place indicated, which is Pasay City;
- E - Cancellation of Business Permit dated July 15, 2010, signed by City Mayor Severo A. Palanca;
- F - Letter of James Francis Anthony S. Garcia, dated February 24, 2011, addressed to Supt. Norberto Boston, Station Commander, Victorias Police Station, Victorias City;
- F-1 - Certification dated March 18, 2011 from Victorias City Police Station signed by Norberto M. Boston, Police Superintendent (MPM) Chief of Police;

- G - Provisional Authority issued by Miguel D. Carreon, Chairman of Meridien Vista Gaming Corporation to Dalisay Amusement Games and Recreation Station;
- G-1 - Date of the Provisional Authority
- G-2 - The condition stated in the Provisional Authority;
- G-3 -Signature of Mr. Miguel D. Carreon, Chairman of Meridien Vista Gaming Corporation;
- H - Counter Affidavit of Jenard Dequiña, Rey Gonzales and Zandro Barrera dated July 26, 2010 consisting of 2 pages;
- H-1 &H-2 - Statement of Jenard Dequiña and Rey Gonzales in their Counter Affidavit filed with the prosecutor's office in connection with the case filed against them for violation of Presidential Decree No. 1602.

On December 16, 2015, acting on the prosecution's Formal Offer of Exhibits, the Court, after due consideration, resolved to admit Exhibits A, D, E, G with submarkings; admit Exhibits B and C with submarkings, as the documents are official documents; admit Exhibit H with submarkings, over the objection of the accused, as part of the testimony of private complainant James Francis Anthony S. Garcia only, considering that the affiants were not presented; and admit Exhibit F with submarking, over the objection of the accused, as the materiality and relevancy of the exhibit will be duly considered during the preparation of the decision in this case(s).

EVIDENCE FOR THE DEFENSE

The defense presented its lone witness, accused Ramsey De Asis Panes.

On February 17, 2016, **Ramsey De Asis Panes**, 66 years old, married, retired government employee, and a resident of Barangay 1, Victorias City, Negros Occidental, personally appeared and testified in Court as follows:

On June 21, 2010, he was appointed by Mayor Palanca as Executive Assistant II at and at the same time as Officer-in-Charge of the Business Permit and License Division. He knows Gaudencio P. Corona (Corona) as the head of the Sports Activities in Victorias City. He also stated that Corona was no longer serving in the local government since he lost in the May 2010 elections. As proof, he presented the issued Memorandum¹⁶ of the City Mayor addressed to all the department heads, stating that any transaction with Corona will not be honored because he lost in the past election. Sometime in June of 2010, Corona filed a letter request addressed to

¹⁶ Memorandum No. HRM 2010-036, Exhibit "1."

Mayor Palanca requesting for issuance of a business permit¹⁷ to operate a Jai Alai Betting Station, and the same was approved by Palanca. The letter request was already approved by Palanca prior to his receipt as there appears a phrase: "Approved by Honorable Severo A. Palanca, City Mayor." After receipt of the letter-request of Corona duly approved by Palanca, he required him (Palanca) to produce documents in accordance with the requirements of the Licensing Division of their office, such as: Business Permit and License, like the DTI Registration¹⁸, SEC Registration and other documents. Among the documents submitted to his office as part of the requirements are: the Cagayan Economic Zone Authority (CEZA)¹⁹, authorizing Corona, a representative, to operate a Jai Alai Betting Station; a Certification from Meridien Gaming Corporation;²⁰ Certification issued by the Administrator and Officer of Meridien;²¹ Certification by Louie Anthony y Tampus of Dalisay's Operation Station General Manager;²² Certification to Atty. Pedro Diamante as Manager of Negros Occidental to operate the Jai Alai;²³ Certification from Atty. Pedro Diamante issued to Corona, authorizing him to put up a betting station in Victorias City;²⁴ and a document issued to Mr. Nicolas Quadra by Atty. Pedro Diamante to organize and open a betting station machine at Victorias City, Negros Occidental. After receipt of the aforementioned documents, he asked for the processing of the business permit. The processing of the business permit was based on the approval by Palanca on the letter request. On June 23, 2010, the business permit was issued to Corona. As indicated in the issued business permit, Corona was authorized to open a betting station in Victorias City only. He told Corona that the permit was temporary and conditional as he should bring at least one betting station machine which is one of the requirements, within two weeks from the issuance of the permit. Nevertheless, Corona failed to bring any betting machine in Victorias City. Upon learning of such failure, they recommended that the operation of the betting machine be declared illegal, which resulted in the cancellation of the business permit.²⁵

On cross examination, the witness testified that as Officer-in-Charge of the Business permit and Licensing Division of Victorias City, he receives the application for businesses. In connection with this function, his office follows a guideline to require clearances from different government agencies before the processing of the business permits. As to the instant case, the document already approved was the request for application and not the actual business permit. Upon receipt of the request, there were no documents or requirements attached, however, because the mayor already approved the same, he had no choice but to approve the application. The fact is that, prior to the date of the submission of the letter request by Corona, he already had a conversation with Corona, who went to his office and was told of

¹⁷ Exhibit "2."

¹⁸ Exhibit "4."

¹⁹ Exhibit "5."

²⁰ Exhibit "6."

²¹ Exhibit "7."

²² Exhibit "8."

²³ Exhibit "9."

²⁴ Exhibit "10."

²⁵ Exhibit "15."

the requirements. He was told that the letter/ request was already submitted to the Mayor's Office, however, he said that he cannot act upon it unless the requirements are submitted.

After presenting its witness, the defense made a formal offer of its documentary evidence consisting of the following:

Exhibit

- 1 - Memorandum of City Mayor Severo Palanca dated July 6, 2010 to all the Department/Division heads and Section Chiefs;
- 2 - Letter Request signed by Gaudencio P. Corona Jr. addressed to the Mayor of Victorias dated June 21, 2010;
- 3 - Letter addressed to Sec. Jose Mari B. Ponce, consisting of 4 pages, signed by Raul M. Gonzales, Secretary;
- 4 - Department of Trade and Industry Certificate No. 01078310 issued to Dalisay Enriquez Tampus;
- 5 - Certificate of Registration from Cagayan Special Economic Zone and Freeport Enterprise dated February 26, 2009 issued to Meridien Vista Gaming Corporation, signed by Sec. Jose Mari B. Ponce;
- 6 - Certificate of Incorporation, dated CS200801863, issued to Meridien Vista Gaming Corporation dated February 8, 2008;
- 7 - Certificate issued to Meridien Vista Gaming Corporation, dated January 19, 2009, signed by Sec. Jose Mari P. Ponce;
- 8 - Certification dated June 14, 2010 appointing Mr. Louie Anthony E. Tampus as General Manager of Dalisay Amusement Games and Recreation Station signed by Dalisay Enriquez Tampus;
- 9 - Certification of Atty. Pedro S. Diamante appointed as Regional Representative of Dalisay Amusement Games and Recreation Station dated June 16, 2010, signed by Dalisay Enriquez Tampus;
- 10 - Certification of Mr. Gaudencio P. Corona Jr dated June 20, 2010 signed by Atty. Pedro S. Diamante, Regional representative;
- 11 - Authorization dated June 11, 2010, signed by Louie Anthony Tampus, General Manager;

- 12 - Business Permit No. 2010004197, dated June 23, 2010, issued by the City Mayor, City of Victorias, Province of Negros;
- 13 - Certification issued to Mr. Jenard D. Dequina, dated June 26, 2010, signed by Atty. Pedro S. Diamante, Regional Representative, Dalisay Amusement and Recreation Station;
- 14 - Police Blotter/Report, dated July 19, 2010, prepared by Jonny A. Makilan;
- 15 - Cancellation of Business Permit, dated July 15, 2010, signed by City Mayor Severo A. Palanca;
- 16 - Counter-Affidavit of Severo A. Palanca, dated October 6, 2010;
- 17 - Counter Affidavit of Ramsey D. Panes, dated October 1, 2010;
- 18 - Reply filed by accused Palanca and Panes;
- 19 - Joint Verified Position Paper for respondents Mayor Severo A. Palanca and Executive Assistant Ramsey Panes.

After due consideration, the Court resolved to Admit Exhibits 1, 3, 4, 5, 6, 7, 12, 13, 14, 17, 18 and 19, there being no objection interposed by the prosecution to this admission and to Admit Exhibits 2, 8, 9, 10, 11, 15 and 16, over the objection of the prosecution on ground that the same are hearsay and only as part of the testimony of accused Ramsey D. Panes.

FINDINGS OF FACT

From the pieces of evidence presented by the prosecution and the accused, the Court makes the following findings of fact:

The instant case is for violation of Section 3 (j) of R.A. 3019, against Severo A. Palanca, then Mayor of Victorias City, Negros Occidental and Ramsey D. Panes, then Executive Assistant II of the Office of the Mayor and OIC-Permits and Licenses Division of Victorias City, Negros Occidental, in connection with their issuance of business permit in favor of Gaudencio Corona, despite the ineligibility of the latter to be issued said permit.

On June 2010, Corona applied for a business permit to operate a Jai-Alai Betting Station in Victorias City. After submission of the necessary papers and documents, Corona was assessed all fees and charges in connection with his

application for business permit and, on June 23, 2010, Corona was issued a business permit upon the recommendation of accused Panes and approval of accused Palanca.

On July 14, 2010, Jenard Dequiña, Zandro Balerra and Rey Gonzales, collectors and *cobradors* from Cadiz City and nearby towns, were arrested in connection with illegal betting of Jai-Alai. A day after, due to the failure of Corona to provide a betting machine from June 24, 2010 to July 14, 2010, Panes recommended to the Office of the City Mayor for the cancellation of Corona's Jai-Alai permit. On July 15, 2010, Mayor Palanca cancelled Corona's business permit.

On July 30, 2010, James Francis Anthony S. Garcia, filed a letter-complaint at the Office of the Ombudsman-Visayas, wherein he alleges that Corona, Panes and Palanca, conspired, confederated and took advantage of their public positions in falsifying a public document, a business permit dated 23 June 2010, by stating and making it appear that Corona is the owner/operator of Dalisay Amusement Games and Recreation Station in No. 19, Gonzaga Street, Victorias City. They made a false narration of facts in the public document primarily for the issuance of a business permit so that Corona can engage in the alleged game of Jai-Alai by collecting bets therefor.

ISSUE

The main issue to be resolved by the Court, as determined by the parties, is whether or not the accused committed a violation of Section 3 (j) of R.A. No. 3019, as amended.

DISCUSSION/ RULING

Section 3 (j) of R.A. 3019, as amended, requires the attendance of the following requirements:

1. The accused is a public officer;
2. He is charged with the duty or has the authority or competence to approve or grant license, permit, privilege or benefit to qualified persons;
3. He knowingly approves or grants a license, permit, privilege or benefit in favor (a) of a person not qualified or not legally entitled to such license, permit, privilege or advantage or (b) of a mere representative or dummy of one who is not so qualified or entitled.

There is no dispute as to the presence of the first two elements of the offense.

The main issue to resolve is whether the accused knowingly approved the subject business permit in favor of Corona, who is not legally entitled thereto due to the alleged inadequacy of the necessary documents to support the same.

Corona, in support of his application for a business permit submitted the following documents:

1. Certificate of Business Name and registration in favor of Dalisay, 567 Dolores St., Barangay 66, Pasay, issued on May 27, 2010, signed by Jesli Lopus, Secretary of the Department of Trade and Industry;
2. Certificate of Registration of Cagayan Economic Zone, granting Meridien Vista Gaming Corporation as beneficiary of the incentives established under Cagayan Special Economic Zone and Freeport dated 26 February 2009;
3. Certificate of Incorporation of Meridien, dated 8 February 2008, signed by Benito A. Cataran, Director, Securities and Exchange Commission;
4. Amended Articles of Meridien signed by Benito A. Cataran, Director, Securities and Exchange Commission dated 10 June 2010;
5. Certification dated 14 June 2010 by Dalisay Enriquez Tampus, designating Louie Anthony E. Tampus as General Manager of Dalisay;
6. Certification of Dalisay Enriquez Tampus, designating Atty. Pedro S. Diamante as Regional Representative of Dalisay dated 16 June 2010 to sign in behalf of the undersigned Dalisay Enriquez Tampus;
7. Certification of Atty. Pedro S. Diamante authorizing Gaudencio P. Corona to organize, open, set -up and operate a branch office as betting station and as sub-collecting agent of the afore-named company in the City of Victorias, Negros Occidental; and
8. Authorization of Atty. Pedro Diamante to open, set-up betting station in Victorias City.

Based on the abovementioned documents, the accused approved the application of Corona and granted him a business permit.

**Sufficiency of the requirements submitted
by Corona in support of his application for
a business permit.**

After perusal of the documents and evidence presented by the accused, the Court has the following observations:

Corona was authorized by Dalisay to engage in Jai-Alai betting station in Victorias City, Negros Occidental, while Dalisay was authorized by Meridien to engage in bet-taking for Jai-Alai.

First, Corona applied for a business permit to engage in a Franchise Tax/ Jai-Alai Betting Station in No. 18 Gonzaga St., Victorias City, Negros Occidental. The nature of the business applied for should have prompted the accused to exercise prudence, in view of the fact that existing laws declare Jai-Alai as a prohibited game. R.A. No. 9287 considered Jai-Alai within the definition of an illegal numbers game called Masiao. Sec. 1 of P.D. No 1771 provides that "Any provision of law to the contrary notwithstanding the authority of Chartered Cities and other local governments to issue license, permit or any form of franchise to operate, maintain and establish horse and dog race tracks, jai-alai or other forms of gambling is hereby revoked." In *Lim v. Pacquing, et al.*²⁶, the Supreme Court declared that PD No. 771 is valid and constitutional, thus accused should not have issued a business permit in favor of Corona to engage in a Franchise Tax/ Jai-Alai Betting Station as it is prohibited by law. In addition, R.A. No. 954 explicitly outlawed the collection of bets outside the places where Jai-Alai is played. The same law has not been repealed, it states that setting up off-fronton betting stations is a criminal act and penalized under the law.

Gambling is generally prohibited by law, unless another law is enacted by Congress expressly exempting or excluding certain forms of gambling from the reach of criminal law.

Jai-Alai, as a sport is not illegal per se; the collection of bets on the results of Jai-Alai, however, is illegal, unless there is a later law allowing it. The operation and licensing of Jai-Alai was cancelled by the Office of the Government Owned and Controlled Corporations and in its opinion dated 31 March 2009²⁷, it addressed the legality of Jai-alai in the country and said that a company or a person needs a legislative franchise to operate the same. To date, no entity has been given a franchise to operate Jai-Alai.

²⁶ G.R. No. 115044 January 27, 1995

²⁷OGCC Opinion No. 067, series of 2009, dated March 31, 2009, clarifying Opinion No. 251, series of 2007 (*Request for Reconsideration of DOJ Opinion No. 12, s. 2009 Re: Authority of CEZA to Operate or License Gambling Operations, DOJ Opinion No. 030, s. 2009, [June 18, 2009]*).

Applying the above pronouncements in the present case, Meridien, in its Certificate of Registration dated 26 February 2009, was authorized as a beneficiary of the incentives established under the Cagayan Special Economic Zone and Freeport (CSEZFP). It is specifically said therein as a condition that it will be located in CSEZFP, Sta. Ana, Cagayan. However, there was no mention that it is a holder of a legislative franchise to engage in the collection of bets for Jai-Alai, nor was it granted authority to license out such authority to a third person. Moreover, its Certificate of Incorporation states that "Neither does this Certificate constitute as permit to undertake activities for which other government agencies require a license or permit." Furthermore, in a Certification issued by Secretary Jose Mari B. Ponce of the Cagayan Economic Zone Authority (CEZA), it stated that Meridien is authorized to set up betting stations in any place as may be allowed by law in support to the Virtual Games conducted inside the Cagayan Freeport. It is clear from the foregoing that there must first be an authorization issued by the concerned government agency to set up betting stations for virtual games being conducted in the Cagayan Freeport; again, there is no mention of Jai-Alai nor was there evidence submitted to show that it was given a legislative franchise to engage in Jai-Alai betting in any other place that that specified in its Certificate of Registration or at the very least that it could license out such authority to third persons.

Secondly, the business permit issued to Corona dated 23 June 2010 states that Gaudencio P. Corona is the owner/operator of Dalisay Amusement Games with business Franchise Tax/Jai Alai Betting Station located at No. 18 Gonzaga St., Victorias Ciy, Negros Occidental; however, no evidence to such fact was presented by the accused. On the contrary a Certification issued by Secretary Jesli A. Lapuz of the Department of Trade and Industry shows that Dalisay Amusement Games and Recreation Station (Dalisay) is located at 567 Dolores Street, Barangay 66, Pasay City and is issued to Dalisay Enriquez Tampus. There also appears no business connection between Meridien and Dalisay. The only evidence submitted that could establish the business connection is the Provisional Authority issued by Miguel D. Carreon, Chairman of Meridien, to Dalisay, wherein it is stated that "It is understood that this Provisional Authority is not an authority to operate but is issued to you as a confirmation to the approving Local Government Unit authorities that you have been pre-qualified as an Off Fronton Agency. Final authority will be issued upon your full compliance with all the requirements as well as upon securing the necessary local permits." On June 20, 2010, Dalisay, through its regional representative Atty. Pedro S. Diamante, issued a Certification which authorizes Corona to open, set-up and operate a branch office as Betting Station and as Sub-Collecting Agent of Dalisay in the City of Victorias, Negros Occidental. There appears to be a discrepancy because the Provisional Authority is dated 1 July 2010, while the Certification issued to Corona is June 20, 2010. Corona submitted the Certificate of Incorporation and

Amended Articles of Meridien to the local government for purposes of his application for a business permit, to support his claim that Dalisay is operating under the legislative franchise or authority of Meridien; however, evidence shows that the alleged authority was issued after the issuance of the business permit. Granting, for the sake of argument, that Meridien is authorized by law to establish betting stations outside the CSEZFP, and that it can authorize third persons to engage in Jai-Alai bet-taking, the fact remains that the provisional authority is subject to the confirmation of the local government concerned, and Dalisay cannot in itself vest authority to its representatives to operate a betting station in a certain locality, which appears to be the circumstance in the instant case.

An application for a business permit should be accompanied by the necessary documents issued by the government agencies concerned to engage in a certain type of business. The local government, to which the application is filed, should determine whether the conduct of the business applied for is legal and is permissible under the law, with a precondition that all the necessary documents, certifications, government clearances and issuances should be secured first to ensure that a certain undertaking is not in any way contrary to existing laws. In the present case, the local government issued a business permit to Corona to engage in the business of Franchise Tax/Jai-Alai Betting Station in the City of Victorias, Negros Occidental, notwithstanding the fact that: First, he is not the owner nor the operator of Dalisay; that no sufficient evidence was submitted to the local government unit that Dalisay and Meridien are connected and most especially that they possess legislative franchise to set-up and operate betting stations outside the CSEZFP and that Meridien is authorized by law to engage in such business and to authorize third persons to engage in the same. In view of the circumstances present in the case, the Court is convinced that the accused committed the third element of the offense charged, of knowingly granting a business permit to Corona, who is not entitled to the same.

The defense of the accused that the business permit issued is provisional in nature and that the same was eventually cancelled due to the failure of Corona to install a betting machine in Victorias City is of no moment, because what the law seeks to punish is the act of knowingly granting a permit to a person who is not entitled to it, which is present in this case. Not to mention the fact that Jai-Alai is a prohibited game and that Corona failed to present evidence that both Meridien and Dalisay are authorized under the law to engage in bet-taking in the City of Victorias. Both accused failed to exercise their duty of examining and reviewing the propriety of the business that they will authorize.

On January 29, 2015, the Court granted the Notice of Death with Motion to Dismiss dated August 14, 2014, filed by the defense, through Atty. Dax Malony P.

