CASINO M&A

Casino Filipino Privatization's Impact on PAGCOR Employees

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THE TRANSACTION

PAGCOR plans to dispose of around 40 Casino Filipino branches and satellites through an asset sale, with completion targeted for late 2026 to 2027. The proposal is presently under review by the Governance Commission for GOCCs (R.A. No. 10149, Sec. 5(a), which authorizes the GCG to ascertain whether a GOCC should be "reorganized, merged, streamlined, abolished or privatized," subject to the approval of the President).

Disposition of government corporate assets is coursed through the Privatization Council and the Privatization and Management Office under E.O. No. 323, s. 2000.

What is the impact of the Casino Filipino privatization on the PAGCOR workforce?

ASSET SALE VS. SHARE SALE

The deal structure determines the impact on employees. In an asset sale, the buyer merely acquires properties, while in a share sale, the employer's juridical identity never changes. An asset sale results in severance of employment, while in a share sale, the employer-employee relationship remains. The buyer in an asset sale is not obliged to absorb the seller's employees nor answer for their claims, and the workers' recourse lies against the selling employer alone (*SME Bank, Inc. v. De Guzman*, G.R. Nos. 184517 & 186641, October 8, 2013; *Barayoga v. Asset Privatization Trust*, G.R. No. 160073, October 24, 2005).

A share sale is not available here in any event: the branches are unincorporated operating units of PAGCOR itself, so there are no shares to convey, only assets and, prospectively, licenses.

A CIVIL SERVICE WORKFORCE

PAGCOR is a GOCC with an original charter (P.D. No. 1869, as amended by R.A. No. 9487), so its personnel belong to the civil service (1987 Constitution, Art. IX-B, Sec. 2(1); *CSC v. Salas*, G.R. No. 123708, June 19, 1997) and are GSIS members (R.A. No. 8291, Sec. 3).

Their severance is governed not by the authorized-cause provisions of the Labor Code but by civil service law on reorganization: the sale abolishes their offices, an abolition valid if made in good faith (*Dario v. Mison*, G.R. No. 81954, August 8, 1989).

TRANSITION OPTIONS

There are three possible employee transition options: (a) redeployment within PAGCOR, (b) absorption by the buyer, or (c) separation with competitive retirement and special separation packages.

The privatization plan would reportedly oblige winning bidders to absorb a share of the affected workforce. Such a condition binds only through the bidding terms and the asset purchase agreement, and the affected employees may enforce it themselves only if it is framed as a clear stipulation *pour autrui* (Civil Code, Art. 1311, par. 2).

ABSORPTION BY THE BUYER

Absorption entails a new employment relationship; thus, tenure does not carry over, and as far as the buyer's own statutory obligations are concerned, length of service resets on the absorption date. But the bid terms and asset purchase agreement can stipulate the buyer's assumption of liability over certain accrued and contingent obligations arising from employee tenure and length of service. In such a case, the buyer will likely price the assumed liability and deducts it from its bid peso for peso.

Employees outside the absorbed percentage who cannot be redeployed are separated by PAGCOR, and the buyer bears no liability for them.

SEPARATION BENEFITS

Under GSIS, there is a separation benefit of 100% of average monthly compensation per year of contributions, payable at age 60, for members with at least three but under 15 years of service, or, for those with 15 years or more, a cash payment of 18 times the basic monthly pension payable at separation plus the pension for life from age 60 (R.A. No. 8291, Sec. 11). There is also an unemployment benefit of 50% of average monthly compensation for two to six months for permanent employees involuntarily separated through abolition of office (Sec. 12).

To this add commuted terminal leave (E.O. No. 292, Book V; CSC Omnibus Rules on Leave), which is tax-exempt (*Re: Zialcita*, A.M. No. 90-6-015-SC, October 18, 1990), as are all benefits received because of separation for causes beyond the employee's control (NIRC, Sec. 32(B)(6)(b)). Anything on top of this, including any promised "special separation packages," needs a distinct legal basis.

THE EPIRA PRECEDENT

In the past, displaced National Power Corporation personnel received separation pay of one and one-half months' salary per year of service plus preference in the hiring of the privatized successor companies (R.A. No. 9136 [EPIRA], Sec. 63).

PAGCOR's charter has no equivalent, so a package adopted by board resolution alone invites COA disallowance, with approving and certifying officers solidarily liable to refund and payees *prima facie* liable to return under *solutio indebiti* (*Madera v. COA*, G.R. No. 244128, September 8, 2020).

FROM GSIS TO SSS

Absorbed employees leave the GSIS, whose coverage is compulsory only while in government service (R.A. No. 8291, Sec. 3), and enter the SSS (R.A. No. 11199). There is a disadvantage falling on those separated with under 15 years of GSIS service, who may qualify for no pension in either system standing alone. R.A. No. 7699 (Portability Law) mitigates this by totalizing creditable services or contributions across the two systems where the member fails to qualify in either, with each system paying only the benefit proportionate to its own covered periods and overlapping periods counted once.

But note that the Portability Law does not carry the GSIS formula into the SSS. Members with 15 or more years may instead leave the accrued GSIS pension to vest at 60 (R.A. No. 8291, Sec. 11(b)) while building a second, smaller SSS pension with the buyer.

OUTLOOK

Trained gaming personnel are scarce, so buyers will want the dealers, surveillance officers, and slot technicians. Still, appetite to absorb will be highly selective. Expect bidders to resist an absorption mandate. If a mandate survives into the bid terms, expect it to be priced into lower offers and satisfied through engagement of the most marketable job classes.

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