

**IN THE SUPREME COURT OF GUAM**

**GOVERNMENT OF GUAM,**

Plaintiffs-Appellees,

**vs.**

**221 SLOT MACHINES and DAE SIN PACHINKO, INC.  
and THE MANGILAO IMPROVEMENT ORGANIZATION**

Defendants-Appellants.

Supreme Court Case No.: CVA02-006

Superior Court Case No.: SP0140-01

**OPINION**

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**Cite as: 2002 Guam 22**

Argued and submitted on September 4, 2002

Hagåtña, Guam

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BEFORE: PETER C. SIGUENZA, JR. Chief Justice; F. PHILIP CARBULLIDO, Associate Justice; and FRANCES M. TYDINGCO-GATEWOOD, Associate Justice.

**TYDINGCO-GATEWOOD, J.:**

[1] Defendant-Appellant Dae Sin Pachinko, Inc. (“Dae Sin”) appeals from the Superior Court decision ordering Plaintiff-Appellee Government of Guam (“Government”) to destroy 221 slot machines that the Guam Police Department seized from Dae Sin’s gambling concession at the 2001 Liberation Day Carnival. Dae Sin claims that its slot machines were properly licensed pursuant to Title 9 GCA § 64.62 and as a result were not subject to seizure. The Superior Court held that slot machines are not licensable on Guam for any purpose. We affirm the Superior Court’s decision.

**I.**

[2] Dae Sin paid \$10,000.00 for a concession to operate slot machines at the 2001 Liberation Day Carnival. In early July 2001, the Guam Police Department seized 221 of Dae Sin’s slot machines that were being used at the carnival, alleging that the machines were illegal under Title 9 GCA § 64.20, which prohibits anyone from importing, causing to import, or manufacturing certain gambling devices, including slot machines. At the forfeiture proceeding, Dae Sin argued that its machines were temporarily licensed for use at the carnival pursuant to a statutory exception. Both parties moved for summary judgment. On February 13, 2002, the Superior Court issued a decision and order in favor of the Government, holding that the statutory exception allowing gambling devices at certain carnivals did not apply to slot machines. The Superior Court declared the machines illegal and ordered the Attorney General to seize and destroy the machines. Currently, the machines are being held by the Department of Public Works.

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## II.

[3] This court has jurisdiction over an appeal from a final judgment. Title 7 GCA § 3107 (1994).

## III.

[4] Guam law generally prohibits gambling and gambling devices, including slot machines. However, Title 9 GCA § 64.62 provides an exception to this ban for gambling devices that have been temporarily licensed for use at certain fairs or carnivals. The only issue before this court is whether slot machines may be temporarily licensed so as to qualify for the exception. “Issues of statutory interpretation are questions of law [that are] reviewed *de novo*.” *Pangelinan v. Gutierrez*, 2000 Guam 11, ¶ 7, *aff’d by Gutierrez v. Pangelinan*, 276 F.3d 539 (9th Cir. 2002) . “In all cases involving statutory construction, the starting point must be the language of the statute itself.” *Paulino v. Biscoe*, 2000 Guam 13, ¶ 26. Thus, we must examine the language of the statutes that regulate slot machines.

[5] Chapter 64 of Title 9 Guam Code Annotated regulates gambling on Guam. Gambling is prohibited on Guam except as otherwise provided by law. Title 9 GCA § 64.10 (1996). The importation and possession of gambling devices is likewise prohibited, whether or not the devices are operable. Title 9 GCA §§ 64.20, 64.22 (1996). Sections 64.20 and 64.22 define “gambling device” to specifically include slot machines. 9 GCA §§ 64.20(b), 64.22(b). Gambling devices in violation of section 64.20 or section 64.22 are subject to seizure and forfeiture. 9 GCA §§ 64.20(c), 64.22(d). Section 64.20 also expressly provides that all slot machines are subject to seizure and forfeiture. 9 GCA § 64.20(c).

[6] Section 64.20 does not apply, however, to a gambling device that has been temporarily licensed for use at certain fairs or carnivals. Title 9 GCA §64.62 (1996). Section 64.62 reads in its entirety:

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Section 64.10 of this Title does not apply to any gambling conducted by a person who has been issued a permit by the Governor for concessions operated during a fair or carnival, and Section 64.20 of this title does not apply to possession of any temporarily licensed gambling device during any Guam Island Fair, Liberation Day Carnival or any other fair or carnival for which the Governor has issued a proclamation.

*Id.*

[7] Dae Sin argues that under this section, the governor can temporarily license slot machines. The Superior Court held that section 64.62 sets out the consequences of possessing a temporarily licensed gambling device but does not contain any procedure or authorization for issuing a temporary license. We agree with the Superior Court's interpretation of this statute. While section 64.62 authorizes the governor to issue a permit to allow a person to conduct gambling in conjunction with certain fairs or carnivals, the statute does not grant any authority to temporarily license a gambling *device*. Thus, a slot machine cannot be temporarily licensed under section 64.62.

[8] The only statute that explicitly provides for the licensing of any amusement device is Title 11 GCA § 22202, which governs the fees imposed by the Department of Revenue and Taxation on amusement devices and also provides, "*No slot machine or amusement device set to make progressive or automatic payouts shall be licensed under this Section.*" Title 11 GCA § 22202 (1994) (emphasis added). At one time, section 22202 expressly allowed for the temporary licensing of slot machines by the Department of Revenue and Taxation "for operation exclusively during any Guam Island Fair, Liberation Day Carnival or any other fair or carnival for which the Governor has issued a proclamation." Guam Pub. L. 18-40:63 (Jul. 9, 1986). Section 22202 was later amended, however, to completely delete the temporary licensing provision and to add the express prohibition against the licensing of slot machines under that section. Guam Pub. L. 19-24:4 (Oct. 17, 1988).

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[9] Dae Sin argues that although section 22202 provides that no slot machine can be licensed “under *this Section*” (emphasis added), a dual licensing system exists, where section 64.62 authorizes the governor to temporarily license slot machines that are not licensable under section 22202 by the Department of Revenue and Taxation. We disagree. As discussed above, section 64.62 does not confer any authority upon the governor to license slot machines. It merely provides that a temporarily licensed gambling device is not subject to section 64.20. Because the law now expressly bans even temporary licensure of slot machines, the exception provided for in section 64.62 cannot apply to slot machines.

#### IV.

[10] Guam law does not provide for any procedure for the licensing of slot machines. Furthermore, slot machines are expressly banned under Chapter 64 of Title 9 of the Guam Code Annotated. Thus, Dae Sin’s slot machines were properly seized. Accordingly, the judgment of the trial court is **AFFIRMED**.