

34 Phil. 631

[ G.R. No. 10010. August 01, 1916 ]

**CHU JAN, PLAINTIFF AND APPELLEE, VS. LUCIO BERNAS, DEFENDANT AND APPELLANT.**

**D E C I S I O N**

**ARAULLO, J.:**

On the afternoon of June 26, 1913, a match was held in the cockpit of the municipality of Tabaco, Albay, between two cocks belonging to the plaintiff and to the defendant respectively. Each of said persons had put up a wager of ₱160; and as the referee of the cockpit had declared the defendant's cock the winner in the bout, the plaintiff brought suit against the defendant in the justice of the peace court of the said pueblo, asking that his own rooster be declared the winner. The justice of the peace court decided that the bout was a draw. From this judgment the defendant appealed to the Court of First Instance of the province. For the purposes of the appeal, the plaintiff filed his complaint and prayed this court to render judgment ordering the defendant to abide by and comply with the rules and regulations governing cockfights, to pay the stipulated wager of ₱160; to return the other like amount (both sums or wager being held for safe-keeping by the cockpit owner, Tomas Almonte) and to assess the costs of both instances against the defendant.

The defendant denied each and all of the allegations of the complaint and moved to dismiss with the costs against the plaintiff. On September 11, 1913, the said Court of First Instance rendered judgment dismissing the appeal without special finding as to costs. The defendant excepted to this judgment as well as to an order dictated by the same court on November 8th of the same year, on the plaintiff's motion, ordering the provincial treasurer of Albay and, if necessary, the municipal treasurer of Tabaco of the same province, to release the deposit of ₱160 and return it to its owner, the plaintiff Chinaman, Chu Jan. These proceedings have come before us on appeal by means of the proper bill of exceptions.

The grounds for the dismissal pronounced by the lower court in the judgment appealed from

were that that court has always dismissed cases of this nature, that he is not familiar with the rules governing cockfights and the duties of referees thereof; that he does not know where to find the law on the subject and, finally, that he knows of no law whatever that governs the rights of the plaintiff and the defendant in questions concerning cockfights.

The ignorance of the court or his lack of knowledge regarding the law applicable to a case submitted to him for decision, the fact that the court does not know the rules applicable to a certain matter that is the subject of an appeal which must be decided by him and his not knowing where to find the law relative to the case, are not reasons that can serve to excuse the court for terminating the proceedings by dismissing them without deciding the issues. Such an excuse is the less acceptable because, foreseeing that a case might arise to which no law would be exactly applicable, the Civil Code, in the second paragraph of article 6, provides that the customs of the place shall be observed, and, in the absence thereof, the general principles of law.

Therefore the judgment and the order appealed from, hereinbefore mentioned, are reversed and the record of the proceedings shall be remanded to the court from whence they came for due trial and judgment as provided by law. No special finding is made with regard to costs. So ordered.

*Arellano, C. J., Torres, Johnson, and Trent, JJ., concur.*

*Moreland, J., did not take part.*