

**MANILA JOCKEY CLUB, INC., PETITIONER-APPELLEE, VS.  
JUSTINIANO N. MONTANO, JR., ALFREDO LOZANO, JOSE ROXAS, IN  
THEIR CAPACITIES AS CHAIRMAN AND MEMBERS, RESPECTIVELY,  
OF THE GAME...**

*G.R. No. L-24465. February 28, 1977*

Ponente: ANTONIO, J.

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**ANTONIO, J.:**

Direct appeal by the Solicitor General on behalf of respondents-appellants from the decision of the Court of First Instance of Manila, dated February 17, 1965, in Civil Case No. 57471, declaring respondents-appellants to have acted "with grave abuse of discretion in denying the proper permit and license to petitioner to hold or conduct horse racing on June 24, 1964 at the San Lazaro Hippodrome located at No. 2000 Felix Huertas St., Manila; and declaring all acts and proceedings had in connection therewith by the respondents, null and void."

On June 18, 1964, petitioner-appellee Manila Jockey Club, Inc., through its Manager Francisco Beech, filed with the Games and Amusements Board an application for a permit to hold or conduct horse racing on Wednesday, June 24, 1964, because this date was declared as a Special Public Holiday in the City of Manila on the occasion of "Araw ng Maynila" or Manila Foundation Day by Presidential Proclamation No. 257, dated June 8, 1964.

The Games and Amusements Board, composed of respondent Justiniano N. Montano, as Chairman, and respondents Alfredo Lozano and Jose Roxas, as Members, refused to issue the corresponding license to petitioner-appellee, in view of the letter dated June 18, 1964, copy of which was furnished to petitioner-appellee, of the then Acting Executive Secretary, respondent Calixto O. Zaidivar. In reply to the query of said Board on June 17, 1964 as to whether horse races may be held at the Manila Jockey Club on June 24, 1964, the Acting Executive Secretary informed the Board that "in accordance with the provisions of Section 4 of Republic Act No. 309, as amended by Republic Act No. 983, horse races may, be held only on legal holidays prescribed by law for the whole country, except Holy Thursday, Holy Friday, July fourth and December thirtieth, and not on a special public holiday for a particular district, province or city" and that the "Manila Jockey Club may not, therefore; hold races in Manila on June 24, 1964."

On June 23, 1964, petitioner-appellee, not satisfied with the action taken, filed a petition for certiorari with preliminary mandatory injunction with the Court of First Instance of Manila, Branch XX, as Civil Case No. 57471, contending, among others, that petitioner is lawfully entitled to the issuance of the necessary permit and license to hold or conduct horse racing on Wednesday, June 24, 1964, at the San Lazaro Hippodrome, under the provisions of Section 4 of Republic Act No. 309, as amended by Republic Act No. 2325, as by Proclamation No. 257 of the President of the Republic of the Philippines, dated June 8, 1964, the date, June 24, 1964, has been declared a Special Public Holiday in the City of Manila. Petitioner then prayed, among others, that a writ of preliminary mandatory injunction be issued ex parte; ordering the respondents-appellants, their agents, representatives and assigns, to issue the necessary permit and license to petitioner-appellee to hold or conduct

horse racing on June 24, 1964 at the aforesaid San Lazaro Hippo-drome; and further ordering them to cease and desist from preventing or stopping petitioner from holding or conducting horse races on June 24, 1964.

On the same day, June 23, 1964, the lower court issued the writ of preliminary mandatory injunction, after the filing and approval of a bond in the sum of P5,000.00.

The respondents-appellants filed their answers on July 14 and 20, 1964, and thereafter, the case was set for pre-trial on November 7, 1964, and on this date the parties agreed to submit the case for decision on the pleading and on their memoranda.

On February 17, 1965, the lower court rendered its afore-mentioned decision. Hence, the respondents-appellants interposed the present appeal contending, among others, that the lower court erred in holding that "Manila Foundation Day", a Special Public Holiday only in the City of Manila, is a legal holiday within the purview of Section 4 of Republic Act No. 309, as amended, during which horse racing may be authorized.

Since the purpose of the petition for certiorari with preliminary mandatory injunction filed by the petitioner-appellee is to compel the Games and Amusements Board to issue to petitioner-appellee the necessary permit and license to hold or conduct horse racing on a particular date - June 24, 1964 - at the San Lazaro Hippodrome which is long past and considering that Republic Act No. 309 on the basis of which the suit was instituted has been repealed by Presidential Decree No. 420, promulgated on March 20, 1974, abolishing the Games and Amusements Board and treating the Philippine Racing Commission with broader powers, the issue raised in the petition has, therefore, now become moot and academic.

ACCORDINGLY, the present appeal should be, as set is hereby, DISMISSED. No pronouncement as to costs.

Fernando, (Chairman), Barredo, Aquino, and Concepcion, Jr., JJ., concur.

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