

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. SANTIAGO SIGUENZA, ACCUSED AND APPELLANT.

G.R. No. L-8531. February 29, 1956

Ponente: REYES, A., J.

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REYES, A., J.:

This is an appeal from a judgment of the Court of First Instance of Manila.

The appellant was charged, in the court below with a violation of article 195, Revised Penal Code, committed, according to the information, as follows:

"That on .or about November 7, 1954, in the, City of Manila, Philippines, the said accused, being then a jueteng collector of the Jueteng Den known as. 'Peping' and 'Bago', did then and there willfully, unlawfully and feloniously have in his possession and custody the following: cash money in the amount of P7.90, one (1) Eberhand Faber 'Mongol' pencil and two (2) pieces of jueteng lists, which have been used or intended to be used. in a game of chance and hazard commonly known as Jueteng in which money and other things of value are played for, in said City."

Pleading guilty to the charge, he was sentenced to an indeterminate penalty of from 6 months anH^l day of prision correctional, as minimum, to 2 years, 4 months and 1 day of prision correctional, as maximum, and to pay the costs.

It would appear that appellant was sentenced under subdivision (c) of article 195 of the Revised Penal Code, which prescribes a penalty of prision correctional in its medium degree for illegal possession of lottery lists and , other articles used in the game of jueteng. Appellant's counsel now contends that this was error and that appellants should have been sentenced only to a fine under subdivision (a) of the same article.

The contention is without merit. The article in question reads:

"Art. 195. What acts are punishable in gambling.— (a) . The penalty of arresto menor or a fine of not exceeding two hundred pesos, and, in case of recidivism, the penalty of arresto mayor or a fine . ranging from two hundred to six thousand pesos, shall be imposed upon;

"1. Any person other than those referred to in subsections (b) and (c) who, in any manner, shall .directly or indirectly take part in any game of monte, jueteng, or any other form of lottery, policy, .banking or percentage game, dog races, or any other games or scheme the result of which depends wholly or chiefly upon chance or hazard; or wherein wagers consisting of money, articles of value, or representative of value are made; or in the exploitation or use of any other mechanical invention or contrivance to determine by chance the loser or winner of money or any object or representative of value."

"2. Any person who shall knowingly permit any form of gambling referred to in the preceding subdivision to be carried on in any inhabited or uninhabited place or any building, vessel, or other means of transportation owned or controlled by him. If the place where gambling is carried on has the reputation of a gambling place or that prohibited gambling is frequently carried on therein, the culprit shall be punished by the penalty

provided for in the article in its maximum period.

"(b) The penalty of prision correctional in its maximum degree shall be imposed upon the maintainer, conductor, or banker in a game of jueteng or any similar game.

"(c) The penalty of prision correctional in its medium degree shall be imposed upon any person who shall, knowingly and without lawful purpose, have in his possession any lottery list, paper, or other matter containing 1 letters, figures, signs, or symbols which pertain to or are in any manner used in the game of jueteng or any similar game which has taken place or about to take place,"

It is clear that a person would come under subdivision (a) of this article only if he did not come either under subdivision (b) or subdivision (c). But in the case before us, the accused comes under subdivision (c) because the information to which he pleaded guilty charges him with unlawful possession of, among other things, jueteng lists used or intended to be used in a game of chance, commonly known as jueteng. The information, it is true, alleges that he is a jueteng collector. But this allegation is obviously made for the purpose of showing that he had possession of the article mentioned "knowingly and without lawful purpose" and should not be construed in the sense that he took part in the game of jueteng other than as maintainer, conductor or banker under subdivision (b) or illegal possessor of any lottery list under subdivision (c)'.

The judgment below being in accordance with law, the same is hereby affirmed with costs against the appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Jugo, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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