

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. WENCESLAO DUMALA ET AL., DEFENDANTS AND APPELLANTS.

G.R. No. 13082. January 22, 1918

Ponente: JOHNSON, J.

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JOHNSON, J.:

These defendants were accused of the crime of a violation of the Gambling Law (Act No. 1757). The complaint alleged:

"That the above-named accused did, on or about the 13th day of September, 1916, in the municipality of Naguilian. Province of Isabela, Philippine Islands, willfully, unlawfully and criminally, gamble with money, in the house of the accused Wenceslao Dumaua who permitted the game commonly called taiji, a game of chance, to be played there, the banker being the owner of the house himself, and, furthermore, the accused Wenceslao Dumaua being a recidivist; which acts were committed in violation of law."

Upon said complaint the defendants were duly arrested, arraigned, tried, found guilty and sentenced as follows: The said Wenceslao Dumaua, to pay a fine of P75, and each of the other defendants and appellants, to pay a fine of P35, and each, in case of insolvency, to suffer subsidiary imprisonment, and each to pay one-twenty-first part of the costs.

From that sentence the defendants appealed to this court. The appellants allege (1) that the proof adduced during the trial of the cause fails to show that they were playing at the game called "teji" at the time and place mentioned in the complaint and (2) that said game of "teji" is not a game of chance.

Upon the first question, the proof shows, beyond a reasonable doubt, that the defendants and appellants, and each of them, were found playing the said game of "teji" at the time and place and in the manner and form described in the complaint.

With reference to the second assignment of error, the evidence shows that the game of "teji" was played in the following manner by the defendants:

"Q. Are you acquainted with the game of teji?—A. Yes, sir.

"Q. Why do you know it?—A. Because I am familiar with that game.

"Q. How is it played?—A. In Zamboanga, where there are many Chinamen and few Filipinos, it is played by putting in front a cardboard, large or small, as may suit the banker's taste. On this cardboard there are Chinese characters, four on the right side and four on the left. The banker has a plate and a porcelain cup. Then this apparatus, which looks like a top, is made to spin on the plate and before falling is covered. The betters then place their bets on the Chinese characters on the cardboard. Then the banker says: "I open," and those present fix their attention on the Chinese character that appears on the upper part of the top, and this character is looked for on the cardboard and the character that corresponds to it is the one which wins; one only wins and the others lose.

"Q. And how much does that one win?—A. If he places one centavo, he wins five."

The lower court reached the conclusion that said game as played by the defendants was clearly a game of chance and was a game played in violation of the provisions of the Gambling Law. After examining the proof we have arrived at the same conclusion. There is no element of skill by which the players may, by any possibility, determine the outcome of the game. The result is purely one of luck or chance.

Therefore, the sentence of the lower court is hereby affirmed, with costs. So ordered.

Arellano, C. J., Torres, Carson, Araullo, Street, Malcolm, and Avanceña, JJ., concur.

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