

**ALEJANDRO C. MONTELIBANO, PLAINTIFF AND APPELLANT, VS.
ESTEBAN DE LA RAMA AND JOSE ARANETA, DEFENDANTS AND
APPELLEES.***G.R. No. 22824. January 24, 1925*

Ponente: MALCOLM, J.

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By taking advantage of the punitive provisions of our Gambling Law, Alejandro C. Montelibano, the plaintiff, seeks to recover from Esteban de la Rama and Jose Araneta, the defendants, the sum of P20,000, representing double the amount which the plaintiff alleges he lost to the defendants on September 20, 1920. After issue was joined by the defendants and after trial, Judge of First Instance Santamaria ordered the dismissal of the complaint without express finding as to costs. Plaintiff appeals.

Plaintiff offered exhibits and presented as witnesses, himself and one Serapio Conlu. Their story was this: On the morning of September 20, 1920, Montelibano happening to meet Jose Araneta in Iloilo, the latter invited him to play monte that afternoon in the house of Esteban de la Rama. Montelibano accepted the invitation, so he states, and proceeded to the house of De la Rama, accompanied by Serapio Conlu. There Montelibano found present Esteban de la Rama, Jose Araneta, and Natividad Aguilar. Two new packs of cards were purchased by Montelibano from Araneta and used during the game. Monte was played with Montelibano as banker, Conlu as assistant to the banker, and Esteban de la Rama, Jose Araneta, and Natividad Aguilar as players. The stakes were high. Montelibano says he lost P10,000, together with P1,586 which he borrowed from Araneta.

Continuing the story told by Montelibano, he relates how about three months later in Manila, he happened to inspect the cards which had been used in the game and which he had retained in his possession, and much to his surprise, found that they were marked cards. This, he says, caused him to lose faith in De la Rama and Araneta, with the result that eventually he instituted this action to recoup himself for his losses.

The witnesses presented for the defendants were Esteban de la Rama, Jose Araneta, Aniceto Lacson, Jose Robles, Salvador E. Borromeo, and others. Their story was this: On September 20, 1920, no game of monte was played in the house of Esteban de la Rama. Instead, on the afternoon of that day, General Aniceto Lacson came to the house of De la Rama to make payment in the sum of P2,000. General Lacson was invited to dinner along with Mr. Jose Robles. They stayed in De la Rama's house until about 11 p. m., engaged in conversation with De la Rama and his children. During this time, neither Mr. De la Rama, General Lacson, nor Mr. Robles saw Jose Araneta, Alejandro C. Montelibano, or Serapio Conlu.

The defense proved further that Montelibano could not possibly have had as much as P10,000 in his possession which he could use in a gambling game. De la Rama and others had on many occasions made him small loans. While Governor Forbes was in Iloilo in 1920, Montelibano had the audacity to approach the former Governor-General at a banquet and to borrow from him the sum of P900. Later, when De la Rama heard of this, and how his name had been used to secure the loan, although as a matter of fact he had nothing to do with it, he

returned the P900 to Governor Forbes.

The effort of the defendants was also to prove the utter improbability of gentlemen of the standing of De la Rama and Araneta engaging in such a shady undertaking. In 1920, De la Rama made approximately P1,000,000 in sugar and paid an income tax of P60,000. In 1919, Araneta made approximately P300,000 in sugar deals.

Before the case was brought, Montelibano sent an agent to De la Rama threatening him with a criminal prosecution unless P5,000 were handed over as hush money. After the complaint was filed, Montelibano approached Attorney Borromeo, counsel for De la Rama and Araneta, and tried to bribe him for P1,000 to get P5,000 for Montelibano from his clients.

To the foregoing divergent narration of events, little need be added. If the court could believe plaintiff's tale of woe, it could render judgment in his behalf as it is expressly authorized to do by sections 6 and 8 of the Gambling Law. (Mapua vs. Mendoza [1923], 45 Phil., 424.) But most unfortunately, the evidence has exactly the opposite effect on us. The actions of the plaintiff constitute their best refutation. Apparently a parasite and a gambler, he has tried to blackmail two reputable and wealthy members of society into handing over to him a respectable amount of money. Other and more subtle means having failed, exactly two days before the expiration of the three-year period authorized by the Gambling Law, he begins legal action against De la Rama and Araneta. The findings of the trial court are accurate, comprehensive, and irrefutable.

We have examined the evidence of record, although we were under no necessity to do so. The stenographic notes were elevated to this court at the instance not of the appellant but of the appellee. Appellant fails to designate in his brief by reference to the pages of the record the evidence upon which he relies to refute the findings of the trial court. (Rule 19 of the Supreme Court; Palarca vs. Baguisi [1918], 38 Phil., 177.) A ruling on the action of the trial court in failing to accept certain exhibits is unnecessary.

The judgment appealed from will be affirmed, with the costs of this instance against the appellant. So ordered.

Johnson, Street, Villamor, Ostrand, Johns, and Romualdez, JJ., concur.

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