

4 Phil. 439

[ G.R. No. 1773. April 19, 1905 ]

**THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. HILARIO SANTIAGO ET AL., DEFENDANTS AND APPELLANTS.**

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

**ARELLANO, C.J.:**

A complaint was filed charging the defendants with gambling in the well-known gambling house of Hilario Santiago, situated in the town of Malabon, Province of Rizal. Of the several gamblers arrested the judge convicted seven, from which judgment only three have appealed, viz, Hilario Santiago, sentenced to one month and one day of imprisonment and to pay a fine of 625 pesetas; Simeon Rafael and Hugo Francisco, sentenced to one month and one day of imprisonment and to pay a fine of 325 pesetas each.

The detective who made the arrest testified that he had received information when he went to Caloocan that there were some gambling houses, one of which was that of Hilario Santiago, for which reason he gave orders to his men to proceed against said gambling house. This witness had captured on one occasion nineteen or twenty persons gambling at monte. This testimony being hearsay, in itself it is insufficient, and much more so to prove the essential element of the crime, which is the habit or the maintenance of gambling in a certain house, and, therefore, we do not think that the complaint has been sufficiently proven.

Therefore we acquit the appellants, Hilario Santiago, Simeon Rafael, and Hugo Francisco, with the costs in both instances *de officio*. So ordered.

*Torres, Mapa, Johnson, and Carson, JJ., concur.*

