4 Phil. 308

[G.R. No. 1654. March 21, 1905]

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. FELIX MABIRAL ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

CARSON, J.:

The appellants in this case were found guilty in the trial court of *juego prohibido* (unlawful gambling) and sentence of two months' imprisonment and a fine of 625 pesetas was imposed upon Felix Mabiral; and imprisonment for one month and one day and a fine of 325 pesetas was imposed upon Rufina Goco.

Counsel for appellants urges that tha complaint filed in the cause was insufficient and fatally defective in form and substance, but we do not think that any substantial right of the accused was prejudiced thereby, as prior to entering upon the trial, and without objection from the defense, the fiscal filed an information in the following terms:

"In the Court of First Instance of the Fifth Judicial District of the Province of Rizal. April 3,1903.

"The undersigned accuses Felix Mabiral and Rufina Goco of the crime of *juego prohibido*, committed under the following circumtances: That the said accused on the morning of the 24th of last March played the prohibited game of chance known as *jueteng*, the said Felix Mabiral as owner of the game and banker and the said Rufina as player, the game being had in the house of the first mentioned, situated in the town of Malabon, in the Province of Rizal, said house being publicly dedicated to gambling."

It was on this information the trial was had, and we are of opinion that it was sufficient in form and substance.

The evidence in the record fully sustains the finding of the court and establishes the guilt of the accused beyond a reasonable doubt.

The sentence appealed from should be affirmed, with the costs of both instances against the appellants, but with the modification that the imprisonment imposed therein should be specified as *arresto mayor* in accordance with the provisions of article 343, Penal Code. So ordered.

Arellano, C. J., Torres, Mapa, and *Johnson, JJ.,* concur.

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