

2 Phil. 650

[ G.R. No. 1257. October 31, 1903 ]

**JOSE ESCALANTE, PLAINTIFF AND APPELLANT, VS. VENANCIO FRANZ FRANCISCO, DEFENDANT AND APPELLEE.**

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

**WILLARD, J.:**

This action was brought upon a note for 1,000 pesos to recover 900 pesos, the balance due thereon. The answer was a general denial. The court in its decision found that the defendant signed the note, but found also that it was given for money lost by the defendant to the plaintiff in a game of monte. Upon these findings judgment was ordered for the defendant. The plaintiff made no motion for a new trial, and, by the terms of section 497, we have no power to examine the evidence for the purpose of seeing if these findings of fact are supported by the evidence. The only question which we can determine is whether these findings of fact support the judgment ordered. This doctrine we have repeatedly announced.

This court held in the case of *Palma vs. Canizares* (1 Off. Uaz., 516)<sup>[1]</sup> that there could be no recovery on a note given for money won at gambling. That case is decisive of this one. The judgment is affirmed, with the costs of this instance against the appellant. Judgment will be entered accordingly twenty days after the filing of this decision, and the cause will be returned to the court below for the execution thereof.

*Torres, Cooper, and McDonough, JJ., concur.*

*Arellano, C. J., and Mapa, J., dissent.*

*Johnson, J., did not sit in this case.*

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<sup>[1]</sup> 1 Phil. Rep., 602.

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