Ellis filed a petition with the Court of First Instance of Pampanga for the adoption of the aforementioned baby. At the time of the hearing of the petition on January 14, 1960, petitioner Marvin G. Ellis and his wife had been in the Philippines for three (3) years, he being assigned thereto as staff sergeant in the United States Air Force Base, in Angeles, Pampanga, where both lived at that time. They had been in the Philippines before, or, to be exact, in 1953.

The only issue in this appeal is whether, not being permanent residents in the Philippines, petitioners are qualified to adopt Baby Rose. Article 335 of the Civil Code of the Philippines, provides that:

> "The following cannot adopt:
>
> x x x x
>
> (4) Non-resident aliens;"
>
> x x x x

This legal provision is too clear to require interpretation. No matter how much we may sympathize with the plight of Baby Rose and with the good intentions of petitioners herein, the law leaves us no choice but to apply its explicit terms, which unqualifiedly deny to petitioners the power to adopt anybody in the Philippines.

In this connection, it should be noted that this is a proceedings **in rem**, which no court may entertain, unless it has jurisdiction, not only over the subject matter of the case and over the parties, **but also, over the res**, which is the personal status of Baby Rose as well as that of petitioners herein. Our Civil Code (Art. 15) adheres to the theory that jurisdiction over the status of a natural person is determined by the latter's nationality. Pursuant to this theory, we have jurisdiction over the status of Baby Rose, she being a citizen of the Philippines, but not over the status of the petitioners, who are foreigners. Under our political law, which is patterned after the Anglo-American legal system, we have, likewise, adopted the latter's view to the effect that personal status in general, is determined by and/or subject to the jurisdiction of the domiciliary law (Restatement of the Law of Conflict of Laws, p. 86; The Conflict of Laws by Beale, Vol. I, p. 305, Vol. II, pp. 713-714). This, perhaps, is the reason why our Civil Code does not permit adoption by non-resident aliens, and we have consistently refused to recognize the validity of foreign decrees of divorce — regardless of the grounds upon which the same are based — involving citizens of the Philippines who are not **bona fide** residents of the forum, even when our Laws, authorized absolute divorce in the Philippines (Ramirez v. Gmur, 42 Phil. 855; Gonayeb v. Hashim, 50 Phil. 22; Cousine Nix v. Fleumer, 55 Phil. 85; Barretto Gonzalez vs. Gonzalez, 58 Phil. 67; Recto v. Harden, L-6897 [Nov. 29. 1956]).

Inasmuch as petitioners herein are not domiciled in the Philippines — and, hence, non-resident aliens — we cannot assume and exercise jurisdiction over their status, under either the nationality theory or the domiciliary theory. In any event, whether the above quoted provision of said Art. 335 is predicated upon lack of jurisdiction over the **res**, or merely affects the cause of action, we have no authority to grant the relief prayed for by petitioners herein, and it has been so held in Caraballo v. Republic, L-15080 (April 25, 1962) and Katancik v. Republic, L-15472 (June 30, 1952).

WHEREFORE, the decision appealed from is hereby reversed, and another one shall be entered denying the petition in this case.

Bengzon, C.J., Bautista Angelo, Labrador, Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concurred.

Padilla and Reyes, JJ. took no part.

V

LUZ BARRANTA, plaintiff-appellant, vs. INTERNATIONAL HARVESTER COMPANY OF THE PHILIPPINES, defendant-appellee, G.R. No. L-8198 April 22, 1963, Regala, J.

1. COURT OF INDUSTRIAL RELATIONS; REQUISITES IN ORDER TO ACQUIRE JURISDICTION OVER CONTROVERSY UNDER REP. ACT 875.—In order that the Court of Industrial Relations may acquire jurisdiction over a controversy in the light of Republic Act No. 875, the following circumstances must be present: (a) there must exist between the parties an employer-employee relationship, or claimant must seek his reinstatement; and (b) the controversy must relate to a case certified by the President to the Court of Industrial Relations, as one involving national interest, or must have a bearing on an unfair labor practice charge, or must arise either under the Eight-Hour Labor Law, or under the Minimum Wage Law. **In default of any of these circumstances, the claim becomes a mere money claim that comes under the jurisdiction of the regular courts.**" (Bold letters ours.)
2. ID.; ID.;—A mere claim for reinstatement does not suffice to bring a case within the jurisdiction of the Court of Industrial Relations. It is necessary also that the case be one of the four enumerated cases as amplified in the case of Campos vs. Manila Railroad Co., G.R. No. L-17905, May 25, 1962. Here, a reading of the allegations of the complaint shows that while plaintiff-appellant seeks her reinstatement in the company, nothing is alleged therein to indicate that plaintiff-appellant's dismissal from the service amounted to an unfair labor practice. Neither is it claimed that this is a case certified by the President to the Court of Industrial Relations as involving national interest (Sec. 10, Republic Act No. 875), or a case arising under the Eight-Hour Labor Law (Commonwealth Act No. 444, as amended) or the Minimum Wage Law (Republic Act No. 602.)
3. ID.; ID.; LABOR CONTROVERSY; WHEN THE COURT OF FIRST INSTANCE HAS JURISDICTION.—Where plaintiff-appellant merely seeks her reinstatement with back wages; the recovery of moral and exemplary damages sufferred as a result of allegedly malicious criminal actions filed against her at the instance of defendant-appellee; the recovery of her contributions to a pension and savings plan; and the recovery of the money value of her accrued sick leave, the Court of First Instance has jurisdiction over the case.

D E C I S I O N

This is an appeal from the order dated August 22, 1960 of the Court of First Instance of Rizal, dismissing plaintiff-appellant's complaint on the ground that it had no jurisdiction over the case. The order was issued during the progress of the trial in the wake of our ruling in Price Stabilization Corporation v. Court of Industrial Relations, et al., G.R. No. L-13206, May 23, 1960, which clarified previous rulings on the jurisdiction of the Court of Industrial Relations.

The complaint reads:

> "COMES NOW the plaintiff, through counsel and for causes of action against the defendant, to this Honorable Court, respectfully alleges:
>
> First Cause of Action
>
> "1. That plaintiff is of legal age and a resident of San Juan, Rizal, while the defendant is a domestic corporation, having its principal office at No. 744 Marques de Comillas, Manila, where it may be served with summons;
>
> "2. That since May 16, 1947, plaintiff was employed by the defendant company as Secretary to the Treasurer of the defendant company;
>
> "3. That due to plaintiff's efficient and satisfactory service, her salary has been periodically increased from ₱275.00

in 1947, to 532.00 in July, 1955, the last mentioned amount being her salary up to December 12, 1956;

"4. That on December 12, 1956, without any lawful cause or justifiable ground whatsoever, the defendant, through its president, Paul Wood, verbally informed the herein plaintiff that she was suspended from employment, and on the following day, she was informed by the defendant in writing through the same official, that: 'The effective date of your suspension is as of 5 P.M., December 12th, 1956, and for such further period as is required in completing an investigation x x x. Final decision as to your employment will be made after said investigation is completed;'

"5. That since the date of her suspension, no investigation, as apparently assured in writing by the defendant, was ever made known to the plaintiff, nor was she informed of the company's final action on her case; it was only after her attorneys inquired as to the status of her case was she informed in writing on June 3, 1957 that her employment with the defendant company was terminated, 'effective as of the date of suspension, 5 p.m., December 12, 1956;

"6. That plaintiff's suspension and dismissal were both unlawful, and she is entitled to reinstatement with full payment of her salary since December 12, 1956 up to the date of her actual reinstatement, or in the alternative, if reinstatement is not feasible, to all salaries due to her from December 12, 1956 up to the date of favorable final judgment in her favor, plus at least one month's severance pay, as actual damages;

Second Cause of Action

"7. That plaintiff incorporates in this cause of action, by reference, the allegations contained in paragraph 1 to 5 of the preceding cause of action;

"8. That aware of its unlawful action in suspending and dismissing the plaintiff from her employment, the defendant company abetted and encouraged no less than 27 employees of the company into filing criminal charges of estafa against the plaintiff, which criminal charges were nevertheless dropped by the Fiscal's office (Manila) or dismissed by the courts of justice after trial and hearing;

"9. That for such encouragement and aid, impelled by unjustifiable motives, in the prosecution of the herein plaintiff, the defendant company is liable to the herein plaintiff for moral and exemplary damages in the sum of ₱50,000.00;

Third Cause of Action

"10. That plaintiff incorporates in this cause of action, by reference, the allegations contained in paragraphs 1, 2 and 3 of the First cause of action;

"11. That in July, 1952, a pension and savings fund plan was introduced by defendant company whereby employees were required to contribute a certain percentage of their salary to a saving and trust fund and plaintiff herein became a member of said 'Pension and Savings Fund of the International Harvester Company of the Philippines;'

"12. That as of December, 1956, plaintiff had a total savings benefit of not less than ₱1,440.00 which, under the terms of the plan, would be returned to her with interest plus a percentage of the Company's contribution amounting to not less than 25% upon termination of her services prior to retirement;

"13. That the defendant company, in utter bad faith and in gross violation of the terms of the pension and savings funds, forwarded and forced upon the plaintiff the sum of only ₱20.46;

"14. That plaintiff is entitled to her actual savings benefit which should not be less than ₱1,440.00, plus a percentage of the company's contribution amounting to not less than 25%;

"15. That defendant's violation of the terms of the savings and trust fund and oppressive retention of plaintiff's savings under the plan have caused plaintiff grave moral damages of not less than ₱50,000.00 as she needed the money very badly when demand therefor was made as her mother was then very ill; plaintiff's mother subsequently died for lack of much needed funds.

Fourth Cause of Action

"16. That plaintiff's employment with the defendant company entitled her to regular sick leave with pay which can be accumulated up to a maximum period of 72 days;

"17. That plaintiff has not taken any sick leave since the time she was employed by the defendant and she is entitled to at least 72 days sick leave with pay, or an amount equivalent to ₱1,252.80;

"18. That defendant company has not only suspended and dismissed plaintiff without lawful and justifiable cause, but has also withheld plaintiff's accrued sick leave pay.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

"19. That plaintiff has demanded from defendant her reinstatement and the payment to her of her claims as hereinabove set forth, but the defendant has failed and refused to comply with said demands;

"20. That to enforce and protect her rights, plaintiff was forced to litigate and retain the service of undersigned counsel with an obligation to pay attorney's fees in the sum of ₱5,000.00."

The sole issue here is whether, on the basis of the allegations of the complaint as set forth above, the Court of First Instance of Rizal had jurisdiction over the case.

In dismissing the case, the trial court, citing our decisions held that "in an action for the reestablishment of relationship of employer and employee because of a wrongful severance, it is the Court of Industrial Relations and not the Court of First Instance that has jurisdiction."

This is not accurate. In Price Stabilization Corp. v. Court of Industrial Relations, **supra**, We held that —

> "Analyzing these cases, the underlying principle, it will be noted in all of them, though not stated in express terms, is that where the employer-employee relationship is still existing or is sought to be reestablished because of its wrongful severence (as where the employee seeks reinstatement), the Court of Industrial Relations has jurisdiction over all claims arising out of, or in connection with the employment, such as those related to Minimum Wage Law and the Eight-Hour Labor Law. After the termination of the relationship and no reinstatement is sought, such claims become mere money claims, and come within the jurisdiction of the regular courts."

A more recent definition of the jurisdiction of the Court of Industrial Relations is found in Campos, et al. v. Manila Railroad Co., et al., G.R. No. L-17905, May 25, 1962, in which We held:

> "We may, therefore, restate, for the benefit of the bench and the bar, that in order that the Court of Industrial Relations may acquire jurisdiction over a controversy in the light of Republic Act No. 875, the following circumstances must be present: (a) there must exist between the parties an employer-employee relationship, or claimant must seek his reinstatement; and (b) the controversy must relate to a case certified by the President to the C.I.R. as one involving national interest, or must have a bearing on an unfair labor practice charge, or must arise either under the Eight-Hour Labor Law, or under the Minimum Wage Law. **In default of any of these circumstances, the claim becomes a mere money claim that comes under the jurisdiction of** the regular courts." (Bold letter ours.)

A mere claim for reinstatement, therefore, does not suffice to bring a case within the jurisdiction of the Court of Industrial

Relations. It is necessary also that the case be one of the four enumerated cases as amplified in the Campos case. Here, a reading of the allegations of the complaint shows that while plaintiff-appellant seeks her reinstatement in the company, nothing is alleged therein to indicate that plaintiff-appellant's dismissal from the service amounted to an unfair labor practice. Neither is it claimed that this is a case certified by the President to the Court of Industrial Relations as involving national interest (Sec. 10, Republic Act No. 875), or a case arising under the Eight-Hour Labor Law (Commonwealth Act No. 444, as amended) or the Minimum Wage Law (Republic Act No. 602.).

For plaintiff-appellant merely seeks her reinstatement with back wages, the recovery of moral and exemplary damages suffered as a result of allegedly malicious criminal actions filed against her at the instance of defendant-appellee; the recovery of her contributions to a pension and savings plan; and the recovery of the money value of her accrued sick leave.

The Court of First Instance of Rizal erred therefore in holding that the case is cognizable by the Court of Industrial Relations and in dismissing the case.

WHEREFORE, the order of August 22, 1960 of the said Court of First Instance is hereby reversed and the trial court is directed to proceed with the trial of this case. No costs.

Bengzon, C.J., Padilla, Bautista Angelo, Concepcion, J.B.L. Reyes, Paredes and Makalintal, JJ., concurred.

Barrera and Dizon, JJ., took no part.

VI

People of the Philippines, plaintiff-appelant vs. Maximino Plaza, defendant-appellee, G. R. No. L-18819, March 30, 1963, Dizon, J.

CRIMINAL PROCEDURE; INFORMATION; AUTHORITY OF THE TRIAL COURT TO ORDER THE FILING OF ANOTHER INFORMATION OR AMENDMENT OF ONE ALREADY FILED.—Assuming that the lower court was right in holding that the facts alleged in the information do not constitute a punishable offense, as far as defendant was concerned, the case should not have been dismissed with respect to him. Instead, pursuant to the provisions of Section 7, Rule 113 of the Rules of Court, the lower court should have given the prosecution an opportunity to amend the information. That under the provisions of said rule the trial court may order the filing of another information or simply the amendment of the one already filed is clearly in accordance with the settled rule in this jurisdiction (U.S. vs. Muyo 2 Phil. 177; People vs. Tan, 48 Phil. 877, 880).

DECISION

Appeal by the State from an order of the Municipal Court of Butuan City dismissing the information filed in Criminal Case No. 2721, as against Maximino Plaza, on the ground that the facts alleged therein do not constitute a criminal offense.

The aforesaid information charge Esperanza Ato de Lamboyog, Capistrano Lamboyog and Maximino Plaza with estafa, alleging:

"That on or about the 6th day of October, 1954, in the City of Butuan, Philippines, and within the jurisdiction of this Honorable Court, the said accused conspiring, cooperating together and helping one another with accused Esperanza Ato de Lamboyog and her husband Capistrano Lamboyog pretending and misrepresenting themselves to be the sole and absolute owners of a real estate situated at Barrio Baan, Butuan City, covered by Tax Declaration No. 3824 (9949 located at Doot, Barrio Ba-an, Butuan City) more particularly described as follows, to wit:

'A parcel of agricultural land bounded on the North by Jose Ato, on the East by Ba-an River, on the South by Pedro Plaza, and on the West by the Agusan River containing an area of 7413 square meters more or less,

when in fact and in truth the above-named accused knew that the said land above described was already sold in a pacto de retro sale dated July 21, 1953, and later on converted the same sale into an absolute sale on September 3, 1953 in favor of Felipe F. Paular, did then and there willfully, unlawfully and feloniously with intent to defraud said Felipe F. Paular knowing that said property has been previously sold to the said Felipe F. Paular in the amount of ₱400.00, both accused entered into agreement whereby the said property above-described was sold by the accused Esperanza Ato de Lamboyog and her aforementioned husband, to his co-accused Maximino Plaza and falsely represented the same property to be free from encumbrance, to the damage and and prejudice of said Felipe F. Paular in the amount of ₱400,00 excluding the improvements thereon.

CONTRARY TO LAW: (Art. 316 of the Revised Penal Code)."

Defendant Plaza filed a motion to quash the information on the grounds that (1) the facts charged do not constitute an offense insofar as he was concerned; (2) that the information charged more than one offense; and (3) that the criminal liability had been extinguished by prescription of the crime. The court found the first ground to be well taken and dismissed the information as against him. Hence this appeal.

A perusal of the information discloses that it charges the three defendants with "conspiring, cooperating together and helping one another etc." to commit the offense charged, while at the same time another portion thereof would seem to imply that the Lamboyog spouses falsely represented to their co-defendant, Maximino Plaza, that the property they were selling to him was free from encumbrance — an allegation justifying the inference that Plaza did not know that the property he was buying had been previously sold to the offended party, Felipe F. Paular. In view of this, we are of the opinion that the real defect of the information is not that the fact alleged therein do not constitute a punishable offense but that its allegations, as to Plaza's participation and possible guilt, are vague.

But even assuming that the lower court was right in holding that the facts alleged in the information do not constitute a punishable offense, as far as defendant Plaza was concerned, the case should not have been dismissed with respect to him. Instead, pursuant to the provisions of Section 7, Rule 113 of the Rules of Court, the lower court should have given the prosecution an opportunity to amend the information. That under the provisions of said rule the trial court may order the filing of another information or simply the amendment of the one already filed is clearly in accordance with the settled rule in this jurisdiction (U.S. vs. Muyo 2 Phil. 177; People vs. Tan, 48 Phil. 877, 880).

WHEREFORE, the order of dismissal appealed from is hereby set aside and the case is ordered remanded to the court of origin for further proceedings in accordance with this decision.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, J.B.L. Reyes, Barrera, Paredes, Regala and Malintal, JJ.; concurred.

VII

Sergio F. Magulat, petitioner vs. Jacinto Arcilla, respondents et al., G.R. No. L-16602, Feb. 28, 1963, Regala, J.

1. COURT OF INDUSTRIAL RELATIONS; JURISDICTION; NO JURISDICTION FOR RECOVERY OF BASIC AND EXTRA COMPENSATION ON SUNDAYS AND HOLIDAYS WHERE EMPLOYER-EMPLOYEE RELATIONSHIP HAS BEEN TERMINATED.—Since, at the time of the filing of the complaint for the recovery of basic and extra compensation for work done on Sundays and holidays under Section 4 the Eight-Hour Labor Law (Commonwealth Act No. 444, as amended), the employer-employee relationship of the parties had been terminated and there being no petition for reinstatement, the claims of respondents did not come within the jurisdiction