

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-appellant 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 Ba-an, 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