

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. ALFREDO C. REYES, AS PRESIDING JUDGE OF THE CIRCUIT CRIMINAL COURT, FOURTH JUDICIAL DISTRICT, AND FRANCISCO ESTRELLA, RESPOND...

G.R. No. L-32557. October 23, 1981

Ponente: CONCEPCION, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a5db971916d8/>

CONCEPCION, JR., J.:

Petitioner, by way of certiorari, with prayer for preliminary injunction, questions as alleged grave abuse of discretion, the order[1] dated July 10, 1970, of the respondent Judge, (Hon. Alfredo C. Reyes of the Circuit Criminal Court, 4th Judicial District, Cabanatuan City) in Criminal Case No. CCC-IV-170-NE, entitled "The People of the Philippines versus Francisco Estrella," which denied petitioner's verbal motion for the amendment of the information in said case, by deleting the year "1969" as alleged therein, and in lieu thereof to put the year "1964". Respondent Judge anchored his denial of the verbal motion on, to wit:

"After a careful study of both memoranda in support and against the said motion, this Court finds and so hold that the amendment to the information cannot be made without pre-judice to the substantial rights of the accused in the above-entitled case.

"WHEREFORE, the motion to amend the information is hereby denied in accordance with the decision of the Supreme Court in the case of People vs. Placido Opemia, et al., 98 Phil. 698. x x x.

"SO ORDERED."[2]

Petitioner also assails the order of respondent Court, dated September 14, 1970,[3] denying its motion for reconsideration[4] of the July 10, 1970 order.

This Court issued a preliminary injunction on September 24, 1970.[5]

Pertinent facts of record are:

Sometime in October, an information for qualified theft was filed against private respondent Francisco Estrella and three others, as Criminal Case No. 6799, in the Municipal Court of San Jose, Nueva Ecija, pertinent portion as follows:

"The undersigned Asst. Provincial Fiscal accuses Narciso Mananing, Florentino Alcantara, Francisco Estrella, and Melecio Guevarra of the crime of Qualified Theft, committed as follows:

"That in the month of August, 1964, in the municipality of San Jose, province of Nueva Ecija, Philippines and within the jurisdiction of this Honorable Court, the above named accused Narciso Mananing, being the driver of complainant Maria Ignacio-Francisco, Florentino Alcantara, repair shop owner where the truck hereinafter described was found and recovered, Francisco Estrella, a Philippine Constabulary soldier stationed at Bulacan, and Melecio Guevarra, all conspiring together, without the knowledge and consent of the owner thereof, take,

steal and carry away one (1) Bedford truck with Chassis No. 153559, with Motor No. 2/54/5/6, with Plate No. T-35049, Series of 1964, to the damage and prejudice of the owner, Maria Ignacio-Francisco in the amount of P23,000.00, value of said vehicle."[6]

On November 15, 1969, the Acting City Fiscal of San Jose City, (converted into city) Nueva Ecija, filed an information (Crim. Case No. CCC-IV-170) with the respondent Court, charging private respondent Francisco Estrella and three others, with qualified theft, as follows:

"The undersigned Acting City Fiscal accuses Narciso Mananing, Florentino Alcantara, Francisco Estrella, and Melecio Guevarra of the crime of Qualified Theft, committed as follows:

"That on or about the month of August, 1969 in the City of San Jose, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above named accused Narciso Mananing, being then the driver of Bedford truck bearing Plate No. T-35049, Series of 1964, with Chassis No. 153559, and with a Motor No. 2/54/5/6 owned by Maria Ignacio-Francisco, conspiring and confederating together with his co-accused namely: Florentino Alcantara, Francisco Estrella, and Melecio Guevarra, and with intent to gain, with grave abuse of confidence, did then and there wilfully, unlawfully and feloniously take, steal and carry away the said Bedford truck valued at Twenty Three Thousand Pesos (P23,000.00) Philippine Currency and dismantled the same without the consent of the said owner and to her damage and prejudice of the said sum of P23,000.00."[7]

On January 28, 1970, private respondent Francisco Estrella was arraigned, and he pleaded not guilty. During the arraignment, respondent Judge required his clerk to read the information to Francisco Estrella. The court interpreter was directed to translate the information into Tagalog for the benefit of the accused. The prosecution, although represented, made no move to amend the information, if indeed it was really erroneous. From January 28, 1970, up to May 21, 1970, the latter date being the scheduled trial of the case, the prosecution never moved to amend the information.[8]

On May 21, 1970 when the prosecution was scheduled to present its evidence, it verbally moved that it be allowed to amend the information[9] so as to change the date of the commission of the offense from "August 1969" to "August 1964." [10] Private respondent Francisco Estrella, having come to the trial court ready to defend himself from an offense allegedly committed in "August 1969", vigorously objected to the verbal motion.[11]

Respondent Judge withheld his ruling on the prosecution's motion to amend, and instead, required the prosecution to present its first witness, to determine whether the sought amendment in the information would constitute a change of substance affecting the rights of the accused or merely of form.[12]

Florentino Alcantara, originally a co-accused but discharged as a prosecution witness, testified that the offense was committed in 1964. The defense refused to cross-examine witness Alcantara, asked respondent Court to strike off the testimony of Alcantara because it referred to an offense not mentioned in the information, and asked for a ruling by respondent Court on the prosecution's verbal motion to amend the information.[13]

Respondent Judge required the prosecution and the defense to submit memoranda. The contested order of July 22, 1970, denying the prosecution's verbal motion to amend information on the ground that said amendment would prejudice the substantial rights of the accused was issued by respondent Court.[14]

Petitioner's motion for reconsideration of the aforementioned contested order alleged that time was not a material ingredient of the offense of qualified theft and claimed that the case of Placido Opemia, et al., 98 Phil. 698, relied upon by the trial court for its denial of the motion to amend information, was not applicable to the case.[15]

The respondent Court, denied the petitioner's motion for reconsideration, in its order of September 14, 1970,[16] stating that the prosecution's honest mistake in the information filed cannot prevail over the substantial rights of

the accused based on constitutional provisions. Hence this petition.

The principal issue before this Court is whether or not the respondent Court abused its discretion when it refused an amendment to the information filed in Criminal Case No. CCC-IV-170- NE, to change the date of the alleged commission of the offense from "August 1969" to "August 1964", on the ground it would constitute an impairment of the substantial rights of the accused as guaranteed by the Constitution.

Under Section 13, Rule 110, Rules of Court, the complaint or information in a criminal case where the accused had been arraigned and had pleaded, as in this case, may be amended only as to all matters of form when the same can be done without prejudice to the substantial rights of the accused.

As to whether or not a sought for amendment of an information to change the time of the alleged commission of crime from 1969 to 1964 (period of five years) would prejudice the substantial rights of the accused after his arraignment and plea, this Court ruled in the case of *People vs. Placido Opemia, et al.*, 98 Phil. 698, that:

"In the case at bar, the proof shows that the carabao was lost on July 25, 1947, and not on June 18, 1952, as alleged in the information. The period of almost five years between 1947 and 1952 covers such a long stretch of time that one cannot help but be led to believe that another theft different from that committed by the defendants in 1952 was also perpetrated by them in 1947. Under this impression the accused, who came to Court prepared to face a charge of theft of large cattle allegedly committed by them in 1952, were certainly caught by sudden surprise upon being confronted by evidence tending to prove a similar offense committed in 1947. The variance is certainly unfair to them, for it violates their constitutional rights to be informed before the trial of the specific charge against them and deprives them of the opportunity to defend themselves. Moreover, they cannot be convicted of an offense of which they were not charged."

In the present case, private respondent Francisco Estrella was investigated for an offense allegedly committed in August of 1964. Then, he was charged for an offense allegedly committed in August of 1969. He pleaded not guilty to the latter charge. Now petitioner desires to put him on trial for the alleged 1964 offense. This cannot legally be done.

The petitioner's argument that the time or date of the commission of the offense is not a material ingredient of the crime of qualified theft cannot be given much weight in this case because the disparity of time between the years 1964 and 1969 is so great as to defy approximation in the commission of one and the same offense. While it has been held that except when time is a material ingredient of an offense, the precise time of commission need not be stated in the information, this Court stated that this does not mean that the prosecuting officer may be careless about fixing the date of the alleged crime, or that he may omit the date altogether, or that he may make the allegation so indefinite as to amount to the same thing.^[17] The prosecution is given the chance to allege an approximation of time of the commission of the offense and the precise date need not be stated but it does not mean that it can prove any date remote or far removed from the given approximate date so as to surprise and prejudice the accused.

What happened in this case is that the petitioner committed a mistake in the placing of the date of the alleged crime in the information filed. During the arraignment and plea of private respondent Francisco Estrella on January 28, 1970, the prosecution had all the chances to realize and rectify its mistake. It did not do so. The trial of the accused was set for May 21, 1970. Petitioner therefore, had more than three months to take steps. Again, it failed to do so. Finally, petitioner verbally moved to amend the information only at the start of the trial. To permit petitioner to do so would surprise the accused and prejudice his substantial rights.

WHEREFORE, the questioned orders dated July 10, 1970 and September 14, 1970, by respondent Judge are hereby **AFFIRMED**, the preliminary injunction issued on September 24, 1970 dissolved, and this petition

DISMISSED for lack of merit. Without costs.

SO ORDERED.

Fernandez, Abad Santos, and De Castro, JJ., concur.

Barredo (Chairman), J., concurs, but believes this decision cannot bar another prosecution of private respondent under another information charging theft committed in 1964.

[1] p. 9, rollo.

[2] Ibid.

[3] pp. 16-18, rollo.

[4] pp. 10-16, Id.

[5] p. 21, Id.

[6] Underscored for emphasis; p. 8, Id.

[7] Underscored for emphasis; p. 6, Id.

[8] pp. 74-75, Id.

[9] p. 6, Id.

[10] p. 62, Id.

[11] p. 75, Id.

[12] pp. 62, 76, Id.

[13] p. 76, Id.

[14] p. 9, Id.

[15] pp. 10-15, Id.

[16] pp. 16-18, Id.

[17] U.S. vs. Dichao, 27 Phil. 421, 426.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.