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WHEREFORE, the decision appealed from is hereby REVERSED and the petitioner, Delfin Orodio *y* Valdez, is ACQUITTED for lack of proof beyond reasonable doubt. No costs.

SO ORDERED.

Paras and *Padilla, JJ.*, concur.

Melencio-Herrera (Chairman), J., concurs in the absence of adequate evidence to establish moral ascendancy by petitioner over the gun-wielder.

Regalado, J., took no part; did not participate in deliberation.

THIRD DIVISION

[G.R. No. L-46881. September 15, 1988]

PEOPLE OF THE PHILIPPINES, *petitioner, vs.* **HON. MARIANO CASTAÑEDA, JR., Judge of the Court of First Instance of Pampanga, Branch III, VICENTE LEE TENG, PRISCILLA CASTILLO *VDA. DE* CURA and FRANCISCO VALENCIA**, *respondents.*

SYLLABUS

1. CIVIL LAW; LACHES; PRINCIPLE NOT APPLIED TO PETITION FOR *CERTIORARI* FILED SEVEN (7) MONTHS AFTER RENDITION OF LAST ORDER; SUBSTANTIVE ISSUES RAISED AND NATURE OF RESULT OF ORDERS, TAKEN INTO CONSIDERATION; CASE AT BAR. — Ordinarily, a Petition for *Certiorari* brought seven (7) months after rendition of the last order sought to be set aside might be regarded as barred by laches. In the case at bar, however, the Court believes that the equitable principle of laches should not be applied to bar this Petition for *Certiorari* and *Mandamus*. The effect of

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such application would *not* be the avoidance of an inequitable situation (the very *raison d'etre* of the laches principle), but rather the perpetuation of the state of facts brought about by the orders of the respondent Judge, a state of facts which, as will be seen later, is marked by a gross disregard of the legal rights of the People. The Court, in other words, is compelled to take into account both the importance of the substantive issues raised in this case and the nature of the result brought about by the respondent Judge's orders. Moreover, on a more practical level, the dismissal of the cases was resisted vigorously by the prosecution which filed both oppositions to the Motion to Dismiss and Motions for Reconsideration of the Orders granting the Motions to Quash. The private respondents, in other words, were under no illusion as to the position taken and urged by the People in this Case. We hold that, in the circumstances of this case, the Petition for *Certiorari* and *Mandamus* is not barred by laches.

2. **TAXATION; TAX AMNESTY UNDER PRESIDENTIAL DECREE NO. 370; EFFECTS OF COMPLIANCE WITH ALL THE REQUIREMENTS.** — Compliance with all the requirements of availment of tax amnesty under P.D. No. 370 would have the effect of condoning *not just income tax liabilities* but also "*all internal revenue taxes* including the increments or penalties on account of non-payment *as well as all civil, criminal* or *administrative liabilities, under the Internal Revenue Code*, the Revised Penal Code, the Anti-Graft and Corrupt Practices Act, the Revised Administrative Code, the Civil Service Laws and Regulations, laws and regulations on Immigration and Deportation, or any other applicable law or proclamation."

3. **ID.; ID.; ID.; VOLUNTARY DISCLOSURE OF UNTAXED INCOME OR WEALTH AND PAYMENT OF 15% TAX, INDISPENSABLE.** — To be entitled to the extinction of liability provided by P.D. No. 370, the claimant must have *voluntarily* disclosed his previously untaxed income or wealth and paid the required fifteen percent (15%) tax on such previously untaxed income or wealth imposed by P.D. No. 370.

4. **ID.; ID.; ID.; WHERE DISCLOSURE WAS THE RESULT OF A TAX INVESTIGATION, CLAIMANT NOT ENTITLED TO BENEFITS.** — Where the disclosure of such previously untaxed income or wealth was not voluntary but rather the

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accompaniment or result of tax cases or tax assessments already pending as of 31 December 1973, the claimant is not entitled to the benefits of P.D. No. 370.

5. **ID.; ID.; VALID INFORMATION; CONSTRUED.** — The "valid information under Republic Act No. 2338" referred to in Section 1 (a) (4) of P.D. No. 370, refers not to a criminal information filed in court by a fiscal or special prosecutor, but rather to the sworn information or complaint filed by an informer with the BIR under R.A. No. 2338 in the hope of earning an informer's reward.

6. **CIVIL LAW; ESTOPPEL; GOVERNMENT IS NEVER ESTOPPED BY MISTAKE OR ERROR OF ITS AGENT.** — "Erroneous application and enforcement of the law by public officers do not block, subsequent correct application of the statute and that the government is never estopped by mistake or error on the part of its agent," finds application in the case at bar.

7. **ID.; ID.; ID.; CASE AT BAR.** — Accused Valencia argued that the People were estopped from questioning his entitlement to the benefits of the tax amnesty, considering that agents of the BIR had already accepted his application for tax amnesty and his payment of the required fifteen percent (15%) special tax. This contention does not persuade. At the time he paid the special fifteen percent (15%) tax under P.D. No. 370, accused Francisco Valencia had in fact already been subjected by the BIR to extensive investigation such that the criminal charges against him could not be condoned under the provisions of the amnesty statute. Further, acceptance by the BIR agents of accused Valencia's application for tax amnesty and payment of the fifteen percent (15%) special tax was no more than a ministerial duty on the part of such agents. Accused Valencia does not pretend that the BIR had actually ruled that he was entitled to the benefits of the tax amnesty statute.

8. **TAXATION; TAX AMNESTY; CONSTRUED STRICTLY AGAINST THE TAXPAYER.** — A tax amnesty, much like a tax exemption, is never favored nor presumed in law and if granted by statute, the terms of the amnesty like that of a tax exemption must be construed strictly against the taxpayer and liberally in favor of the taxing authority.

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9. ID.; ID.; DEFENSE IS PERSONAL TO THE TAXPAYER. — The defense of the tax amnesty under P.D. No. 370 is, like insanity, a personal defense; for that defense relates to the circumstances of a particular accused and not to the character of the acts charged in the criminal information.

10. ID.; TAX AMNESTY UNDER PRESIDENTIAL DECREE NO. 370; RECIPROCITY, BASIS OF EXTINGUISHMENT OF LIABILITY. — The statute that makes the defense of extinguishment of liability available only under very specific circumstances and on the basis of reciprocity, as it were: the claimant must disclose his previously untaxed income or wealth (which then may be effectively subjected to future taxation) and surrender to the Government fifteen percent (15%) of such income or wealth; then, and only then, would the claimant's liability be extinguished. Lee Teng and Priscilla Castillo de Cura never pretended that they had complied with the requirements of P.D. No. 370, including that of reciprocity.

11. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; ORDERS OF RESPONDENT JUDGE DENYING THE PEOPLE ITS DAY IN COURT CONSTITUTES GRAVE ABUSE OF DISCRETION. — We conclude that the respondent Judge's error in respect of the first and second substantive issues considered above is so gross and palpable as to amount to arbitrary and capricious action and to grave abuse of discretion. Those orders effectively prevented the People from prosecuting and presenting evidence against the accused-respondents; they denied the People its day in court. It is well-settled that "(a) purely capricious dismissal of an information as herein involved, moreover, deprives the State of fair opportunity to prosecute and convict. It denies the prosecution its day in court. Accordingly, it is a dismissal without due process and, therefore, null and void.

12. ID.; CRIMINAL PROCEDURE; DOUBLE JEOPARDY; ORDER OF DISMISSAL ISSUED IN VIOLATION OF THE DUE PROCESS CLAUSE, NOT PROPER BASIS OF CLAIM OF DOUBLE JEOPARDY. — A dismissal invalid for lack of a fundamental requisite, such as due process, will not constitute a proper basis for the claim of double jeopardy.

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APPEARANCES OF COUNSEL

The Solicitor General for petitioner.

Martin N. Roque for respondents Priscilla Castillo *Vda. de* Cura and Francisco Valencia.

Antonio N. Santos for respondent Judge.

D E C I S I O N

FELICIANO, *J.*:

In this Petition for *Certiorari* and *Mandamus*, the People seek the annulment of the Orders of respondent Judge quashing criminal informations against the accused upon the grounds that: (a) accused Francisco Valencia was entitled to tax amnesty under Presidential Decree No. 370; and (b) that the dismissal of the criminal cases against accused Valencia inured to the benefit of his co-accused Vicente Lee Teng and Priscilla Castillo de Cura, and denying the People's Motion for Reconsideration of said Orders.

Sometime in 1971, two (2) informants submitted sworn information under Republic Act No. 2338 (entitled "An Act to Provide for Reward to Informers of Violations of the Internal Revenue and Customs Laws," effective June 19, 1959) to the Bureau of Internal Revenue ("BIR"), concerning alleged violations of provisions of the Internal Revenue Code committed by the private respondents. The record of this case includes an affidavit executed on 27 December 1971 by Mr. William Chan, one of the said informers, describing the details of alleged violations of the tax code.[1] After conducting an investigation, the BIR applied for and obtained search warrants from Executive Judge Malcolm Sarmiento. Following investigation and examination by the BIR of the materials and documents yielded by service of such search warrants, criminal informations were filed in court against the private respondents.

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[1] *Rollo*, pp. 34-36; Annex "J" of Petition.

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In July 1973, State Prosecutor Estanislao L. Granados, Department of Justice, filed with the Court of First Instance of Pampanga an information docketed as Criminal Case No. 439 for violation of Sec. 170 (2) of the National Internal Revenue Code, as amended, against Francisco Valencia, Apolonio G. Erespe *y* Comia and Priscilla Castillo de Cura, committed as follows:

"That on or about the 19th day of January, 1972, in the premises of Valencia Distillery located at del Pilar Street, San Fernando, Pampanga, Philippines, and within the jurisdiction of the above- named Court, the accused FRANCISCO VALENCIA, APOLONIO ERESPE *Y* COMIA and PRISCILLA QUIAZON OR "QUIAÑO" *alias* "MARY JO," conspiring and confederating with one another, did then and there wilfully, unlawfully, and feloniously have in their possession, custody and control, false and counterfeit or fake internal revenue labels consisting of five (5) sheets containing ten (10) labels each purporting to be regular labels of the Tanduay Distillery, Inc. bearing Serial Nos. 2571891 to 2571901 to 2571910, 2571911 to 2571920, 05381 to 05390 and 05391 to 05400.

CONTRARY to the provisions of Section 170, paragraph 2 of the National Internal Revenue Code, as amended."[2]

On the same date, another criminal information docketed as Criminal Case No. 440 was filed by the same State Prosecutor in the same court for violation of Section 174 (3) of the National Internal Revenue Code, as amended against the same persons, charging them as follows:

"That on or about the 19th day of January 1972 in the premises of Valencia Distillery located at del Pilar Street, San Fernando, Pampanga, Philippines and within the jurisdiction of this Honorable Court, the accused FRANCISCO VALENCIA, APOLONIO G. ERESPE *y* COMIA and PRISCILLA QUIAZON or QUIAÑO alias MARY JO, conspiring and confederating together, did then and there wilfully, unlawfully and feloniously, have in their possession, custody and control, locally manufactured articles subject to specific tax, the tax on which has not been paid in accordance with law, THIRTY THREE (33) boxes of

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[2] *Rollo*, p. 16; Annex "A" of Petition.

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24 bottles each of alleged Añejo Rum, 375 cc., NINE (9) BOXES of alleged Tanduay Rum of TWELVE (12) BOTTLES each, 750 cc., TWENTY (20) BOXES of alleged Ginebra San Miguel Gin of TWENTY FOUR (24) BOTTLES each, 375 cc., THREE (3) BOXES of TWENTY FOUR (24) BOTTLES each, 375 cc., of Ginebra San Miguel Gin, ONE (1) GALLON bottle of wine improver, NINE lbs. net with actual contents of 1/5 of the bottle, ONE (1) SMALL BOTTLE, 1 lb. net, of Rum Jamaica, half-full, ONE (1) BOTTLE, 1 lb. net of the wine improver (full), TWELVE (12) BOTTLES of alleged Tanduay Rum, 750 cc., pale, FOUR (4) BOTTLES of Ginebra San Miguel (alleged) 350 cc. and TWO (2) BOTTLES of Tanduay Rum, 375 cc. the total specific tax due on which is ₱160.01.

CONTRARY to Section 174 of the National Internal Revenue Code, as amended."[3]

As a result of further investigation of the sworn complaints filed by the informers with the BIR, on 14 March 1974, six (6) more criminal informations docketed as Criminal Cases Nos. 538-543 were filed in the Pampanga Court of First Instance against Vicente Lee Teng *alias* "Vicente Lee," *alias* "Lee Teng," and Francisco Valencia. These informations charged the two (2) with violations of Section 178, in relation to Sections 182 (A) (1) (3c) and 208 of the National Internal Revenue Code, as amended based on their failure to pay annual privilege taxes for each of the six (6) years from 1966 to 1972. The six (6) informations uniformly charged the accused as follows:

"The undersigned State Prosecutor accuses VICENTE LEE TENG *alias* VICENTE LEE *alias* LEE TENG, and FRANCISCO VALENCIA of the crime of Violation of Sec. 178 in relation with Sec. 182 (A) (1) 3c and Sec. 208 of the National Internal Revenue Code as amended, committed as follows:

That on or about the 19th of January 1972, [also during the years 1967, 1968, 1969, 1970 and 1971] in the premises of Valencia Distillery located at del Pilar Street, San Fernando, Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and mutually helping one another, did then and there wilfully, unlawfully and feloniously

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[3] *Rollo*, p. 18; Annex "B" of Petition.

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distill, rectify, repart, compound or manufacture alcoholic products subject to specific tax without having paid the privilege tax therefor.

CONTRARY TO LAW."[4]

On 22 April 1974, after arraignment, accused Valencia filed a Motion to Quash Criminal Cases Nos. 538-543 inclusive, upon the grounds that the six (6) informations had been filed without conducting the necessary preliminary investigation and that he was entitled to the benefits of the tax amnesty provided by P.D. No. 370. The State Prosecutor opposed the Motion to Quash arguing that the necessary preliminary investigation in the six (6) criminal cases had in fact been conducted and that in any case, failure to hold the preliminary investigation was not a ground for a motion to quash. The State Prosecutor further argued that the accused Valencia was not entitled to avail himself of the benefits of P.D. No. 370 since his tax cases were the subject of valid information submitted under R.A. No. 2338 as of 31 December 1973.

The respondent Judge granted the Motion to Quash and issued an Order, dated 15 July 1974, dismissing not only Criminal Cases Nos. 538-543 but also Criminal Cases Nos. 439 and 440 insofar as accused Francisco Valencia was concerned. A Motion for Reconsideration by the People was similarly denied by respondent Judge.

On 14 December 1975, the remaining accused Vicente Lee Teng and Priscilla Castillo de Cura, having been arraigned, filed Motions to Quash Criminal Cases Nos. 538-543 and 439 and 440, upon the common ground that the dismissal of said cases insofar as accused Francisco Valencia was concerned, inured to their benefit. The People opposed the Motions to Quash upon the ground that the accused were not entitled to the benefits of the tax amnesty under P.D. No. 370 and that, assuming the dismissal of said criminal cases was valid insofar as accused Valencia was concerned, the resulting immunity from criminal prosecution was personal to accused Valencia.

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[4] *Rollo*, pp. 20-31, Annexes "C", "D", "E", "F", "G", and "H" of Petition.

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The respondent Judge granted the Motions to Quash by Vicente Lee Teng and Priscilla Castillo de Cura, and denied the People's Motion for Reconsideration.

There are two (2) preliminary issues which need to be addressed before dealing with the questions of substantive law posed by this case. The first preliminary issue — whether or not the People of the Philippines are guilty of laches — was raised by private respondents in their Answer.[5] The respondent Judge denied the People's Motion for Reconsideration of his Order granting Francisco Valencia's Motion to Quash the eight (8) criminal cases, on 18 November 1974. Vicente Lee Teng and Priscilla Castillo de Cura filed their respective Motions to Quash on 14 December 1975; respondent Judge granted their Motions to Quash on 31 March 1976. The People filed a Motion for Reconsideration which was denied on 17 February 1977. Approximately seven (7) months later, on 12 September 1977, the present Petition for *Certiorari* and *Mandamus* was filed by the People. Initially, the Court resolved to dismiss this Petition in a Resolution dated 5 July 1978. The People, however, filed a Motion for Reconsideration of that Order and the Court, in its Resolution of 1 October 1979, set aside its Resolution of dismissal and considered this case as submitted for decision.

Ordinarily, perhaps, a Petition for *Certiorari* brought seven (7) months after rendition of the last order sought to be set aside might be regarded as barred by laches. In the case at bar, however, the Court believes that the equitable principle of laches should not be applied to bar this Petition for *Certiorari* and *Mandamus*. The effect of such application would *not* be the avoidance of an inequitable situation (the very *raison d'etre* of the laches principle), but rather the perpetuation of the state of facts brought about by the orders of the respondent Judge, a state of facts which, as will be seen later, is marked by a gross disregard of the legal rights of the People. The Court, in other words, is compelled to take into account both the importance of the substantive issues raised in this case and the

[5] *Rollo*, p. 51.

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nature of the result brought about by the respondent Judge's orders. Moreover, on a more practical level, the dismissal of the cases was resisted vigorously by the prosecution which filed both oppositions to the Motion to Dismiss and Motions for Reconsideration of the Orders granting the Motions to Quash. The private respondents, in other words, were under no illusion as to the position taken and urged by the People in this Case. We hold that, in the circumstances of this case, the Petition for *Certiorari* and *Mandamus* is not barred by laches.

The second preliminary issue was also raised by private respondents in their Answer, that is, whether or not the defense of double jeopardy became available to them with the dismissal by respondent Judge of the eight (8) criminal cases. This defense need not detain us for long for it is clearly premature in the present *certiorari* proceeding. In the *certiorari* petition at bar, the validity and legal effect of the orders of dismissal issued by the respondent Judge of the eight (8) criminal cases are precisely in issue. Should the Court uphold these dismissal orders as valid and effective and should a second prosecution be brought against the accused respondents, that second prosecution may be defended against with the plea of double jeopardy. If, upon the other hand, the Court finds the dismissal orders to be invalid and of no legal effect, the legal consequence would follow that the first jeopardy commenced by the eight (8) informations against the accused has not yet been terminated and accordingly a plea of second jeopardy must be rejected both here and in the continuation of the criminal proceedings against the respondents-accused.

We turn, therefore, to the first substantive issue that needs to be resolved: whether or not the accused Valencia, Lee Teng and de Cura are entitled to the benefits available under P.D. No. 370.

The scope of application of the tax amnesty declared by P.D. No. 370 is marked out in the following broad terms:

"1. A tax amnesty is hereby granted to any person, natural or juridical, who for any reason whatsoever failed to avail of Presidential

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Decree No. 23 and Presidential Decree No. 157; or, in so availing of the said Presidential Decrees failed to include all that were required to be declared therein if he now voluntarily discloses under this decree all his previously untaxed income and/or wealth such as earnings, receipts, gifts, bequests or any other acquisitions from any source whatsoever which are or were previously taxable under the National Internal Revenue Code, realized here or abroad by condoning all internal revenue taxes including the increments or penalties on account of non-payment as well as all civil, criminal or administrative liabilities, under the National Internal Revenue Code, the Revised Penal Code, the Anti-Graft and Corrupt Practices Act, the Revised Administrative Code, the Civil Service Laws and Regulations, laws and regulations on Immigration and Deportation, or any other applicable law or proclamation, as it is hereby condoned, provided a tax of fifteen (15%) per centum on such previously untaxed income and/or wealth is imposed subject to the following conditions:

a. Such previously untaxed income and/or wealth must have been earned or realized prior to 1973, except the following:

(1) Capital gains transactions where the taxpayer has availed of Presidential Decree No. 16, as amended, but has not complied with the conditions thereof;

(2) Tax liabilities with or without assessments, on withholding tax at source provided under Sections 53 and 54 of the National Internal Revenue Code, as amended;

(3) Tax liabilities with assessment notices issued as of December 31, 1973;

(4) Tax cases which are the subject of a valid information under Republic Act No. 2338 as of December 31, 1973; and

(5) Property transferred by reason of death or by donation during the year 1972.

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The first point that should be made in respect of P.D. No. 370 is that compliance with all the requirements of availment of tax amnesty under P.D. No. 370 would have the effect of condoning *not just income tax liabilities* but also *"all internal revenue taxes* including the increments or penalties on account of non-payment *as well as all civil, criminal or administrative*

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liabilities, under the Internal Revenue Code, the Revised Penal Code, the Anti-Graft and Corrupt Practices Act, the Revised Administrative Code, the Civil Service Laws and Regulations, laws and regulations on Immigration and Deportation, or any other applicable law or proclamation." Thus, entitlement to benefits of P.D. No. 370 would have the effect of condoning or extinguishing the liabilities consequent upon possession of false and counterfeit internal revenue labels; the manufacture of alcoholic products subject to specific tax without having paid the annual privilege tax therefor, and the possession, custody and control of locally manufactured articles subject to specific tax on which the taxes had not been paid in accordance with law, in other words, the criminal liabilities sought to be imposed upon the accused respondents by the several informations quoted above.

It should be underscored, secondly, that to be entitled to the extinction of liability provided by P.D. No. 370, the claimant must have *voluntarily* disclosed his previously untaxed income or wealth and paid the required fifteen percent (15%) tax on such previously untaxed income or wealth imposed by P.D. No. 370.[6] Where the disclosure of such previously untaxed income or wealth was not voluntary but rather the accompaniment or result of tax cases or tax assessments already pending as of 31 December 1973, the claimant is not entitled to the benefits of P.D. No. 370. Section 1 (a) (4) of P.D. No. 370, expressly excluded from the coverage of P.D. No. 370: "tax cases which are the subject of a valid information under R.A. No. 2338 as of December 31, 1973."[7] In the instant case, the violations of the National Internal Revenue Code with which the respondent

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[6] *Victor Nepomuceno, et al. v. Hon. Juan B. Montecillo, etc., et al.*, 118 SCRA 254 (1982).

[7] The less than precise drafting of Section 1 (a) (1) to (4) of P.D. No. 370 is, fortunately, clarified by the implementing Rules of P.D. No. 370. Section 4 of Revenue Regulations No. 2-74, dated 14 January 1974, entitled "*Presidential Decree No. 370 enlarging the coverage of the tax amnesty on previously untaxed income and/or wealth subject to certain conditions*" (70 Official Gazette, p. 1472 [25 February 1974]), provides as follows:

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accused were charged, had already been discovered by the BIR when P.D. No. 370 took effect on 9 January 1974, by reason of the sworn information or affidavit-complaints filed by informers with the BIR under Republic Act No. 2338 prior to 31 December 1973.

It is necessary to note that the "valid information under Republic Act No. 2338" referred to in Section 1 (a) (4) of P.D. No. 370, refers not to a criminal information filed in court by a fiscal or special prosecutor, but rather to the sworn information or complaint filed by an informer with the BIR under R.A. No. 2338 in the hope of earning an informer's reward. The sworn information or complaint filed with the BIR under R.A. No. 2338 may be considered "valid" where the following conditions are complied with:

(1) that the information was submitted by a person other than an internal revenue or customs official or employee or other public official, or a relative of such official or employee within the sixth degree of consanguinity;

(2) that the information must be definite and sworn to and must state the facts constituting the grounds for such information; and

(3) that such information was not yet in the possession of the BIR or the Bureau of Customs and does not refer to "a case

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"Section 4. *Cases not covered by amnesty.— The following cases are not covered by the amnesty subject of these regulations*:

(1) Capital gains transactions where the taxpayer has availed of Presidential Decree No. 16, as amended, but has not complied with the conditions thereof;

(2) Tax liabilities with or without assessments, on withholding tax at source provided under Sections 53 and 54 of the National Internal Revenue Code, as amended;

(3) Tax liabilities with assessment notices issued as of December 31, 1973;

(4) *Tax cases which are the subject of a valid information under Republic Act No. 2338 as of December 31, 1973*; and

(5) Property transferred by reason of death or by donation during the year 1972." (Italics supplied).

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> already pending or previously investigated or examined by the Commissioner of Internal Revenue or the Commissioner of Customs, or any of their deputies, agents or examiners, as the case may be, or the Secretary of Finance or any of his deputies or agents."[8]

In the instant case, not one but two (2) "informations" or affidavit-complaints concerning private respondents' operations said to be in violation of certain provisions of the National Internal Revenue Code, had been filed with the BIR as of 31 December 1973. In fact, those two (2) affidavit-complaints had matured into two (2) criminal informations in court — Criminal Cases Nos. 439 and 440 — against the respondent accused, by 31 December 1973. The six (6) informations docketed as Criminal Cases Nos. 538-543, while filed in court only on 14 March 1974, had been based upon the sworn information previously submitted as of 31 December 1973 to the BIR.

It follows that, even assuming respondent accused Francisco Valencia was otherwise entitled to the benefits of P.D. No. 370, none of the informations filed against him could have been condoned under the express provisions of the tax amnesty statute.

Accused Valencia argued that the People were estopped from questioning his entitlement to the benefits of the tax amnesty, considering that agents of the BIR had already accepted his application for tax amnesty and his payment of the required fifteen percent (15%) special tax.

This contention does not persuade. At the time he paid the special fifteen percent (15%) tax under P.D. No. 370, accused Francisco Valencia had in fact already been subjected by the BIR to extensive investigation such that the criminal charges against him could not be condoned under the provisions of the amnesty statute. Further, acceptance by the BIR agents of accused Valencia's application for tax amnesty and payment of the fifteen percent (15%) special tax was no more than a ministerial duty on the part of such agents. Accused Valencia

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[8] Section 1, R.A. No. 2338.

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does not pretend that the BIR had actually ruled that he was entitled to the benefits of the tax amnesty statute. In any case, even assuming, though only *arguendo*, that the BIR had so ruled, there is the long familiar rule that "erroneous application and enforcement of the law by public officers do not block, subsequent correct application of the statute and that the government is never estopped by mistake or error on the part of its agent."[9] which finds application in the case at bar. Still further, a tax amnesty, much like to a tax exemption, is never favored nor presumed in law and if granted by statute, the terms of the amnesty like that of a tax exemption must be construed strictly against the taxpayer and liberally in favor of the taxing authority.[10] Valencia's payment of the special fifteen percent (15%) tax must be regarded as legally ineffective.

We turn to the second substantive issue which is whether or not the dismissal by the respondent court of the criminal informations against accused Valencia, inured to the benefit of Valencia's co-accused. Because of the conclusion reached above, that is, that accused Francisco Valencia was *not* legally entitled to the benefits of P.D. No. 370 and that the dismissal of the criminal information as against him was serious error on the part of the respondent Judge, it may not be strictly necessary to deal with this second issue. There was in fact *nothing* that could have inured to the benefit of Valencia's co-accused. It seems appropriate to stress, nonetheless, that co-accused and co-respondents Lee Teng and Priscilla Castillo de Cura, in order to enjoy the benefits of the tax amnesty statute here involved.

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[9] *E. Rodriguez, Inc. v. Collector of Internal Revenue*, 28 SCRA 1119 (1969); *Tan Guan v. Court of Tax Appeals*, 19 SCRA 903 (1967); *Visayan Cebu Terminal Co., Inc. v. Commissioner of Internal Revenue*, 13 SCRA 357 (1965); *Floro v. Philippine National Bank*, 5 SCRA 906 (1962); *The Collector of Internal Revenue v. Ellen Wood McGrath, et al.*, 111 Phil. 222 (1961); *Gutierrez, et al. v. Court of Tax Appeals*, 101 Phil. 713 (1957); and *Atlas Consolidated Mining and Dev. Corp. v. Commissioner of Internal Revenue*, 102 SCRA 246 (1981).

[10] *E. Rodriguez, Inc. v. The Collector of Internal Revenue*, 28 SCRA 1119 (1969); *Commissioner of Internal Revenue v. A.D. Guerrero*, 21 SCRA 180 (1967).

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must show that they have individually complied with and come within the terms of that statute.[11] The fact that conspiracy had been alleged in each of the criminal informations here involved certainly could not result in an automatic exemption of Lee Teng and Priscilla Castillo de Cura from compliance with the requirements of the tax amnesty statute. In the second place, assuming, for present purposes only, that accused Francisco Valencia was (and he was *not*) legally entitled to the benefits of P.D. No. 370 the defense of amnesty which (hypothetically) became available to Valencia was personal to him. Once more, the allegation of conspiracy made in the several criminal informations here involved, did not have the effect of making a defense available to one co-conspirator automatically available to the other co-conspirators. The defense of the tax amnesty under P.D. No. 370 is, like insanity, a personal defense; for that defense relates to the circumstances of a particular accused and not to the character of the acts charged in the criminal information. The statute makes the defense of extinguishment of liability available only under very specific circumstances and on the basis of reciprocity, as it were: the claimant must disclose his previously untaxed income or wealth (which then may be effectively subjected to future taxation) and surrender to the Government fifteen percent (15%) of such income or wealth; then, and only then, would the claimant's liability be extinguished. Lee Teng and Priscilla Castillo de Cura never pretended that they had complied with the requirements of P.D. No. 370, including that of reciprocity.

We conclude that the respondent Judge's error in respect of the first and second substantive issues considered above is so gross and palpable as to amount to arbitrary and capricious

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[11] See, in this connection, *Barrioquinto, et al. v. Fernandez, et al.*, 82 Phil. 642 (1949); Cf. *People v. Guillermo*, 86 Phil. 395 (1960); and *People v. Pasilan*, 122 Phil. 46 (1965); 14 SCRA 694.

Since the Government itself is bound by the terms and restrictions embodied in an amnesty statute (*Macaga-an v. People*, 152 SCRA 430 [1987]), the claimant of amnesty must be similarly held bound by those terms.

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action and to grave abuse of discretion. Those orders effectively prevented the People from prosecuting and presenting evidence against the accused-respondents; they denied the People its day in court. It is well-settled that

"[a] purely capricious dismissal of an information as herein involved, moreover, deprives the State of fair opportunity to prosecute and convict. It denies the prosecution its day in court. Accordingly, it is a dismissal without due process and, therefore, null and void. A dismissal invalid for lack of a fundamental requisite, such as due process, will not constitute a proper basis for the claim of double jeopardy."[12]

WHEREFORE, the Orders of respondent Judge dated 15 July 1974, 18 November 1974, 31 March 1976 and 17 February 1977 are hereby *SET ASIDE*. Respondent Judge no longer being with the Judiciary, the branch of the Regional Trial Court of Pampanga seized of Criminal Cases Nos. 439 and 440, and 538-543 inclusive, against the surviving respondent accused,[13] is hereby *ORDERED* to proceed with the trial of these criminal cases. Costs against private respondents.

SO ORDERED.

Fernan, C.J. (Chairman), Gutierrez, Jr., Bidin, and *Cortes, JJ.*, concur.

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[12] *People v. Balisacan*, 17 SCRA 1119 (1966); *Serino v. Zosa*, 40 SCRA 433 (1971); and *People v. Surtida*, 43 SCRA 29 (1972).

[13] The case against Lee Teng became moot and academic by reason of his death on 14 January 1978.