



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

EDWIN AGUILAR y DURON,
Petitioner,

G.R. No. 257410

Present:

CAGUIOA, J.,
Chairperson,

- versus -

INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:
August 9, 2023

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DECISION

GAERLAN, J.:

Before the Court is a Petition for Review on *Certiorari*¹ dated August 10, 2021 filed by Edwin Aguilar y Duron (Aguilar), assailing the Decision² dated December 23, 2020 and the Resolution³ dated May 27, 2021 of the Court of Appeals (CA) in CA-G.R. SP No. 12611, which nullified and set aside the Decision⁴ dated December 11, 2018 issued by the Regional Trial Court (RTC) of Roxas City, Capiz, Branch 16.

Factual Antecedents

On July 23, 2018, two Informations were filed against Aguilar for violation of Sections 5 and 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002” before the RTC. The criminal cases were docketed as Criminal Case Nos. C-238-18 and C-239-18.⁵

¹ Rollo, pp. 10-40.

² Id. at 129-139. Penned by Associate Justice Marilyn B. Lagura-Yap, with Associate Justices Gabriel T. Ingles and Pamela Ann Abeilla Maxino, concurring.

³ Id. at 154-160.

⁴ Id. at 65-69. Penned by Presiding Judge Kristine B. Tiangco-Vinulado.

⁵ Id. at 78-81.

For Criminal Case No. C-238-18, the Information reads:

The undersigned Assistant State Prosecutor accuses **Edwin Duron Aguilar @ Gagay** of Barangay Dumolog, Roxas City, Capiz, Philippines, and presently detained at the Roxas City Police Station, for the offense of Violation of Section 5, Article II of Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002”, committed as follows:

That on or about the 6th day of July 2018, in the City of Roxas, Philippines, and within the jurisdiction of this Honorable Court, said accused, with deliberate intent and without justifiable motive did then and there willfully, unlawfully and feloniously, sell and deliver to PO2 Mark Durana, a police “poseur buyer”, one (1) piece of heat-sealed transparent plastic sachet containing white crystalline substance of suspected “shabu”, with marking “**BB-EDA**” containing 0.1510 grams of Methamphetamine Hydrochloride, a dangerous drug, in consideration of the sum of One Thousand Pesos (P 1,000.00) Philippine Currency, without authority to sell and distribute the same.

CONTRARY TO LAW.⁶ (Emphases in the original)

Meanwhile, for Criminal Case No. C-239-18, the Information reads:

The undersigned Assistant State Prosecutor accuses **Edwin Duron Aguilar** of Barangay Dumolog, Roxas City, Capiz, Philippines, and presently detained at the Roxas City Police Station, for the offense of Violation of Section 11, Article II of Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002”, committed as follows:

That on or about the 6th day of July 2018, in the City of Roxas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously, have in his possession, control and custody, seven (7) pieces heat-sealed transparent plastic sachets, each containing Methamphetamine Hydrochloride or shabu, a dangerous drug, marked as “P-EDA-2 (with a weight of 0.0235 grams); “P-EDA-3 (with a weight of 0.0151 grams); “P-EDA-4 (with a weight of 0.0228 grams); “P-EDA-5 (with a weight of 0.0428 grams); “P-EDA-6 (with a weight of 0.3381 grams); “P-EDA-7 (with a weight of 0.1477 grams) and “P-EDA-8 (with a weight of 0.1776 grams), with a total weight of 0.7676 grams, without being authorized by law to possess the same.

CONTRARY TO LAW.⁷ (Emphasis in the original)

Upon arraignment on September 9, 2018, Aguilar pleaded “not guilty.” Thereafter, during pre-trial, Aguilar manifested that he intends to file a motion for plea bargaining.⁸

⁶ Id. at 78.

⁷ Id. at 80.

⁸ Id. at 18.

Accordingly, on August 9, 2018, Aguilar filed his Proposal for Plea Bargaining,⁹ where he stated that:

1. Accused is charged with violation of Sections 5 (C-239-18) and 11 (C-240-18), Article II of R.A. 9165. During arraignment, he pleaded not guilty;
2. After some careful reflection, however, accused has manifested his intention to avail of plea bargaining, in accordance with A.M. No. 18-03-16-SC (Adoption of the Plea Bargaining Framework in Drugs Cases);
3. In consonance with A.M. No. 18-03-16-SC, in C-239-18 and C-240-18, accused is willing to plead guilty to violation of Section 12 of R.A. 9165, which carries the penalty of imprisonment of 6 months and 1 day to 4 years and a fine ranging from P10,000.00 to P50,000.00. This Honorable Court, in its discretion, may impose a minimum period and maximum period to be taken from the range of the penalty provided by law. Finally, it may also impose a straight penalty within the range of 6 months and 1 day to 1 year.¹⁰

On August 16, 2018, the prosecution filed its Comment/Objection (To Proposal for Plea Bargaining),¹¹ where it registered its objection to Aguilar's Proposal for Plea Bargaining, because the same is not consistent with the guidelines issued by the Department of Justice (DOJ).¹²

Ruling of the Regional Trial Court

On December 11, 2018, the RTC rendered its Decision,¹³ which granted accused Aguilar's Proposal for Plea Bargaining, to wit:

WHEREFORE, judgment is hereby rendered as follows:

1. In Criminal Case No. C-238-18, accused Edwin Aguilar y Duron is found **GUILTY** beyond reasonable doubt of the crime of violation of Section 12, Article II of R.A. 9165 and is hereby sentenced to imprisonment consisting of six (6) months and one (1) day to three (3) years and to pay a fine of ₱10,000.00.

2. In Criminal Case No. C-239-18, accused Edwin Aguilar y Duron is found **GUILTY** beyond reasonable doubt of the crime of violation of Section 12, Article II of R.A. No. 9165 and is hereby sentenced to imprisonment consisting of six (6) months and one (1) day to one (1) year and to pay a fine of ₱10,000.00.

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⁹ Id. at 82-83.

¹⁰ Id. at 82.

¹¹ Id. at 93-95.

¹² Id. at 93-94.

¹³ Id. at 65-69.

SO ORDERED.¹⁴ (Emphases in the original)

In granting accused Aguilar's Proposal for Plea Bargaining, over and above the objection of the prosecution, the RTC reasoned that:

Under Administrative Matter No. 18-03-16-SC, an accused who is charged with violation of Section 5 and 11, Article II of R.A. 9165 involving less than one (1) and five (5) grams of shabu or marijuana, respectively, is allowed to plea-bargain both to violation of Section 12, Article II of R.A. 9165 with an imposable penalty of six (6) months and one (1) day to four (4) years imprisonment and a fine ranging from ₱10,000.00. to ₱50,000.00. A straight penalty within the range of six (6) months and one (1) day to one (1) year may likewise be imposed. x x x¹⁵

Considering that the total weight of the *shabu* in this case qualifies Aguilar to avail of the benefits under Administrative Matter No. 18-03-16-SC, otherwise known as the "Court's Plea Bargaining Framework in Drugs Cases," and that it prevails over the guidelines of the DOJ as it has been adopted by the Court in *Estipona v. Lobrigo*,¹⁶ the RTC allowed Aguilar's Proposal for Plea Bargaining.

Notably, the RTC also underscored that the drug dependency evaluation conducted upon Aguilar showed that he is not a drug dependent, and therefore, does not need to undergo drug abuse treatment and rehabilitation.¹⁷

Aggrieved, the prosecution filed its Motion for Reconsideration,¹⁸ but the same was denied by the RTC in its Order¹⁹ dated January 25, 2019.

Ruling of the Court of Appeals

On March 19, 2019, the People of the Philippines (People), through the Office of the Solicitor General, filed its Petition for *Certiorari*,²⁰ where it ascribed grave abuse of discretion on the part of the RTC, based on the following grounds:

PUBLIC RESPONDENT PRESIDING JUDGE COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN GRANTING PRIVATE RESPONDENT'S PLEA

¹⁴ Id. at 69.

¹⁵ Id. at 66.

¹⁶ 816 Phil. 789 (2017).

¹⁷ *Rollo*, p. 67.

¹⁸ Id. at 71-78.

¹⁹ Id. at 70.

²⁰ Id. at 45-64.

BARGAINING PROPOSAL OVER THE PROSECUTION'S OBJECTION THERETO.

A.

THE PROSECUTION'S CONSENT TO AN ACCUSED'S PLEA BARGAINING PROPOSAL IS A CONDITION PRECEDENT BEFORE THE TRIAL COURT CAN GRANT ANY PLEA BARGAINING AGREEMENT.

B.

ESTIPONA AND A.M. NO. 18-03-16-SC DID NOT GIVE TRIAL COURTS BLANKET AUTHORITY TO GRANT AN ACCUSED'S PLEA BARGAINING PROPOSAL DESPITE THE PROSECUTION'S OBJECTION THERETO.

C.

DOJ CIRCULAR NO. 027 IS CONSISTENT WITH THE SPIRIT OF *ESTIPONA* AND A.M. NO. 18-03-16-SC.²¹

On December 23, 2020, the CA rendered its Decision,²² which granted the People's Petition for *Certiorari*, to wit:

WHEREFORE, the Petition for *Certiorari* is **GRANTED**. The Decision dated December 11, 2018 and the Order dated January 25, 2019 are **NULLIFIED** and **SET ASIDE** for having been rendered and issued with grave abuse of discretion amounting to lack of or in excess of jurisdiction. The public respondent, Presiding Judge of the RTC Branch 16, Roxas City, is **ORDERED** to continue with the proceedings in Criminal Case No. C-238-18 against accused Edwin Aguilar y Duron and to decide the case with dispatch.

SO ORDERED.²³ (Emphases in the original)

In ruling that the RTC committed grave abuse of discretion, the CA cited the case of *Sayre v. Xenos*²⁴ (*Sayre*), where it was unequivocally held, among others, that "x x x plea bargaining requires the consent of the accused, offended party, and the prosecutor. It is also essential that the lesser offense is necessarily included in the offense charged."²⁵ Considering that in this case, the prosecution registered its objection, the CA noted that the RTC should have disapproved the plea bargaining and continued with the trial.²⁶

On February 15, 2021, Aguilar filed his Motion for Reconsideration,²⁷ but the same was denied in the CA's Resolution²⁸ dated May 27, 2021.

²¹ Id. at 51-52.

²² Id. at 127-139.

²³ Id. at 139.

²⁴ 871 Phil. 86 (2020).

²⁵ Id.; see also *rollo*, p. 136.

²⁶ *Rollo*, pp. 137-138.

²⁷ Id. at 140-151.

²⁸ Id. at 154-160.

Significantly, in the said Resolution, the CA cited the case of *People v. Reafor*,²⁹ which was promulgated by the Court after *Sayre*, and which held that, in the absence of a mutual agreement to plea bargain, the proper course of action would be the continuation of the proceedings.³⁰

The Instant Petition

On August 10, 2021, Aguilar filed the instant Petition for Review on *Certiorari*,³¹ where he raised the following issue for resolution:

THE COURT OF APPEALS GRAVELY ERRED IN GRANTING THE PEOPLE'S PETITION AND THEREBY NULLIFYING AND SETTING ASIDE THE DECISION DATED 11 DECEMBER 2018, AS WELL AS THE ORDER DATED 25 JANUARY 2019 OF THE TRIAL COURT.³² (Emphasis in the original)

Meanwhile, on October 27, 2022, the People filed its Comment,³³ reiterating its contention that the consent of the prosecution to an accused's plea bargaining proposal is a condition precedent before the RTC can grant the same.³⁴

Ruling of the Court

The petition is meritorious.

The crux of the controversy in this case has been squarely addressed by the Court in *People v. Montierro*³⁵ (*Montierro*). In *Montierro*, the Court first emphasized that the issuance of DOJ Circular No. 18,³⁶ reconciled and removed any inconsistency between the Court's Plea Bargaining Framework in Drugs Cases and the guidelines of the DOJ. As provided under DOJ Circular No. 18, the acceptable plea bargain for violation of Section 5 of R.A. No. 9165 is now Section 12 of the same law, which is consistent with the provisions of the Court's Plea Bargaining Framework in Drugs Cases.

Moreover, the Court, in *Montierro*, prescribed guidelines that must be observed in plea bargaining in cases involving R.A. No. 9165, thus:

²⁹ G.R. No. 247575, November 16, 2020.

³⁰ *Id.*; see also *rollo*, p. 159.

³¹ *Rollo*, pp. 15-44.

³² *Id.* at 22.

³³ *Id.* at 194-209.

³⁴ *Id.* at 198.

³⁵ G.R. Nos. 254564, 254974, A.M. No. 21-07-16-SC & A.M. No. 18-03-16-SC, July 26, 2022.

³⁶ Revised Amended Guidelines on Plea Bargaining for Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002," May 10, 2022.

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To summarize the foregoing discussion, the following guidelines shall be observed in plea bargaining in drugs cases:

1. Offers for plea bargaining must be initiated in writing by way of a formal written motion filed by the accused in court.

2. The lesser offense which the accused proposes to plead guilty to must necessarily be included in the offense charged.

3. Upon receipt of the proposal for plea bargaining that is compliant with the provisions of the Plea Bargaining Framework in Drugs Cases, the judge shall order that a drug dependency assessment be administered. If the accused admits drug use, or denies it but is found positive after a drug dependency test, then he/she shall undergo treatment and rehabilitation for a period of not less than six (6) months. Said period shall be credited to his/her penalty and the period of his/her after-care and follow-up program if the penalty is still unserved. If the accused is found negative for drug use/dependency, then he/she will be released on time served, otherwise, he/she will serve his/her sentence in jail minus the counselling period at rehabilitation center.

4. As a rule, plea bargaining requires the mutual agreement of the parties and remains subject to the approval of the court. Regardless of the mutual agreement of the parties, the acceptance of the offer to plead guilty to a lesser offense is not demandable by the accused as a matter of right but is a matter addressed entirely to the sound discretion of the court.

a. Though the prosecution and the defense may agree to enter into a plea bargain, it does not follow that the courts will automatically approve the proposal. Judges must still exercise sound discretion in granting or denying plea bargaining, taking into account the relevant circumstances, including the character of the accused.

5. The court shall not allow plea bargaining if the objection to the plea bargaining is valid and supported by evidence to the effect that:

a. the offender is a recidivist, habitual offender, known in the community as a drug addict and a troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times; or

b. when the evidence of guilt is strong.

6. Plea bargaining in drugs cases shall not be allowed when the proposed plea bargain does not conform to the Court-issued Plea Bargaining Framework in Drugs Cases.

7. Judges may overrule the objection of the prosecution if it is based solely on the ground that the accused's plea bargaining proposal is inconsistent with the acceptable plea bargain under any internal rules or guidelines of the DOJ, though in accordance with the plea bargaining framework issued by the Court, if any.

8. If the prosecution objects to the accused's plea bargaining proposal due to the circumstances enumerated in item no. 5, the trial court is mandated to hear the prosecution's objection and rule on the merits thereof. If the trial

court finds the objection meritorious, it shall order the continuation of the criminal proceedings.

9. If an accused applies for probation in offenses punishable under RA No. 9165, other than for illegal drug trafficking or pushing under Section 5 in relation to Section 24 thereof, then the law on probation shall apply.³⁷ (Emphases supplied)

Applying the foregoing guidelines, it is clear that the RTC correctly overruled the objection interposed by the prosecution because, as enunciated in *Montierro*, the present guidelines of the DOJ are now consistent with the Court's Plea Bargaining Framework in Drugs Cases, and an objection based on any supposed inconsistency thereto may be overruled by the trial court.

Nevertheless, the criminal cases against Aguilar must be remanded to the RTC. Following the parameters laid out in *Montierro*, the trial court may disallow plea bargaining if it is shown that the accused is a recidivist, a habitual offender, a known drug addict within the community, had relapsed after rehabilitation, or had been charged many times, or if the evidence of guilt is strong. In this case, the records are bereft of any indication that the RTC made an evaluation to determine if Aguilar's case falls within these circumstances that would qualify or disqualify him from plea bargaining.

Thus, Criminal Case No. C-238-18 and Criminal Case No. C-239-18 must be remanded to the RTC to determine if Aguilar may be allowed to plea bargain. Specifically, the RTC must determine if: (a) Aguilar is a recidivist, a habitual offender, a known drug addict within the community, had relapsed after rehabilitation, or had been charged many times; or (b) the evidence of guilt is strong.

WHEREFORE, the Decision dated December 23, 2020 and the Resolution dated May 27, 2021 of the Court of Appeals in CA-G.R. SP No. 12611 are **SET ASIDE**. Criminal Case No. C-238-18 and Criminal Case No. C-239-18 against petitioner Edwin Aguilar y Duron are **REMANDED** to the Regional Trial Court of Roxas City, Capiz, Branch 16 to determine if: (a) petitioner Edwin Aguilar y Duron is a recidivist, a habitual offender, a known drug addict within the community, had relapsed after rehabilitation, or had been charged many times; or (b) the evidence of guilt is strong.

SO ORDERED.

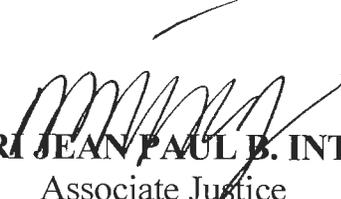

SAMUEL H. GAERLAN
Associate Justice

³⁷ *People v. Montierro*, supra note 35.

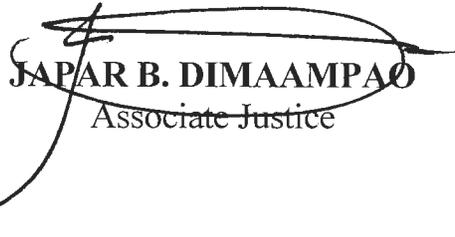
WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



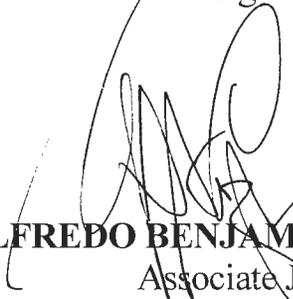
JAPAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

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