



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

TERESITO
 QUIQUI,*

RADONIS

G.R. No. 266439

Present:

Petitioner,

CAGUIOA, J., Chairperson,
 INTING,
 GAERLAN,
 DIMAAMPAO, and
 SINGH, JJ.

- versus -

PEOPLE
 OF
 PHILIPPINES,

OF THE

Promulgated:

Respondent.

August 30, 2023

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DECISION

INTING, J.:

Before the Court is a Petition for Review¹ on *certiorari* under Rule 45 of the Rules of Court assailing the Decision² dated September 7, 2020, and Resolution³ dated July 21, 2021, of the Court of Appeals (CA) in CA-G.R. SP No. 12404. The CA reversed the Orders dated September 7, 2018,⁴ and October 31, 2018,⁵ of Branch 38, Regional Trial Court (RTC), Dumaguete City that approved the plea-bargaining proposal of Teresito Radonis Quiqui (petitioner) to a lower offense: from violation of Section

* Also referred to as “Teresito Radones Quiqui” and “Teresito Radonis Qui-Qui” in some parts of the *rollo*.

¹ *Rollo*, pp. 11-18.

² *Id.* at 86-93. Penned by Associate Justice Emily R. Aliño-Geluz and concurred in by Executive Justice Gabriel T. Ingles and Associate Justice Lorenza Redulla Bordios.

³ *Id.* at 96-98. Penned by Associate Justice Lorenza Redulla Bordios and concurred in by Executive Justice Gabriel T. Ingles and Associate Justice Dorothy P. Montejo-Gonzaga.

⁴ *Id.* at 38-39. Issued by Presiding Judge Cenon Voltaire B. Repollo.

⁵ *Id.* at 40-41.

5,⁶ Article II of Republic Act No. (RA) 9165,⁷ otherwise known as the “Comprehensive Dangerous Drugs Act of 2002,” to violation of Section 12,⁸ Article II of the same law. The CA likewise declared as void the RTC Judgment⁹ dated September 18, 2018, that found petitioner guilty of violation of Section 12, Article II of RA 9165.

The Antecedents

The case stemmed from an Information¹⁰ that charged petitioner with Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165, the dispositive portion of which reads:

That on or about the 12th day of November 2016, in the City of Dumaguete, Philippines, and within the jurisdiction of this Honorable Court, the said accused, not being then authorized by law, did then and there willfully, unlawfully and criminally sell and/or deliver to poseur buyer one (1) heat-sealed transparent plastic sachet containing 0.10 gram of Methamphetamine Hydrochloride. Otherwise known as “SHABU”, a dangerous drug.

Contrary to Sec. 5, Art. II of R.A. No. 9165.¹¹

Upon arraignment, petitioner entered a plea of “Not Guilty” to the charge.¹²

⁶ Section 5 of Republic Act No. (RA) 9165 provides:

SECTION 5. *Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.* — The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall sell, trade, administer, dispense, deliver, give away to another, distribute, dispatch in transit or transport any dangerous drug, including any and all species of opium poppy regardless of the quantity and purity involved, or shall act as a broker in any of such transactions.

⁷ Approved on June 7, 2002.

⁸ Section 12 of RA 9165 provides:

SECTION 12. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs.* — The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body: Provided, That in the case of medical practitioners and various professionals who are required to carry such equipment, instrument, apparatus and other paraphernalia in the practice of their profession, the Board shall prescribe the necessary implementing guidelines thereof.

⁹ *Rollo*, pp. 56-58. Penned by Presiding Judge Cenon Voltaire B. Repollo.

¹⁰ *Id.* at 48.

¹¹ *Id.*

¹² *Id.* at 87.

During trial, petitioner filed an Urgent Motion to Enter into Plea Bargaining.¹³ Petitioner prayed that he be allowed to plea to the lesser offense of Illegal Possession of Drug Paraphernalia under Section 12, Article II of RA 9165, in lieu of the original charge of violation of Section 5 thereof, pursuant to the guidelines provided in A.M. No. 18-03-16-SC.¹⁴

The prosecution opposed petitioner's motion.¹⁵ It averred that under Department of Justice (DOJ) Department Circular No. 027,¹⁶ the acceptable plea bargain in cases involving violation of Section 5, Article II of RA 9165, and when the quantity of *shabu* is less than five grams, is violation of Section 11, Article II of the same law.¹⁷

The Ruling of the RTC

The RTC, in an Order¹⁸ dated September 7, 2018, approved the plea bargain of petitioner. It found the plea bargain to be in accord with the rationale behind the law and the wisdom of A.M. No. 18-03-16-SC¹⁹ and considered the fact that the total quantity of the drugs involved is only 0.10 gram.

Upon re-arraignment, petitioner pleaded "Guilty" to the lesser offense of violation of Section 12, Article II of RA 9165.²⁰

The public prosecutor filed a motion for reconsideration, but the RTC denied it in its Order²¹ dated October 31, 2018.

Subsequently, on September 18, 2018, the RTC rendered a Judgment²² finding petitioner guilty of violation of Section 12 of RA 9165. The dispositive portion of the Judgment provides:

¹³ Id. at 50-51.

¹⁴ Entitled "Adoption of the Plea Bargaining Framework in Drugs Cases," approved on April 10, 2018.

¹⁵ *Rollo*, pp. 53-55.

¹⁶ Re: Amended Guidelines on Plea Bargaining for Republic Act No. 9165 Otherwise Known as the "Comprehensive Dangerous Drugs Act of 2002," dated June 26, 2018.

¹⁷ *Rollo*, p. 53.

¹⁸ Id. at 38-39.

¹⁹ Entitled, "Adoption of the Plea Bargaining Framework in Drugs Cases," approved on April 10, 2018.

²⁰ Id. at 22.

²¹ Id. at 40-41.

²² Id. at 56-58.

WHEREFORE, accused Teresito Radonis Quiqui a.k.a. "Terry" having pleaded GUILTY to the lesser offense of Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs under Section 12, Article II of R.A. No. 9165, the Court finds the accused guilty beyond reasonable doubt of the crime of Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs defined and penalized under Section 12, Article II of R.A. 9165.

The Court hereby sentences the accused to suffer the penalty of imprisonment of two (2) years as minimum to four (4) years as maximum and to pay a fine of fifty thousand pesos (Php50,000.00). The period of detention of the accused shall be counted in the service of his sentence. The items listed under the Information for Criminal Case No. 2016-24021 are hereby ordered confiscated and forfeited in favor of the government and shall be disposed of in accordance with law and regulations.

SO ORDERED.²³ (Emphasis and underlining omitted)

Unsatisfied, the People, represented by the Office of the Solicitor General (OSG), filed a Petition for *Certiorari*²⁴ under Rule 65 of the Rules of Court before the CA. The People asserted that the RTC gravely abused its discretion in approving petitioner's motion to plea bargain over the prosecutor's opposition.

The Ruling of the CA

In the assailed Decision²⁵ dated September 7, 2020, the CA reversed and declared as void the Orders dated September 7, 2018,²⁶ and October 31, 2018,²⁷ and Judgment²⁸ dated September 18, 2018, of the RTC. The CA disposed of the case as follows:

WHEREFORE, the instant petition for certiorari is GRANTED. The Orders dated September 7, 2018 and October 31, 2018 rendered by herein public respondent Judge of the Regional Trial Court (Branch 38) of Dumaguete City in Criminal Case No. 2016-24021 are declared VOID. There being no valid plea bargaining agreement, the Judgment dated September 18, 2018 rendered in the same case is likewise

²³ Id. at 57.

²⁴ Id. at 19-32.

²⁵ Id. at 86-93.

²⁶ Id. at 38-39.

²⁷ Id. at 40-41.

²⁸ Id. at 56-58.

declared VOID and is hereby SET ASIDE. The Regional Trial Court (Branch 38) of Dumaguete City is ORDERED to proceed with Criminal Case No. 2016-24021 filed against accused Teresito Radones Quiqui a.k.a “Terry.”

SO ORDERED.²⁹ (Emphasis omitted)

Petitioner filed a motion for reconsideration, but the CA denied it in the assailed Resolution³⁰ dated July 21, 2021.

Hence, the present petition.

Issue

Whether the CA seriously erred when it declared that the petitioner’s plea-bargaining proposal is void.

The Court’s Ruling

After a perusal of the records of the case, the Court resolves to grant the petition.

At the outset, the Court takes judicial notice of DOJ Department Circular No. 018³¹ (DOJ Circular No. 018) dated May 10, 2022, which effectively revoked DOJ Circular No. 027. Under the recent DOJ Circular No. 018, where the subject of the illegal sale is 0.01 gram to .99 gram of *shabu*, the accused may plea to the lesser offense of Illegal Possession of Drug Paraphernalia under Section 12, Article II of RA 9165. This is the same with the plea-bargaining framework in A.M. No. 18-03-16-SC.

In the case, the petitioner prayed that he be allowed to plea bargain to the lower offense of Illegal Possession of Drug Paraphernalia under Section 12, Article II of RA 9165 in lieu of the original charge of Illegal Sale of Dangerous Drugs under Section 5, Article II of RA 9165 considering that the quantity of the subject *shabu* is only 0.10 gram. It is clear that petitioner’s plea bargain is in accordance with A.M. No. 18-03-16-SC and DOJ Circular No. 18.

²⁹ Id. at 93.

³⁰ Id. at 96-98.

³¹ Revised Amended Guidelines on Plea Bargaining for Republic Act No. 9165 Otherwise Known as the “Comprehensive Dangerous Drugs Act of 2002.”

While the Court takes judicial notice of the efforts of the DOJ to amend DOJ Circular No. 027 to conform with the Court's framework for plea bargaining in drug cases as set forth in A.M. No. 18-03-16-SC, it bears emphasizing that plea bargaining in criminal cases is forthright a rule of procedure that falls within the Court's exclusive rule-making power as provided in Section 5(5),³² Article VIII of the 1987 Constitution.³³

Also, while the issuance of DOJ Circular No. 18 has admittedly rendered moot the issues in present, the Court is not precluded from examining and ruling the merits thereof especially if: (1) there is a need to stress the exclusive rule-making power of the Court; (2) the decision will guide the bench and the bar in resolving issues concerning plea-bargaining agreements in drug cases; and (3) the issue is capable of repetition yet evading judicial review.³⁴

The Court is mindful that in *Sayre v. Xenos*³⁵ (*Sayre*), the constitutionality of DOJ Department Circular No. 27 was upheld and found to be in consonance with the plea-bargaining framework in A.M. No. 18-03-16-SC. However, it was clarified that DOJ Department Circular No. 27 merely serves as an internal guideline for prosecutors to observe before they may give their consent to the proposed plea bargains. The Court declared that the circular does not in any way repeal, alter, or modify the plea-bargaining framework in A.M. No. 18-03-16-SC; and if it did, it would have violated the Court's exclusive power to promulgate the rules of procedure, including the procedure on plea bargaining. The Court likewise reiterated the discretionary authority of the trial courts to grant or deny the proposals for plea bargain.³⁶

³² Section 5(5), Article VIII of the CONSTITUTION provides:
SECTION 5. The Supreme Court shall have the following powers:

x x x x

(5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.

³³ See *Estipona v. Judge Lobrigo*, 816 Phil. 789, 803 & 808 (2017).

³⁴ *People v. Esma*, G.R. No. 250979, January 11, 2023.

³⁵ G.R. Nos. 244413 & 244415-16, February 18, 2020.

³⁶ *Id.*

Likewise, in *People v. Reafor*³⁷ (*Reafor*), the Court declared as void the RTC order which granted the motion to plea bargain of Edwin C. Reafor (respondent Reafor) from the original charge of Section 5, Article II of RA 9165 to Section 12, Article II of the same law because the latter's plea of guilty to a lesser offense was made without the prosecution's consent.³⁸ In contrast to petitioner's case, the RTC in *Reafor* immediately granted respondent Reafor's Motion to Plea Bargain despite the opposition of the prosecution without considering the ground raised or evidence presented by the prosecution. In no time, the RTC rendered judgment convicting respondent Reafor based on his motion to plead guilty to a lesser offense.³⁹

Here, the RTC considered the submissions of both parties before issuing the Order approving the plea bargain in accordance with the rationale behind the law and wisdom of A.M. No. 18-03-16-SC.⁴⁰

Notably, the Court in *Reafor* emphasized that although a plea bargain requires the mutual agreement of the parties, it is nevertheless subject to the approval of the trial court. Further, the acceptance of an offer to plead guilty to a lesser offense is not demandable by the accused as a matter of right because it is a matter addressed entirely to the sound discretion of the trial court.⁴¹ In *Reafor* citing *Sayre*, the Court held:

x x x. This notwithstanding, in the recent case of *Sayre v. Xenos* (*Sayre*), the Court ruled in favor of the validity of DOJ Circular No. 27, holding that the same does not contravene the rule-making authority of the Court, viz.:

In this petition, A.M. No. 18-03-16-SC is a rule of procedure established pursuant to the rule-making power of the Supreme Court that serves as a framework and guide to the trial courts in plea bargaining violations of [RA] 9165.

Nonetheless, a plea bargain still requires mutual agreement of the parties and remains subject to the approval of the court. The acceptance of an 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 trial court.

³⁷ G.R. No. 247575, November 16, 2020.

³⁸ Id.

³⁹ Id.

⁴⁰ *Rollo*, p. 38.

⁴¹ *People v. Reafor*, supra.

x x x x

The use of the word “may” signifies that the trial court has discretion whether to allow the accused to make a plea of guilty to a lesser offense. x x x

Taking into consideration the requirements in pleading guilty to a lesser offense, We find it proper to treat the refusal of the prosecution to adopt the acceptable plea bargain for the charge of Illegal Sale of Dangerous Drugs provided in AM. No. 18-03-16-SC **as a continuing objection that should be resolved by the RTC.** This harmonizes the constitutional provision on the rule-making power of the Court under the Constitution and the nature of plea bargaining in Dangerous Drugs cases. DOJ Circular No. 27 did not repeal, alter or modify the Plea Bargaining Framework in A.M. No. 18-03-16-SC.⁴² (Emphasis and underscoring in the original)

Accordingly, as can be gleaned in *Reafor*, the prosecution’s opposition to the motion to plea bargain of the accused should be treated as a *continuing* objection that should be resolved by the trial court. The decision to deny or sustain the prosecution’s objection to the plea-bargaining offer of the accused is still subject to the trial court’s sound discretion.

Finally, in the recent consolidated cases of *People v. Montierro*,⁴³ *Baldadera v. People*,⁴⁴ and *Re: Letter of the Philippine Judges Association Expressing its Concern over the Ramifications of the Decisions in G.R. No. 247575 and G.R. No. 250295*,⁴⁵ the Court underscored its crucial role in checking and balancing the exercise of the powerful machinery of the State and came up with the following guidelines for plea bargaining in drugs cases, viz.:

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

⁴² Id., citing *Sayre v. Xenos*, supra note 35.

⁴³ G.R. No. 254564, July 26, 2022.

⁴⁴ G.R. No. 254974, July 26, 2022.

⁴⁵ A.M. No. 21-07-16-SC, July 26, 2022.

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.⁴⁶

Applying the foregoing guidelines to the case at bench, the Court upholds the ruling of the RTC in overruling the objection filed by the prosecution and in granting petitioner's plea-bargaining proposal. This is in consideration of the fact that the prosecution's opposition is based solely on the ground that the petitioner's plea-bargaining proposal is inconsistent with the DOJ Circular No. 27, though in accordance with the plea-bargaining framework issued by the Court. The prosecution did not cite any other ground for opposing the petitioner's plea-bargaining proposal.

Likewise, in the RTC Order dated September 7, 2018, the trial court allowed the petitioner to plea bargain due to the prosecution's failure to establish in its evidence that 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 proved that the evidence of guilt is strong. In other words, *the trial court resolved the petitioner's objection on its merit*. In the same RTC Order, it is evident that the trial court conducted an independent determination not only in resolving the petitioner's Motion to Enter into Plea Bargaining but also in resolving the merits of the prosecution's evidence itself. In the said Order, the RTC emphasized that before it ruled on the petitioner's motion to plea bargain and after the prosecution rested its case, it examined the evidence of both parties. In the course of the independent evaluation of the evidence of both parties, the RTC found that the prosecution failed to show that the chain of custody (of 0.10 gram of alleged *shabu*) under Section 21 of RA 9165 was strictly followed. It likewise found no evidence of any ground to deny the petitioner's motion to plea bargain because the prosecution failed to establish one. Simply stated, the RTC already ruled that the evidence of guilt is not strong and that there is no other ground to prevent the petitioner to enter into plea bargaining agreement.

Clearly, there is no evidence presented by the prosecution that 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 that the evidence of guilt is strong.

⁴⁶ Id.

Finding petitioner's plea bargain to be in accordance with DOJ Circular No. 18, A.M. No. 18-03-16-SC; and the above-stated guidelines, the Court reverses and sets aside the assailed CA Decision. Thus, the Court reinstates the RTC Orders dated September 7, 2018, and October 31, 2018.

WHEREFORE, the petition is **GRANTED**. The Decision dated September 7, 2020, and Resolution dated July 21, 2021, of the Court of Appeals in CA-G.R. SP No. 12404 are **REVERSED and SET ASIDE**. The Orders dated September 7, 2018, and October 31, 2018, of Branch 38, Regional Trial Court, Dumaguete City, are hereby **REINSTATED**.

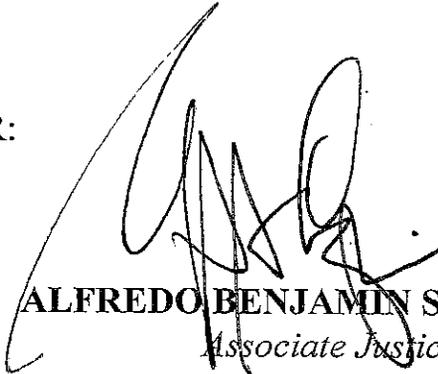
Petitioner Teresito Radonis Quiqui is hereby found **GUILTY** beyond reasonable doubt of the crime of Illegal Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs defined and penalized under Section 12, Article II of Republic Act No. 9165. He is hereby sentenced to suffer the penalty of imprisonment of two (2) years as minimum, to four (4) years as maximum, and to pay a fine of Fifty Thousand Pesos (₱50,000.00).

The Decision is **IMMEDIATELY EXECUTORY**.

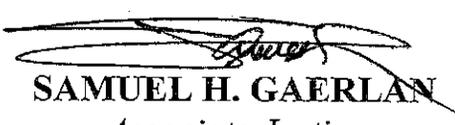
SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

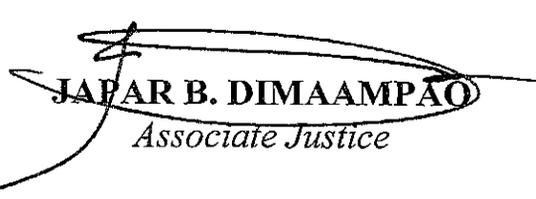
WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



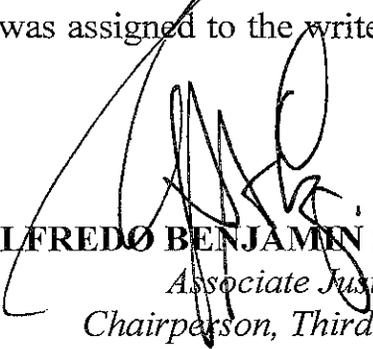
JAPAR B. DIMAAMPAO
Associate Justice



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

AG