



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**RAUL DOMEN y AURELLANO,**  
 Petitioner,

**G.R. No. 258893**

Present:

GESMUNDO, C.J.,  
*Chairperson,*  
 HERNANDO,  
 ZALAMEDA,  
 ROSARIO, and  
 MARQUEZ, JJ.

-versus-

**PEOPLE OF THE PHILIPPINES,**  
 Respondent.

Promulgated:

**MAY 29 2024**  
*withheld*

X - - - - - X

**DECISION**

**HERNANDO, J.:**

This is a petition<sup>1</sup> filed by Raul Domen y Aurellano (Raul) from the Decision<sup>2</sup> and the Resolution<sup>3</sup> of the Court of Appeals (CA) in CA G.R. SP No. 12222. The assailed CA rulings partially reversed the Joint Judgment<sup>4</sup> and the

<sup>1</sup> *Rollo*, pp. 11–41.

<sup>2</sup> *Id.* at 122–132. The December 10, 2020 Decision in CA G.R. SP No. 12222 was penned by Associate Justice Lorenza R. Bordios and concurred in by Associate Justices Gabriel T. Ingles and Emily R. Aliño-Geluz of the Eighteenth Division, Court of Appeals, Cebu City.

<sup>3</sup> *Id.* at 144–146. The July 21, 2021 Resolution in CA G.R. SP No. 12222 was penned by Associate Justice Lorenza R. Bordios and concurred in by Associate Justices Gabriel T. Ingles and Pamela Ann Abella Maxino of the Special Former Eighteenth Division, Court of Appeals, Cebu City.

<sup>4</sup> *Id.* at 85–87. The August 9, 2018 Joint Judgment in Criminal Case No. 2017-24487 and Criminal Case No. 2017-24488 was penned by Judge Rafael Crescencio C. Tan, Jr. of Branch 30, Regional Trial Court, Dumaguete City, Negros Oriental.

Orders<sup>5</sup> of Branch 30 of the Regional Trial Court (RTC), Dumaguete City, Negros Oriental, in Criminal Case No. 2017-24487 and Criminal Case No. 2017-24488. The subject RTC rulings granted Raul's Motion for Plea Bargaining.<sup>6</sup>

*The Antecedents*

The Amended Informations<sup>7</sup> filed against Raul read:

**Criminal Case No. 2017-24487  
(Illegal Sale of Dangerous Drugs)**

That on or about the 29<sup>th</sup> day of May 2017, in the City of Dumaguete, Philippines and within the jurisdiction of this Honorable Court, the said accused, without authority of law, did then and there, willfully, unlawfully and feloniously sell, deliver and give to a police poseur buyer one (1) heat sealed transparent plastic sachet containing white crystalline substance with a weight of 0.04 gram, containing Methamphetamine Hydrochloride, a dangerous drug.

The accused has been found positive for the use of Methamphetamine, a dangerous drug, as reflected in Chemistry Report Nos. DT-164-17.

Contrary to Law[.]<sup>8</sup> (Emphasis in the original)

**Criminal Case No. 2017-24488  
(Illegal Possession of Dangerous Drugs)**

That on or about the 29<sup>th</sup> day of May 2017, in the City of Dumaguete, Philippines and within the jurisdiction of this Honorable Court, the said accused, without authority of law, did then and there, willfully, unlawfully and feloniously possess eleven (11) heat sealed transparent plastic sachets containing a total weight of 0.91 gram, of Methamphetamine Hydrochloride commonly called shabu, a dangerous drug.

The accused has been found positive for the use of Methamphetamine, a dangerous drug, as reflected in Chemistry Report Nos. DT-164-17.

Contrary to Law[.]<sup>9</sup> (Emphasis in the original)

<sup>5</sup> *Id.* at 81–84. The August 9, 2018 and August 31, 2018 Orders in Criminal Case No. 2017-24487 and Criminal Case No. 2017-24488 were penned by Judge Rafael Crescencio C. Tan, Jr. of Branch 30, Regional Trial Court, Dumaguete City, Negros Oriental.

<sup>6</sup> *Id.* at 95–96.

<sup>7</sup> *Id.* at 91–94.

<sup>8</sup> *Id.* at 91.

<sup>9</sup> *Id.* at 93.

Upon arraignment, Raul entered a plea of “not guilty” to the offenses charged.<sup>10</sup>

Subsequently, he filed a Motion for Plea Bargaining<sup>11</sup> dated August 2, 2018. For both charges, Raul manifested his willingness to enter a plea of guilty to a lesser offense punished under Section 12 of Republic Act No. 9165, or the Comprehensive Dangerous Drugs Act of 2002.<sup>12</sup> The lesser offense is punishable by six months and one day to four years, and a fine ranging from PHP 10,000.00 to PHP 50,000.00.

In its Comment/Opposition<sup>13</sup> dated August 7, 2018, the prosecution manifested that it is amenable to Raul’s plea of guilty to a violation of Section 12 of Republic Act No. 9165 insofar as the charge for illegal possession of dangerous drugs is concerned. However, as regards the charge for illegal sale of dangerous drugs, the prosecution did not accept the plea bargaining offer since the same is not allowed under Department of Justice (DOJ) Circular No. 027<sup>14</sup> dated June 26, 2018.<sup>15</sup>

#### *Ruling of the Regional Trial Court*

The RTC granted Raul’s motion in an Order<sup>16</sup> dated August 9, 2018. Accordingly, it rendered a Joint Judgment<sup>17</sup> dated August 9, 2018 which declared Raul guilty of two counts of violation of Section 12 of Republic Act No. 9165. The *fallo* thereof reads:

WHEREFORE, in the light of the foregoing, the Court hereby renders judgment as follows:

1. In Criminal Case No. 2017-24487, the accused Raul Domen y Aurellano is hereby found GUILTY beyond reasonable doubt for the offense of violation of Section 12, Article II of [Republic Act No.] 9165 and is hereby sentenced to suffer an indeterminate penalty of two (2) years and one (1) day as minimum term to four (4) years as maximum term and to pay a fine of Fifty Thousand Pesos ([PHP] 50,000.00).

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<sup>10</sup> *Id.* at 124.

<sup>11</sup> *Id.* at 95–96.

<sup>12</sup> An Act Instituting the Dangerous Drugs Act of 2002, Repealing Republic Act No. 6425, Otherwise Known as the Dangerous Drugs Act of 1972, As Amended, Providing Funds Therefor, and for Other Purposes (2002).

<sup>13</sup> *Rollo*, pp. 97–99.

<sup>14</sup> Amended Guidelines on Plea Bargaining for Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002” (2018).

<sup>15</sup> *Rollo*, pp. 97–98.

<sup>16</sup> *Id.* at 81.

<sup>17</sup> *Id.* at 85–87.

The one (1) heat-sealed transparent plastic sachet with marking RD-BB 05/29/17 with signature and a net weight of 0.04 gram is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

2. In Criminal Case No. 2017-24488, the accused Raul Domen y Aurellano is hereby found GUILTY beyond reasonable doubt for the offense of violation of Section 12, Article II of [Republic Act No.] 9165 and is hereby sentenced to suffer a straight penalty of one (1) year and to pay a fine of Ten Thousand Pesos ([PHP 10,000.00]).

The eleven (11) heat-sealed transparent plastic sachets with markings RD-P1 to P11-05/29/2017 with signatures and a total weight of 0.91 gram are hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused Raul Domen y Aurellano shall be credited with the full time during which he has undergone preventive imprisonment, provided he agrees voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners. In the event that the drug dependency examination conducted on the accused turns out that the said accused is positive for use of dangerous drugs, he shall undergo an additional penalty of six (6) months drug rehabilitation in an accredited government center which shall be considered as part of the penalty imposed.

Pursuant to Supreme Court OCA Circular No. 163-2013 dated December 6, 2013, the accused having been convicted in these two (2) criminal cases, let issue a mittimus/commitment order for the said accused to be committed at the New Bilibid Prison, Muntinlupa City, Metro Manila.

SO ORDERED.<sup>18</sup>

Despite the prosecution's objection, the RTC granted Raul's motion since it was in accordance with A.M. No. 18-03-16-SC or the Court-issued Plea Bargaining Framework in Drugs Cases.

The prosecution sought reconsideration,<sup>19</sup> but it was denied by the RTC in an Order<sup>20</sup> dated August 31, 2018.

Aggrieved, the State filed a Petition for *Certiorari*, Prohibition and Mandamus (with Prayer for the Issuance of a [Temporary Restraining Order] and/or Writ of Preliminary Injunction)<sup>21</sup> before the CA.

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<sup>18</sup> *Id.* at 85–86.

<sup>19</sup> *Id.* at 88–90.

<sup>20</sup> *Id.* at 82–84.

<sup>21</sup> *Id.* at 46–79.

*Ruling of the Court of Appeals*

The CA granted the State's Rule 65 petition in a Decision<sup>22</sup> dated December 10, 2020. The *fallo* thereof reads:

**WHEREFORE**, the petition is **GRANTED**. The *Order* dated 09 August 2018 and the *Order* dated 31 August 2018 rendered by the court *a quo* are **SET ASIDE**, insofar as they granted and sustained the allowance of private respondent's Motion for Plea Bargaining in Criminal Case No. 24487.

Accordingly, the Joint Judgment dated 09 August 2018 is likewise **SET ASIDE**, insofar as it found private respondent Guilty beyond reasonable doubt for Violation of Section 12, Article II, [Republic Act No.] 9165 in Criminal Case No. 24487.

The court *a quo* is hereby **DIRECTED** to proceed with the trial of private respondent in Criminal Case No. 24487, for Violation of Section 5, Article II, [Republic Act No.] 9165.

The Entry of Appearance dated 21 November 2018 filed by Atty. Alora Mae J. Tambasen-Sato, as counsel for private respondent, is **NOTED**, and private respondent's Comment (on the Petition for Certiorari) dated 21 February 2019 is likewise **NOTED**. The Case Management Information System Verification Report dated 12 November 2020 is also **NOTED**.

**IT IS SO ORDERED.**<sup>23</sup> (Emphasis in the original)

The CA ruled that the prosecution's objection to Raul's plea bargain in Criminal Case No. 2017-24487 prevented the parties from reaching a mutual agreement for the satisfactory disposition of the case. Consequently, the RTC's allowance thereof had no basis in fact and in law.<sup>24</sup>

Further, the CA stated that while it is true that the Plea Bargaining Framework in Drugs Cases allows plea bargaining in cases involving illegal sale of dangerous drugs, it did not dispense with the required consent of the prosecutor. Thus, it concluded that the RTC erred in accepting the plea bargain in Criminal Case No. 2017-24487.<sup>25</sup>

Raul sought reconsideration,<sup>26</sup> but it was denied by the CA in a Resolution<sup>27</sup> dated July 21, 2021.

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<sup>22</sup> *Id.* at 122–132.

<sup>23</sup> *Id.* at 131–132.

<sup>24</sup> *See id.* at 130.

<sup>25</sup> *See id.* at 130–131.

<sup>26</sup> *Id.* at 133–142.

<sup>27</sup> *Id.* at 144–146.

Hence, this petition.

### *Issue*

Did the RTC gravely abuse its discretion in approving Raul's plea bargain despite the objection of the prosecution on the ground that DOJ Circular No. 027 prohibits plea bargaining for illegal sale of dangerous drugs under Section 5, to the lesser offense of illegal possession of drug paraphernalia under Section 12, of Republic Act No. 9165?

### *Our Ruling*

The petition is meritorious.

At the outset, the Court takes judicial notice of DOJ Circular No. 18<sup>28</sup> dated May 10, 2022 which expressly revoked DOJ Circular No. 027 dated June 26, 2018. The recent circular aligned its provisions with the Court-issued Plea Bargaining Framework in Drugs Cases. Consequently, We deem the prosecution's objection to Raul's plea bargain in Criminal Case No. 2017-24487 as effectively withdrawn.<sup>29</sup>

In *People v. Montierro*,<sup>30</sup> the Court laid down the following guidelines to 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 [a] rehabilitation center.

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<sup>28</sup> Revised Amended Guidelines on Plea Bargaining for Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002" (2022).

<sup>29</sup> See *People v. Montierro*, G.R. No. 254564, July 26, 2022 [Per J. Caguioa, *En Banc*] at 11. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

<sup>30</sup> G.R. No. 254564, July 26, 2022 [Per J. Caguioa, *En Banc*].

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 [Republic Act 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.<sup>31</sup>

Here, the State ascribes grave abuse of discretion on the part of the RTC when it approved Raul's plea bargain despite the objection of the prosecution on the ground that DOJ Circular No. 027 prohibits plea bargaining for illegal

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<sup>31</sup> *Id.* at 31–32. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website. (Emphasis supplied)

sale of dangerous drugs under Section 5 to the lesser offense of illegal possession of drug paraphernalia under Section 12 of Republic Act No. 9165.

Pertinently, grave abuse of discretion means such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and gross as to amount to an evasion of positive duty, or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.<sup>32</sup>

In line with the foregoing, We rule that the RTC did not gravely abuse its discretion since its ruling was anchored on the Court-issued Plea Bargaining Framework in Drugs Cases.

The net weight of the *shabu* involved in the charge for illegal sale of dangerous drugs against Raul is merely 0.04 gram. Accordingly, Raul's plea of guilty to a violation of Section 12 of Republic Act No. 9165 is proper since the framework provides that where the crime charged is a violation of Section 5 of Republic Act No. 9165, and the quantity of the *shabu* recovered is from 0.01 gram to 0.99 gram, the acceptable plea bargain is a violation of Section 12 of Republic Act No. 9165.

Further, as held in *Montierro*:

[W]hen a court overrules a prosecution's objection, which is solely grounded on an Executive issuance or policy that contradicts a Court-issued rule on plea bargaining, it is not an intrusion into the Executive's authority and discretion to prosecute crimes, but is simply a recognition of the Court's exclusive rule-making power as enshrined in the Constitution.

It bears to emphasize that when the Court upholds its exclusive power to promulgate rules on plea bargaining, it only recognizes the role of the Judiciary as impartial tribunals, with the mandate of determining what is fair and reasonable under the circumstances, cognizant of the rights and interests of both the State and the accused. In contrast, the prosecutor's mandate is to champion the cause of the State and prosecute criminals to the full extent of the law, which may prevent it from fully seeing the middle ground in the plea bargaining process. This is the reason why it is ultimately the Court which has the power to promulgate the rules on plea bargaining. **This is the reason behind Estipona.**<sup>33</sup>

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<sup>32</sup> See *Aleta v. Sofitel Philippine Plaza Manila*, G.R. No. 228150, January 11, 2023 [Per SAJ Leonen, Second Division] at 6–7. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website. (Citation omitted)

<sup>33</sup> *People v. Montierro*, G.R. No. 254564, July 26, 2022 [Per J. Caguioa, *En Banc*] at 28–29. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website. (Emphasis in the original)

Nonetheless, the records show that the RTC granted Raul's Motion for Plea Bargaining<sup>34</sup> on the sole ground that his proposals were in accordance with the Court-issued Plea Bargaining Framework in Drugs Cases.

Thus, in accordance with the *Montierro* guidelines, and for a complete and proper resolution of the cases against Raul, We remand Criminal Case No. 2017-24487 and Criminal Case No. 2017-24488 to the court of origin, Branch 30 of the Regional Trial Court, Dumaguete City, Negros Oriental, for evaluation of whether Raul is qualified to avail of the benefits of plea bargaining. The RTC is ordered to determine: (1) whether the evidence of guilt is strong; and (2) whether Raul 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.

Moreover, pursuant to *Bason v. People*,<sup>35</sup> in case the trial court approves the plea bargaining proposal, it shall then require Raul to undergo a drug dependency assessment, not as a condition *sine qua non* for the plea bargaining but instead to ensure that he undertakes treatment and rehabilitation or counselling, if needed.<sup>36</sup>

**ACCORDINGLY**, the petition is **GRANTED**. The Decision and the Resolution dated December 10, 2020 and July 21, 2021, respectively, of the Court of Appeals in CA G.R. SP No. 12222 are **REVERSED** and **SET ASIDE**.

Criminal Case No. 2017-24487 and Criminal Case No. 2017-24488 against Raul Domen y Aurellano are **REMANDED** to the court of origin to determine: (1) whether the evidence of guilt is strong; and (2) whether Raul Domen y Aurellano 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.

In case the trial court finds Raul Domen y Aurellano qualified to avail of the benefits of plea bargaining, a drug dependency assessment shall be conducted pursuant to A.M. No. 18-03-16-SC.

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<sup>34</sup> *Rollo*, pp. 95–96.

<sup>35</sup> G.R. No. 262664, October 3, 2023 [Per J. Inting, *En Banc*].

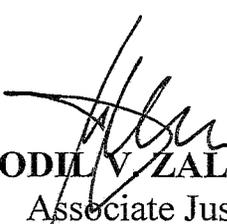
<sup>36</sup> *Id.* at 14. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

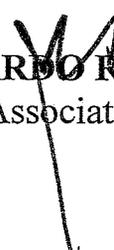
**SO ORDERED.**

  
**RAMON PAUL L. HERNANDO**  
Associate Justice  
Working Chairperson

WE CONCUR:

  
**ALEXANDER G. GESMUNDO**  
Chief Justice  
Chairperson

  
**RODIL V. ZALAMEDA**  
Associate Justice

  
**RICARDO R. ROSARIO**  
Associate Justice

  
**JOSE MIDAS P. MARQUEZ**  
Associate Justice

## CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, 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