



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 29, 2023** which reads as follows:*

“G.R. No. 260213 (Rodgen Monceda y Senda v. People of the Philippines). – The Motion for Extension¹ of thirty (30) days within which to file petition for review on *certiorari* filed by petitioner Rodgen Monceda y Senda (petitioner) is **GRANTED**, counted from the expiration of the reglementary period.

This resolves the Petition for Review on *Certiorari* under Rule 45² of the Rules of Court filed by petitioner, questioning the Decision³ dated October 30, 2020 and the Resolution⁴ dated November 2, 2021 of the Court of Appeals (CA) in CA-G.R. SP No. 12275, which ordered the Regional Trial Court of Dumaguete City, Negros Oriental, Branch 36 to continue the proceedings in Criminal Case No. 21826, and rejected petitioner’s offer to plead guilty to Section 12 of Republic Act (RA) No. 9165⁵ over the objection of the prosecution.

Petitioner argues that Sec. 2, Rule 116 of the Rules of Court allows an accused to enter a plea of guilty to a lesser offense after arraignment but before trial, without specifying the need to obtain the consent of the offended party and the prosecution.⁶ Petitioner adds that the trial court has the authority to overrule the prosecution’s continuing objection to the plea bargain proposed by the defense.⁷

¹ *Rollo*, pp. 3-6.

² *Id.* at 11-36.

³ *Id.* at 87-96. Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Pamela Ann Abella Maxino and Lorenza R. Bordios.

⁴ *Id.* at 109-112. Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Pamela Ann Abella Maxino and Lorenza R. Bordios.

⁵ Entitled “AN ACT INSTITUTING THE COMPREHENSIVE DANGEROUS DRUGS ACT OF 2022, REPEALLING REPUBLIC ACT NO. 6425, OTHERWISE KNOWN AS THE DANGEROUS DRUGS ACT OF 1972, AS AMENDED, PROVIDING FUNDS THEREFORE, AND FOR OTHER PURPOSES,” also known as the “COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002.” Approved: June 7, 2002.

⁶ *Rollo*, p. 19.

⁷ *Id.* at 21-22.

AT

In *People v. Montierro*⁸ (*Montierro*), the Court enumerated the following guidelines in plea bargaining for dangerous 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 G.R. No. 254564, July 26, 2022.

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.⁹

Notably, the factual circumstances relating to the trial court proceedings in *Montierro* are similar to the antecedents in the instant case. In *Montierro*, therein accused also offered to enter a plea of guilty to the lesser offense under Sec. 12 of RA No. 9165 from the original charge of violation of Sec. 5 of RA No. 9165.¹⁰ The prosecution also objected to the proposal, on the ground that Department of Justice (DOJ) Circular No. 61¹¹ bars plea bargaining for violations of Sec. 5 of RA No. 9165.¹² Later, on a motion for reconsideration, the prosecution asserted DOJ Circular No. 27,¹³ which only allows those charged with violation of Sec. 5 of RA No. 9165 to plead guilty to Sec. 11, paragraph 3 of the same law.¹⁴

Following the above guidelines, the Court in *Montierro* resolved to remand the criminal cases to the trial court to determine (1) whether the evidence of guilt is strong; and (2) whether the accused therein are recidivists, habitual offenders, known in the community as drug addicts and troublemakers, have undergone rehabilitation but had a relapse, or have been charged many times. The accused in *Montierro* were also ordered to submit to a drug dependency test.¹⁵

Considering the similar factual milieu of the present case as well as that in *Montierro*, the Court holds that a similar disposition is in order.

We note that, according to petitioner, Everly Tayong y Catipay, who was charged together with petitioner in Criminal Case No. 21826 filed before the trial court, was unable to join the petition before this Court as her whereabouts are unknown.¹⁶ Nonetheless, Our disposition in this Resolution stands even as to her.

⁹ Id.

¹⁰ Id.

¹¹ Entitled "GUIDELINES ON PLEA BARGAINING AGREEMENT FOR R.A. NO. 9165 OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2000.'" Dated: November 21, 2017.

¹² *People v. Montierro*, supra note 7.

¹³ Entitled "AMENDED GUIDELINES ON PLEA BARGAINING FOR REPUBLIC ACT NO. 9165 OTHERWISE KNOWN AS THE 'COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002.'" Dated: June 26, 2018.

¹⁴ *People v. Montierro*, supra.

¹⁵ Id.

¹⁶ *Rollo*, p. 17.

WHEREFORE, the Decision dated October 30, 2020 and the Resolution dated November 2, 2021 of the Court of Appeals in CA-G.R. SP No. 12275 are **SET ASIDE**.

The Regional Trial Court of Dumaguete City, Negros Oriental, Branch 36 is **DIRECTED** to determine, in Criminal Case No. 21826, (1) whether the evidence of guilt of Rodgen Monceda y Senda and/or Everly Tayong y Catipay is strong; and (2) whether Monceda and/or Tayong are recidivists, habitual offenders, known in the community as drug addicts and troublemakers, have undergone rehabilitation but had a relapse, or have been charged many times.

Furthermore, Monceda and Tayong are **ORDERED** to submit to a drug dependency test pursuant to A.M. No. 18-03-16-SC.

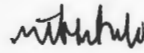

The petitioner is required to **SUBMIT**, within five (5) days from notice hereof, the soft copies in compact disc, USB, or e-mail containing the PDF files of the signed motion for extension of time to file petition for review on *certiorari* and the petition with its annexes, pursuant to A.M. Nos. 10-3-7-SC and 11-9-4-SC.

SO ORDERED.”

By authority of the Court:

LIBRADA C. BUENA
Division Clerk of Court

by:


MARIA TERESA B. SIBULO
Deputy Division Clerk of Court 

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APR 27 2023

PUBLIC ATTORNEY'S OFFICE
Regional Special and Appealed Cases Unit
Counsel for Petitioner
3rd Floor, Taft Commercial Center
Metro Colon Carpark, Osmeña Boulevard
Kalubihan, 6000 Cebu City

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Court of Appeals
6000 Cebu City
(CA-G.R. SP No. 12275)

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

The Hon. Presiding Judge
Regional Trial Court, Branch 36
Dumaguete City, 6200 Negros Oriental
(Crim. Case No. 21826)

Judgment Division (x)
Supreme Court

