

THIRD DIVISION

G.R. No. 257451 – RICKY ALORO y ALBASON, *petitioner*, v. PEOPLE OF THE PHILIPPINES, *respondent*.

X-----X

DISSENTING OPINION

SINGH, J.:

I respectfully dissent from the view of the majority.

The facts of the case are not disputed.

The petitioner Ricky Alaro y Albason (**Alaro**) was charged in three separate Informations for Violations of Section 5, Section 11, and Section 12, Article II of Republic Act No. 9165 or the *Comprehensive Dangerous Act of 2002*, before the Regional Trial Court, Branch 16, Roxas City (**RTC**), docketed as Criminal Cases Nos. C-180-18, C-181-18, and C-182-18. When arraigned on July 5, 2018, Alaro pleaded “not guilty” to the offenses charged. Alaro then filed a Proposal for Plea Bargaining manifesting his intention to avail of plea bargaining pursuant to the Plea-Bargaining Framework in Drugs Cases (A.M. No. 18-03-16-SC). The prosecution, however, objected to Alaro’s offer of plea bargain.

Despite the objection of the prosecution, the RTC, in the Decision, dated July 4, 2019, granted Alaro’s offer of a plea and allowed him to plead guilty to lesser offenses. The prosecution moved for a reconsideration, but the same was denied by the RTC in the Order, dated August 5, 2019.

The Court of Appeals, in the Decision, dated December 23, 2020, granted the Office of the Solicitor General’s Petition for *Certiorari*, and nullified and set aside the RTC Decision and Order. The Court of Appeals held that the RTC committed grave abuse of discretion when it granted Alaro’s Proposal for Plea Bargaining despite the objection of the prosecution. Alaro filed a Motion for Reconsideration, but the same was denied by the Court of Appeals, in the assailed Resolution, dated May 27, 2021. .



The *ponencia* set aside the assailed Court of Appeals Decision and Resolution, and remanded the case to the RTC to determine: (1) whether the evidence of Alaro's guilt is strong; and (2) whether Alaro is a recidivist, habitual offender, known in the community as a drug addict and troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times.

Applying the guidelines governing plea bargaining in drug cases, laid down in the consolidated cases of *People v. Montierro*; *Baldadera v. People*; *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*; and *Re: Letter of Associate Justice Diosdado M. Peralta on the Suggested Plea Bargaining Framework Submitted by the Philippine Judges Association*¹ (**Montierro**), the *ponencia* held that the courts may overrule the objection of the prosecution, and approve the plea bargaining proposal when the objection is not supported by evidence on record or is solely anchored on an internal rule or guideline of the Department of Justice (**DOJ**) that is inconsistent with the Court's Plea Bargaining Framework in Drugs Cases. It concluded that the RTC correctly overruled and rejected the prosecution's objection, which was based on the provisions of DOJ Circular No. 27 that are inconsistent with the Court's Plea Bargaining Framework in Drugs Cases.

I respectfully disagree and maintain my position in my *Concurring and Dissenting Opinion* in *Montierro*, that authorizing the trial court to overrule the prosecution's objection goes against the fundamental nature of a plea bargaining agreement and the respective roles of the prosecution, the defense, and the court in such a process.

It is settled that plea bargaining is a process whereby the accused and the prosecution work out a mutually satisfactory disposition of the case subject to court approval. The basic character of plea bargaining is mutuality.² In the landmark case of *Estipona v. Lobrigo*³ (**Estipona**), the Court categorically declared that plea bargaining is a rule of procedure and "is a give-and-take negotiation."⁴ This characteristic of mutuality is self-evident from Section 2,⁵ Rule 116 of the Revised Rules of Criminal Procedure (**Rules**).

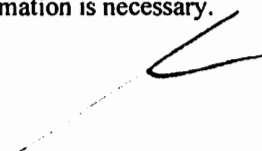
¹ G.R. No. 254564, G.R. No. 254974, A.M. No. 21-07-16-SC, and A.M. No. 18-03-16-SC, July 26, 2022.

² *Sayre v. Hon. Xenos*, G.R. Nos. 244413 & 244415-16, February 18, 2020.

³ 816 Phil. 789, 823 (2017).

⁴ *Id.*

⁵ Section 2. *Plea of guilty to a lesser offense.* - The accused, with the consent of the offended party and the fiscal, may be allowed by the trial court to plead guilty to a lesser offense, regardless of whether or not it is necessarily included in the crime charged, or is cognizable by a court of lesser jurisdiction than the trial court. No amendment of the complaint or information is necessary.



I reiterate my position that Section 2, Rule 116 of the Rules requires the conformity of the prosecution to the reduced plea of the accused as a condition precedent for the plea bargain to be considered valid. This involves a 2-step process: *first*, the prosecution must consent to the accused's proposal for a plea bargain and, *second*, the trial court must approve or disapprove the same. Absent the first step, there is no occasion for the trial court to exercise its discretion to approve or disapprove the proposal.

Simply put, where the prosecution withholds its consent, the trial court cannot proceed to approve a plea bargain. There is no meeting of the minds, hence, there can be no plea bargaining "agreement" to speak of.⁶

In *People v. Borrás*,⁷ the Court explained the rationale for requiring the consent of the prosecutor in plea bargaining:

Contrary to the position taken by the trial court and the Court of Appeals, the conformity of the prosecutor to the proposed plea bargaining in drugs cases is not optional, nay, to be disregarded. **For the prosecutor has full control of the prosecution of criminal actions; his duty is to always prosecute the proper offense, not any lesser or graver one, based on what the evidence on hand can sustain.** As guardian of the rights of the people, the State files the criminal action in the name of the People of the Philippines. The prosecutor who represents the government is duty bound to defend the public interests, threatened by crime, to the point that it is as though he or she were the person directly injured by the offense. Viewed in this light, the consent of the offended party, *i.e.*, the State, will have to be secured from the prosecutor who acts on its behalf. (Emphasis supplied)

The right to prosecute vests the prosecutor with a wide range of discretion—of what and whom to charge—which depends on a smorgasbord of factors which are best appreciated by prosecutors.⁸ It generally lies beyond the pale of judicial scrutiny.⁹ Thus, it is indubitably within the discretion of the prosecutor to determine who must be charged, with what crime, or for what offense.¹⁰ Accordingly, the rationale for making the acceptance of the plea bargain of the prosecution a condition precedent for the validity of a plea bargain lies in the fact that the prosecution exercises full control over the trial of the accused – which necessarily includes the indictment of the accused for the proper offense.¹¹

⁶ *People v. Sabater*, G.R. No. 249459, June 14, 2021.

⁷ G.R. No. 250295, March 15, 2021.

⁸ *Webb v. De Leon*, 317 Phil. 758 (1995).

⁹ *Rural Bank of Mabitac, Laguna, Inc. v. Canicon*, 834 Phil. 346, 365 (2018), citing *Aguilar v. Department of Justice*, 717 Phil. 789, 798 (2013).

¹⁰ *Reyes v. Peralbank Securities, Inc.*, 582 Phil. 505, 523 (2008).

¹¹ RULES OF COURT, rule 110, sec. 5.

As underscored in my *Concurring and Dissenting Opinion*, consequent to the *sine qua non* nature of the prosecution's consent to the offer is the fact that an accused does not have any vested right to compel the prosecution to accept the offer of plea bargain. This was highlighted in *Estipona*, where the Court recognized judicial deference in the exercise of the prosecution's discretion in accepting offer of plea bargain:

Yet a defendant has no constitutional right to plea bargain. No basic rights are infringed by trying him rather than accepting a plea of guilty; the prosecutor need not do so if he prefers to go to trial. **Under the present Rules, the acceptance of an offer to plead guilty is not a demandable right but depends on the consent of the offended party and the prosecutor, which is a condition precedent to a valid plea of guilty to a lesser offense that is necessarily included in the offense charged.** The reason for this is that the prosecutor has full control of the prosecution of criminal actions; his duty is to always prosecute the proper offense, not any lesser or graver one, based on what the evidence on hand can sustain.

[Courts] normally must defer to prosecutorial decisions as to whom to prosecute. The reasons for judicial deference are well known. Prosecutorial charging decisions are rarely simple. In addition to assessing the strength and importance of a case, prosecutors also must consider other tangible and intangible factors, such as government enforcement priorities. Finally, they also must decide how best to allocate the scarce resources of a criminal justice system that simply cannot accommodate the litigation of every serious criminal charge. Because these decisions 'are not readily susceptible to the kind of analysis the courts are competent to undertake,' we have been properly hesitant to examine the decision whether to prosecute.

The plea is further addressed to the sound discretion of the trial court, which may allow the accused to plead guilty to a lesser offense which is necessarily included in the offense charged. The word may denotes an exercise of discretion upon the trial court on whether to allow the accused to make such plea. **Trial courts are exhorted to keep in mind that a plea of guilty for a lighter offense than that actually charged is not supposed to be allowed as a matter of bargaining or compromise for the convenience of the accused.**¹² (Citations omitted; emphasis supplied)

In this case, it is not disputed that the prosecution objected to Alaro's offer of plea bargain. Consequently, the absence of the prosecution's consent renders Alaro's offer of plea bargain invalid and ineffectual.

Accordingly, I respectfully submit that the Court of Appeals correctly ruled that the RTC acted with grave abuse of discretion when it approved Alaro's proposal to plead guilty to a lesser offense, despite the vehement objection of the prosecution.

¹² *Estipona v. Lohrigo*, *supra* note 3, at 814-815.



WHEREFORE, I vote to **DENY** the Petition for Review on *Certiorari*, and to **AFFIRM** the Decision, dated December 23, 2020, and Resolution, dated May 27, 2021, of the Court of Appeals, in CA-G.R. SP No. 13273.



MARIA FILOMENA D. SINGH
Associate Justice