



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames

*Please take notice that the Court, Third Division, issued a Resolution dated **March 6, 2023**, which reads as follows:*

“**G.R. No. 262667 (Joeben Tuazon Carillo v. People of the Philippines)**. – Before the Court is a Petition for Review on *Certiorari*¹ filed by petitioner Joeben Tuazon Carillo (Carillo) assailing the Decision² dated May 17, 2021 and the Resolution³ dated May 25, 2022 issued by the Court of Appeals (CA) in CA-G.R. SP No. 12668. The CA reversed the Decision⁴ dated November 20, 2018, and the Order⁵ dated January 25, 2019 of the Regional Trial Court (RTC), Branch 16, Roxas City, in Criminal Case Nos. C-358-16, C-359-16, C-360-16, and C-53-17.

The Facts

On September 9, 2016, three separate Informations were filed against Carillo for violation of Sections 5, 11, and 12 of Article II, Republic Act (R.A.) No. 9165.⁶ In another Information filed on January 23, 2017, Carillo was charged for violation of Section 28(a), Article V of R.A. No. 10591.⁷

Carillo filed a Proposal for Plea Bargaining, manifesting his intention to plead guilty to the following lesser offenses: (a) violation of Section 12 instead of Sections 5 and 11; and (b) violation of Section 15, instead of Section 12 of R.A. No. 9165. As for violation of R.A. No. 10591, Carillo manifested that he is willing to plead guilty to violation of Section 31, Article V of R.A. No. 10591.⁸

The Office of the City Prosecutor (OCP) opposed Carillo’s plea bargaining proposals. The OCP argued that pursuant to DOJ Circular No. 27

¹ *Rollo*, pp. 4-25.

² *Id.* at 33-45; penned by Associate Justice Pamela Ann Abella Maximo, with Associate Justices Lorenza Redulla Bordios and Bautista G. Corpin, Jr., concurring.

³ *Id.* at 49-53; penned by Associate Justice Pamela Ann Abella Maximo, with Associate Justices Bautista G. Corpin, Jr. and Rogelio G. Largo, concurring.

⁴ *Id.* at 66-71; penned by Presiding Judge Kristine B. Tiangco-Vinculado.

⁵ *Id.* at 81.

⁶ COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002; signed on June 7, 2002.

⁷ *Id.* at 34-35.

⁸ *Id.* at 35-36.

dated June 26, 2018, an accused charged with violation of Section 5 is allowed to plead guilty to the lesser offense of paragraph 3, Section 11. With respect to the other charges, the OCP claimed that the prosecution had already commenced the presentation of evidence and that the evidence is sufficient to convict Carillo.⁹

Carillo amended his proposal for plea bargaining and asked the trial court to plead guilty to the lesser offense of violation of Section 28(f), Article V of R.A. No. 10591. Again, the OCP opposed and emphasized the following: (1) Carillo is also charged with three other offenses; (2) that ammunitions of caliber 9mm were recovered from him; and (3) the police officers did not consent to the plea bargain proposals of Carillo.¹⁰

RTC Decision

Judge Kristine B. Tiangco-Vinculado (Judge Tiangco-Vinculado) of RTC Roxas City, Branch 16 granted Carillo's plea bargaining proposals on the following grounds:

- (a) The total weight of *shabu* (methamphetamine hydrochloride) subject of the cases falls under AM No. 18-03-16-SC;
- (b) The plea bargaining proposals are consistent with AM No. 18-03-16-SC and [Department of Justice] DOJ Circular No. 027;
- (c) The consent of the police officers is not necessary since violation of R.A. No. 9165 and R.A. No. 10591 is a public crime; and
- (d) The evidence presented by the prosecution is insufficient to convict Carillo.¹¹

The dispositive portion of the RTC Decision reads:

WHEREFORE, judgment is hereby rendered as follows:

1. In Criminal Case No. C-358-16, accused Joeben Carillo y Tuazon 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-359-16, accused Joeben Carillo y Tuazon is found **GUILTY** beyond reasonable doubt of

⁹ Id. at 36.

¹⁰ Id.

¹¹ Id. at 70-A-70-B.

the crime of violation of Section 12, Article II of R.A. 9165 and is hereby sentenced to six (6) months and one (1) day to one (1) year and to pay a fine of ₱10,000.00;

3. In Criminal Case No. C-360-16, accused Joeben Carillo y Tuazon is found **GUILTY** beyond reasonable doubt of the crime of violation of Section 15, Article II of R.A. 9165 and, considering he is a non-drug dependent, is hereby sentenced to undergo six (6) months of drug counseling program and random drug tests as recommended in his drug dependency evaluation;
4. In Criminal Case No. C-53-17, accused Joeben Carillo y Tuazon is found **GUILTY** beyond reasonable doubt of the crime of violation of Section 28 (f), Article V of R.A. 10591. Applying the Indeterminate Sentence Law, he is hereby sentenced to an indeterminate penalty of four (4) years of *prision correccional* in its medium period as minimum to six (6) years of *prision correccional* in its maximum period as maximum.

Accused's detention period and his yet to be served six-month drug counseling shall be credited in the service of his sentences.

Accused is advised to avail the benefits of probation and be released on recognizance. He is mandated to report to the DOH Treatment and Rehabilitation Center, Brgy. Rumbang, Pototan Iloilo for his drug counseling program and for his random drug tests within fifteen (15) days from his release. Failure to do so will be subject to appropriate sanction by the Court.

The sachets of *shabu* and drug paraphernalia are confiscated to be turned over to the Philippine Drug Enforcement Agency Region VI, Iloilo City for proper disposal. The improvised hand gun and ammunitions are confiscated to be turned [over to the] Philippine National Police Capiz Police Provincial Office, Camp Teodorico C. Apil, Roxas City for proper disposal. The buy-bust money shall be turned-over to the national treasury.

SO ORDERED.¹² (Emphases in the original; italics supplied)

The OCP filed a Motion for Reconsideration, but was denied in an Order¹³ dated January 25, 2019.

CA Decision

The OSG filed a Petition for *Certiorari*,¹⁴ ascribing grave abuse of discretion on Judge Tiangco-Vinculado. The CA granted the petition.¹⁵

The CA explained that Section 2, Rule 116 of the Revised Rules of Criminal Procedure requires the consent of the prosecutor in plea bargaining

¹² Id. at 70-B-71.

¹³ Id. at 81.

¹⁴ Id. at 82-101.

¹⁵ Id. at 44.

agreements. In the case of Carillo, the OCP registered its continuing objection to the plea bargaining proposals by filing its comments and motion for reconsideration. Hence, it was beyond Judge Tiangco-Vinculado's authority to approve of Carillo's plea bargaining proposals without the acquiescence of the prosecutor.¹⁶

Without the consent of the prosecutor, the plea bargaining is void. As a consequence, the judgment of the RTC based on a void plea bargaining is rendered *void ab initio*, and cannot be considered to have attained finality. The CA then ordered the RTC to proceed with the trial of the criminal cases filed against Carillo.¹⁷

The dispositive portion of the CA Decision reads:

IN LIGHT OF ALL THE FOREGOING, the present petition for *certiorari* is GRANTED. The Order dated November 20, 2018, the Decision dated November 20, 2018, and the Order dated January 25, 2019, issued by respondent Judge Kristine B. Tiangco-Vinculado, of the Regional Trial Court, Branch 16, Roxas City, in Criminal Cases [sic] Nos. C-358-16, C-359-16, C-360-16, and C-53-17, are REVERSED AND SET ASIDE.

The Regional Trial Court, Branch 16, Roxas City, is ORDERED to proceed with the trial of Criminal Cases [sic] Nos. C-358-16, C-359-16, C-360-16, and C-53-17, with reasonable dispatch.

SO ORDERED.¹⁸

Carillo filed a motion for reconsideration, which was denied by the CA in a Resolution¹⁹ dated May 25, 2022.

Petition for Review on *Certiorari*

Undeterred, Carillo filed a Petition for Review on *Certiorari* before the Court. He argued that plea bargaining is always addressed to the sound discretion of the judge.²⁰ Moreover, Carillo is of the opinion that Judge Tiangco-Vinculado evaluated the evidence presented by the prosecution and reasonably concluded that it is insufficient to convict the accused.²¹

Ruling of the Court

The petition is partly granted.

¹⁶ Id. at 40-41.

¹⁷ Id. at 44.

¹⁸ Id.

¹⁹ Id. at 49-53.

²⁰ Id. at 17.

²¹ Id. at 20.

Plea bargaining to a lesser offense is governed by Section 2,²² Rule 116 of the Rules of Court. In *People v. Reafor*,²³ the Court explained that 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. In *People v. Montierro*,²⁴ the Court clarified that “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.” (Administrative Matter No. 18-03-16-SC).²⁵ Plea bargaining, however, shall not be allowed by the court if the objection of the prosecutor is as follows: (1) the offender is a recidivist, habitual offender, known in the community as a drug addict and a troublemaker, has undergone rehabilitation but had relapse, or has been charged many times; or (2) when the evidence of guilt is strong.²⁶

In this case, the OCP objected Carillo’s plea bargain proposals on the following grounds: (1) provisions of DOJ Circular No. 27 dated June 26, 2018; (2) prosecution had already commenced the presentation of evidence; and (3) the evidence is sufficient to convict the accused.²⁷

Verily, the RTC did not err in overruling the objection of the OCP as to the inconsistent provisions between DOJ Circular No. 207 and Administrative Matter No. 18-03-16-SC or the Plea Bargaining Framework in Drug Cases issued by the Court. However, since the OCP also raised an objection based on the strength of its evidence, the RTC should have conducted trial before ruling on the plea bargaining proposals of Carillo. It is also important to note that Judge Tiangco-Vinculado herself noted that the “evidence of the prosecution have neither been formally offered nor admitted by the Court.”²⁸

Similar to *People v. Montierro*, the remand of the case to the RTC is warranted in order to determine the following: (1) whether the evidence of guilt is strong, as argued by the OCP; and (2) whether Carillo is a recidivist, habitual offender, known in the community as drug addict and troublemaker, have undergone rehabilitation but had a relapse or have been charged many times.

WHEREFORE, the petition is **PARTLY GRANTED**. The Decision dated May 17, 2021 and the Resolution dated May 25, 2022 issued by the Court of Appeals (CA) in CA-G.R. SP No. 12668 are **SET ASIDE**.

²² Section 2. *Plea of guilty to a lesser offense*. — At arraignment, the accused, with the consent of the offended party and the prosecutor, may be allowed by the trial court to plead guilty to a lesser offense, which is necessarily included in the offense charged. After arraignment but before the trial, the accused may still be allowed to plead guilty to said lesser offense after withdrawing his plea of not guilty. No amendment of the complaint or information is necessary. (Sec. 4, Circ. 38-98)

²³ G.R. No. 247575, November 16, 2020.

²⁴ G.R. Nos. 254564, 254974, A.M. No. 21-07-16-SC and A.M. No. 18-03-16-SC, July 26, 2022.

²⁵ Id.

²⁶ Id.

²⁷ Id. at 36.

²⁸ Id. at 70-A.

The Regional Trial Court, Branch 16, Roxas City, is **ORDERED** to proceed with the trial of Criminal Case Nos. C-358-16, C-359-16, C-360-16, and C-53-17, with reasonable dispatch and determine whether **JOEBEN TUAZON CARILLO** is qualified to plea bargain following the guidelines set forth by the Court in *People v. Montierro*. In particular, the Regional Trial Court, Branch 16, Roxas City shall determine: (1) whether the evidence of guilt is strong; and (2) whether **JOEBEN TUAZON CARILLO** is a recidivist, habitual offender, known in the community as drug addict and troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times.

SO ORDERED.”

By authority of the Court:

Misael Domingo C. Battung III
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court *JB 5/15/23*

Atty. Judgee Earl Ross D. Del Castillo
Counsel for Petitioner
DEL CASTILLO LAW OFFICE
2/F Catalan Building, Magallanes St.
5800 Roxas City, Capiz

COURT OF APPEALS
CA G.R. SP No. 12668
1000 Manila

OFFICE OF THE SOLICITOR GENERAL
134 Amorsolo Street
1229 Legaspi Village, Makati City

The Presiding Judge
REGIONAL TRIAL COURT
Branch 16, Roxas City
(Crim. Case Nos. C-358-16, C-359-16,
C-360-16 and C-53-17)

Atty. Benedicto Malcontento
Prosecutor General
Department of Justice
Padre Faura St., 1000 Manila

Mr. Joeben T. Carillo
Petitioner
Brgy. Lanot, Roxas
5800 Roxas City

The City Prosecutor
Office of the City Prosecutor
5800 Roxas City

PHILIPPINE JUDICIAL ACADEMY
Research Publications and Linkages Office
Supreme Court, Manila
[research_philja@yahoo.com]

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
Supreme Court, Manila

Judgment Division
JUDICIAL RECORDS OFFICE
Supreme Court, Manila