



Republic of the Philippines
 Supreme Court
 Baguio City

THIRD DIVISION

ERWIN ALVERO y G.R. No. 260214
 TRESVALLES,

Petitioner,

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

- versus -

PEOPLE OF THE
 PHILIPPINES,

Respondent.

Promulgated:
 April 17, 2023
 Miel DC Bait

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RESOLUTION

SINGH, J.:

Petitioner Erwin Alvero y Tresvalles (**Alvero**) filed this Petition for Review on *Certiorari* under Rule 45 (**Petition**),¹ dated March 16, 2022, assailing the Court of Appeals (CA) Decision (**CA Decision**),² dated February 22, 2021 in CA-G.R. SP No. 13379 titled *People of the Philippines v. Hon. Kristine B. Tiangeo Vinculado, in her capacity as Presiding Judge of Regional Trial Court, Branch 16 of Roxas City, and Sorabelle Aporta y Arandez alias "Mandra" and Erwin Alvero y Tresvalles*. The CA Decision found that the Regional Trial Court of Roxas City, Branch 16 (**RTC**) acted with grave abuse

¹ Rollo, pp. 12-42.

² Id at 115-125. Penned by Associate Justice Marilyn B. Lagura-Yap and concurred in by Associate Justices Roberto P. Quiroz and Bautista G. Corpín, Jr.

of discretion when it accepted Alvero's proposal for plea bargaining despite the prosecution's objection.³

The Facts

Alvero and Sorabelle Aporta were charged with violation of Section 5, Article II of Republic Act No. 9165 (**R.A. No. 9165**)⁴ in an Information,⁵ dated August 11, 2016 for the illegal sale of methamphetamine hydrochloride or *shabu* with a total weight of 0.1459 grams.⁶

During the arraignment, Alvero pleaded "not guilty." However, during the presentation of the prosecution's evidence and following the ruling of the Court in *Estipona v. Lobrigo (Estipona)*,⁷ Alvero filed a Proposal for Plea Bargaining (**Proposal**),⁸ dated November 9, 2018, praying that the RTC accept his proposal for plea bargaining. Alvero asked that he be allowed to plead guilty to violation of Section 12, Article II of R.A. No. 9165 in accordance with A.M. No. 18-03-16-SC (**Plea Bargaining Framework in Drugs Cases**).⁹

The prosecution filed a Comment/Objection (**Comment**),¹⁰ dated November 12, 2018. The prosecution argued that under Department Circular No. 027 of the Department of Justice (**DOJ**), the acceptable plea for violation of Section 5, Article II of R.A. No. 9165 is Section 11, paragraph 3. Thus, the prosecution manifested that Alvero's Proposal is not acceptable. The prosecution further added that Alvero is also being charged under a theory of conspiracy under Section 26, Article II of R.A. No. 9165. Department Circular No. 027 allows no plea bargain in such cases. Finally, the prosecution claimed that it has already commenced the presentation of its evidence and that its evidence thus far (consisting of the testimonies of the forensic chemist, the investigator, the poseur buyer, the team leader, the back-up, and the barangay official) is sufficient to convict the accused.¹¹

During the hearing on September 10, 2019, the RTC resolved to grant the Proposal over the prosecution's objection. Alvero was then re-arraigned with the downgraded crime of violation of Section 12, Article II of R.A. No. 9165. Alvero pleaded guilty to the offense.¹²

³ Id. at 124.

⁴ Entitled "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002." approved on January 23, 2002.

⁵ *Rollo*, pp. 71-72.

⁶ Id. at 71.

⁷ 816 Phil. 789 (2017).

⁸ *Rollo*, pp. 78-79.

⁹ Id.

¹⁰ Id. at 82-85.

¹¹ Id. at 83.

¹² Id. at 86, Order.

The Ruling of the RTC

In its Decision (**RTC Decision**),¹³ dated September 10, 2019, the RTC invoked the Plea Bargaining Framework in Drugs Cases and *Estipona* as basis for its ruling allowing the plea bargain.¹⁴

The dispositive portion of the RTC Decision stated in part:

WHEREFORE, judgment is hereby rendered as follows:

1. In Criminal Case No. C-292-16, accused Sorabelle Aporta y Arandez alias “Mandra” and Erwin Alvero y Tresvalles alias “Feebles” are found **GUILTY** beyond reasonable doubt of the crime of violation of Section 12, Article II of R.A. 9165 and is 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;

x x x x

The detention periods of each accused shall be credited in their service of sentences.

Accused Erwin Alvero y Tresvalles alias “Feebles,” having fully served his maximum sentence, is ordered released from detention subject to the condition that he shall enroll himself at the DOH Treatment and Rehabilitation Center, Brgy. Rumbang, Pototan, Iloilo for a [sic] not less than three months of drug counseling.

The sachets of shabu and paraphernalia are confiscated to be turned over to the Philippine Drug Enforcement Agency Region VI, Iloilo City for proper disposal. The buy-bust money shall be turned-over to the national treasury.

SO ORDERED.¹⁵ (Emphasis in the original)

The RTC denied the prosecution’s Motion for Reconsideration,¹⁶ dated September 17, 2019, in its Order (**RTC Order**),¹⁷ dated September 27, 2019.

The Ruling of the CA

The Office of the Solicitor General (**OSG**), representing the People of the Philippines, filed a Petition for *Certiorari* (**CA Petition**),¹⁸ dated November 18, 2019, under Rule 65 of the Rules of Court before the CA.

¹³ Id. at 64-69.

¹⁴ Id. at 68.

¹⁵ Id.

¹⁶ Id. at 87-93.

¹⁷ Id. at 70.

¹⁸ Id. at 47-61.



The CA Petition alleged that the RTC acted with grave abuse of discretion amounting to lack or excess of jurisdiction when it issued the RTC Decision and RTC Order which allowed the plea bargain. The OSG asserted that the consent of the prosecution is essential for there to be a valid plea bargain.¹⁹

The CA granted the Petition. The CA concluded that the consent of the prosecution is essential in plea bargaining. Moreover, the CA held that the RTC erred in allowing a plea bargain where the crime of illegal possession of drug paraphernalia is considered as an offense necessarily included in the crime of illegal sale of dangerous drugs. According to the CA, this is erroneous because the crime necessarily included in the illegal sale of dangerous drugs should be illegal possession of dangerous drugs.²⁰

Thus, the CA ruled that the RTC should have disapproved the Proposal and continued with the trial. Its error amounts to grave abuse of discretion.²¹

The dispositive portion of the CA Decision stated:

WHEREFORE, the Petition for *Certiorari* is **GRANTED**. The 10 September 2019 Decision and 27 September 2019 Order are **NULLIFIED** and **SET ASIDE** for having been rendered and issued with grave abuse of discretion amounting to lack of or in excess of jurisdiction. The public-respondent judge of Regional Trial Court, Branch 16 of Roxas City, is **ORDERED** to continue with the proceedings in Criminal Case Nos. C-292-16, C-294-16, and C-295-16 and to decide the cases with dispatch.

SO ORDERED.²² (Emphasis in the original)

Alvero filed a Motion for Reconsideration,²³ dated April 5, 2021, which the CA denied in its Resolution,²⁴ dated November 16, 2021.

Alvero, represented by the Public Attorney's Office, filed the Petition before the Court challenging the CA Decision.

Alvero argues that the RTC did not act with grave abuse of discretion when it allowed the plea bargain over the objection of the prosecution. According to Alvero, trial courts exercise discretion in granting or denying a motion for plea bargaining and the RTC merely exercised this discretion when

¹⁹ Id. at 53-56.

²⁰ Id. at 124.

²¹ Id.

²² Id.

²³ Id. at 126-135.

²⁴ Id. at 144-147.

it accepted the Proposal. He avers that this view is consistent with the recent jurisprudence and the Plea Bargaining Framework in Drugs Cases.²⁵

The Issue

Did the RTC act with grave abuse of discretion amounting to lack or excess of jurisdiction when it allowed Alvero to plea bargain in this case?

The Ruling of the Court

The ultimate legal issue in this case is whether a trial court has the authority to allow plea bargaining even when the prosecution objects to the plea bargain and thus withholds consent. This question has been resolved by the Court in *People v. Montierro (Montierro)*.²⁶ While the *ponente* dissented in *Montierro* and took the view that the consent of the prosecution is indispensable in plea bargaining, the *ponente* is bound to the doctrine adopted by the Court *En Banc* in *Montierro*.

The Court rules that the RTC did not act with grave abuse of discretion amounting to lack or excess of jurisdiction when it allowed the plea bargain in this case.

The rule is settled that a Rule 65 Petition imposes a high bar. It is an extraordinary remedy that can be availed of only in a unique set of circumstances when the act assailed is tainted with grave abuse. The meaning of grave abuse of discretion is well established. It “denotes capricious, arbitrary[,] and whimsical exercise of power. The abuse of discretion must be patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform a duty enjoined by law, as not to act at all in contemplation of law, or where the power is exercised in an arbitrary and despotic manner by reason of passion or hostility.”²⁷ A special civil action for *certiorari* under Rule 65 of the Rules of Court is intended to correct errors of jurisdiction and not mere errors of law.

Tested against this standard, the Court finds that the RTC Decision and Order allowing Alvero to enter into a plea bargain are not tainted by grave abuse.

In *Montierro*, the Court ruled:

²⁵ Id. at 25-38.

²⁶ *People v. Montierro*, G.R. Nos. 254564, 254974, A.M. No. 21-07-16-SC & A.M. No. 18-03-16-SC, July 26, 2022.

²⁷ *G & S Transport Corporation v. Court of Appeals*, 432 Phil. 7, 22 (2002), citing *Filinvest Credit Corp. v. Intermediate Appellate Court*, 248 Phil. 394 (1988); and *Litton Mills, Inc. v. Galleon Trader, Inc.*, 246 Phil. 503 (1988).



However, it must be noted with import that the exclusive prerogative of the Executive begins and ends with matters involving purely prosecutorial discretion. Prosecutorial discretion pertains to who to prosecute, what case to prosecute, and how the case would be pursued based on the evidence available to the prosecution. The prosecution has the freedom and authority to determine whether to charge a person, what information to file against them and how to prosecute the case filed before the courts. There is, however, an obvious limit to prosecutorial prerogatives as the prosecutor obviously has no control over how the court would decide the case. While a prosecutor may look at the evidence and determine the charge and that a person is probably guilty of the same, a judge may look at the same set of evidence and arrive at a different conclusion.

This dividing line between prosecutorial prerogatives and judicial discretion is why courts may overrule objections on plea bargaining on certain grounds. The prosecution's objection may be based on anything under the sun. If an objection is anchored on what is exclusively a prosecutorial prerogative, it would indeed be a violation of the separation of powers for a court to override the prosecutor's objection. If, however, the objection is based on a supposed "internal guideline" of the Executive that directly runs counter to a Court issuance promulgated within the exclusive domain of the Judiciary — such as the Plea Bargaining Framework — then it is not a violation, but rather a mere assertion, of the principle of separation of powers. In other words, as any motion submitted for the court's resolution, if the prosecution's basis for objection has no merit or runs afoul of the Constitutional prerogative exclusive to the court, then it is not unconstitutional for a court to assert by ruling that such objection is invalid.

It must be clarified that courts are not given the unbridled discretion to overrule any objection of the prosecution to a plea bargaining proposal. To be sure, the authority of the court over plea bargaining in drugs cases is circumscribed foremost by the Court-issued framework on the acceptable plea bargains and by the evidence and circumstances of each case. Thus, a court has no jurisdiction to overrule an objection of the prosecution if the same is grounded on evidence showing that the accused is not qualified therefor, or when the plea does not conform to the Court-issued rule or framework.

However, when 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.

Further, *Montierro* held 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, if any."²⁸

²⁸ *Id.*



Here, the Proposal conforms with the Plea Bargaining Framework in Drugs Cases. Alvero was charged with violation of Section 5, Article II of R.A. No. 9165 for the sale of *shabu* with a total weight of 0.1459 grams. The RTC allowed Alvero to plead to the lower offense of violation of Section 12, Article II of R.A. No. 9165. This is consistent with the Plea Bargaining Framework in Drugs Cases which categorically states that where the crime charged is violation of Section 5, Article II and the quantity of the *shabu* recovered is from 0.01 gram to 0.99 grams, the acceptable plea bargain is violation of Section 12, Article II or possession of equipment, instrument or apparatus and other paraphernalia for dangerous drugs.

When the RTC took the position that the Plea Bargaining Framework in Drugs Cases prevails over the prosecution's view that DOJ Department Circular No. 027 prohibits plea bargaining in Alvero's case, the RTC performed its duty to resolve issues brought before it based on the law and the rules.

To reiterate, grave abuse of discretion pertains to acts characterized by the exercise of power in an arbitrary and despotic manner by reason of passion or hostility. Here, there is no showing that the RTC was motivated by any desire to abuse its power or to prejudice the parties. It is also worth noting that at the time the RTC promulgated the RTC Decision, Alvero had already been in preventive imprisonment for a period beyond the maximum penalty of the downgraded offense under the Proposal. Thus, in acting promptly to allow the plea bargain, to re-arraign Alvero, and to promulgate the RTC Decision, the RTC was only ensuring that no person should be deprived of liberty for a period beyond what the law allows.

Significantly, the CA, in concluding that the RTC acted with grave abuse, did not specify which acts of the RTC can be considered as arbitrary, capricious, and whimsical. A reading of the CA Decision will show that it merely disagreed with the RTC's interpretation of the law, and particularly, its view that it has the power to overrule the objection of the prosecution to the plea bargain. The RTC and the CA differed in their resolution of a question of law that had not yet been settled by the Court at that point. Certainly, that the RTC's view was not the same as that of the CA cannot of itself amount to grave abuse of discretion on the part of the RTC. If at all, it was a mere error of judgment.

However, the Court notes that *Montierro* laid down the guidelines to be observed in plea bargaining in drugs cases. In particular, the *Montierro* guidelines require a court to determine first if (a) the accused 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) the evidence of guilt is strong. Here, the RTC



Decision and Order do not show that the RTC made any findings as to these matters.

Thus, consistent with the ruling of the Court in *Montierro*, this case is remanded to the RTC to determine if Alvero may indeed be allowed to plea bargain in this case, and specifically if (a) he 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) the evidence of guilt is strong.

The Court also notes that, as stated in the *Montierro* guidelines, if the prosecution objects to the plea bargain because of the circumstances mentioned above, the RTC is mandated to hear the prosecution's objection and rule on the merits. If the RTC finds the prosecution's objection meritorious, it shall order the continuation of the criminal proceedings.

WHEREFORE, the Petition for Review on *Certiorari* is **GRANTED**. The Court of Appeals Decision, dated February 22, 2021, in CA-G.R. SP No. 13379 is **REVERSED**.

The case of Erwin Alvero y Tresvalles docketed as Criminal Case No. C-292-16 is remanded to the court of origin, Regional Trial Court of Roxas City, Branch 16 to determine: (1) whether the evidence of guilt is strong; and (2) whether Alvero is a recidivist, habitual offender, known in the community as a drug addict or a troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times.

SO ORDERED.

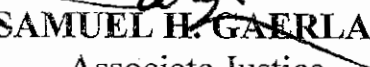

MARIA FILOMENA D. SINGH
Associate Justice

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



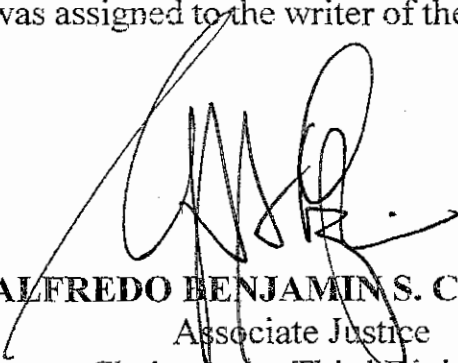
SAMUEL H. GAERLAN
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

ATTESTATION

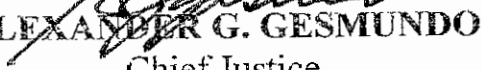
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



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 Resolution 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



