



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **February 22, 2023** which reads as follows:*

**“G.R. No. 258840 (CHRISTOPHER BRUSOLA y MANLANGIT, Petitioner v. PEOPLE OF THE PHILIPPINES, Respondent.)** – This Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 assails the following dispositions of the Court of Appeals in CA-G.R. SP No. 161728:

- (1) **Decision**<sup>2</sup> dated June 9, 2021 partially reversing the ruling of the Regional Trial Court, Branch 15, Tabaco City, Albay which granted the Motion of petitioner Christopher Brusola y Manlangit to enter into plea-bargaining and plead guilty to the lesser offense of violation of Section 12, Article II of Republic Act No. 9165;<sup>3</sup> and
- (2) **Resolution**<sup>4</sup> dated February 7, 2022 denying petitioner’s Motion for Reconsideration.

**The Facts**

By two Informations both dated June 18, 2018, petitioner was charged with violations of Sections 5 and 11, Article II of Republic Act No. 9165, as amended by Republic Act No. 10640,<sup>5</sup> viz.:

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<sup>1</sup> *Rollo*, pp. 12–39.

<sup>2</sup> *Id.* at 41–45; Penned by Associate Justice Manuel M. Barrios with Associate Justices Gabriel T. Robeniol and Alfredo D. Ampuan concurring.

<sup>3</sup> Otherwise known as the Comprehensive Dangerous Drugs Act of 2002, approved January 23, 2002.

<sup>4</sup> *Rollo*, pp. 52–54.

<sup>5</sup> An Act to Further Strengthen the Anti-Drug Campaign of the Government, Amending for the Purpose Section 21 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, approved July 15, 2014.

Criminal Case No. T-7187  
For Violation of Section 5, Article II of Republic Act No. 9165

That on or about 12:15 o'clock in the morning of June 17, 2018 at P-6, Brgy. Sto Cristo, Tabaco City, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, and not being authorized to sell any dangerous drug, did then and there willfully, unlawfully, and knowingly sell, deliver[,] and give away to a poseur-buyer, 0.025 gram of white crystalline substance contained in one (1) heat-sealed transparent plastic sachet, which yielded positive for Methamphetamine Hydrochloride commonly known as "shabu[,"] a dangerous drug, to the damage and prejudice of the public and government.

ACTS CONTRARY TO LAW.<sup>6</sup>

Criminal Case No. T-7188  
For Violation of Section 11, Article II of Republic Act No. 9165

That on or about 12:15 o'clock in the morning of June 17, 2018 at P-6, Brgy. Sto Cristo, Tabaco City, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being legally authorized to possess any dangerous drug, did then and there, knowingly, willfully, and feloniously, have in his possession, control and custody, one (1) piece of small transparent heat-sealed plastic sachet containing 0.062 gram of Methamphetamine Hydrochloride commonly known as "shabu[,"] a dangerous drug, to the damage and prejudice of the public and government.

ACTS CONTRARY TO LAW.<sup>7</sup>

On arraignment on July 13, 2018, petitioner pleaded not guilty to both charges.<sup>8</sup> Trial ensued.

On January 21, 2019, petitioner submitted a Motion to Allow Accused to Enter into a Plea-Bargain,<sup>9</sup> pursuant to the plea bargaining framework laid down in the Supreme Court *En Banc* Resolution dated April 10, 2018 in Administrative Matter No. 18-03-16-SC (A.M. 18-03-16-SC).<sup>10</sup> Specifically, he offered to plead guilty to two counts of illegal possession of drug paraphernalia, in lieu of the original charges against him.<sup>11</sup>

Deputy City Prosecutor Danilo F. Brotamante opposed<sup>12</sup> petitioner's offer to plead guilty to the lesser offense of violation of Section 12 of Republic Act No. 9165 for being contrary to Department of Justice (DOJ) Circular No.

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<sup>6</sup> *Rollo*, pp. 91-92.

<sup>7</sup> *Id.* at 93-84.

<sup>8</sup> *Id.* at 80.

<sup>9</sup> *Id.* at 95-97.

<sup>10</sup> *Id.* at 112-119; Adoption of the Plea Bargaining Framework in Drugs Cases, dated April 10, 2018.

<sup>11</sup> *Id.* at 95.

<sup>12</sup> *Id.* at 98.

27<sup>13</sup> dated June 26, 2018. The only acceptable plea bargain should allegedly be a plea of guilt to Section 11 of Republic Act No. 9165.<sup>14</sup>

By Order dated April 8, 2019, the trial court granted petitioner's proposal and allowed him to withdraw his original plea.<sup>15</sup> Petitioner was subsequently rearraigned<sup>16</sup> during which he pleaded guilty to two counts of violation of Section 12, Article II of Republic Act No. 9165 or illegal possession of drug paraphernalia.<sup>17</sup>

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

By Decision<sup>18</sup> dated May 10, 2019, the trial court found petitioner guilty of two counts of violation of Section 12 of Republic Act No. 9165, thus:

**WHEREFORE**, foregoing premises considered, judgment is hereby rendered finding the accused **CHRISTOPHER BRUSOLA v MANLANGIT** guilty for:

1. Violation of Section 12 of RA 9165 (Possession of Equipment, Apparatus, and other Paraphernalia for Dangerous Drugs) and he is hereby meted an indeterminate penalty of two (2) years to four (4) years and a fine of Ten Thousand Pesos (Php 10,000.00) for Criminal Case No. T-7187, and
2. Violation of Section 12 of RA 9165 (Possession of Equipment, Apparatus, and other Paraphernalia for Dangerous Drugs) and he is hereby meted an indeterminate penalty of two (2) years to four (4) years and a fine of Ten Thousand Pesos (Php 10,000.00) for Criminal Case No. T-7188.

Accordingly also, the accused is hereby ordered to: 1) voluntarily submit himself in Risk Assessment Program by the concerned Rural Health Office and to undergo appropriate program such as General Intervention, Community Based Rehabilitation, and/or After Care Program of the Government; 2) support and cooperate with the Anti-Illegal Drug Campaign of the Philippine National Police (PNP), Philippines (sic) Drug Enforcement Agency (PDEA), Local Government Units (LGU) and other concerned government agencies to suppress and eradicate the proliferation of Illegal Drugs in the community and will also serve as lecturer/resource speaker during symposia on the ill-effects of illegal drugs to the user as well as in the community; and, 3) not engage in any illegal activities particularly illegal [d]rug activities and shall help and support the proper authorities in maintaining the peace and order in the community and in the Barangay where he is residing. The above-stated conditions shall be incorporated in

<sup>13</sup> *Id.* at 100–110; Amended Guidelines on Plea Bargaining for Republic Act No. 9165 Otherwise Known as The Comprehensive Dangerous Drugs Act of 2002.

<sup>14</sup> *Id.* at 101.

<sup>15</sup> *Id.* at 81.

<sup>16</sup> *Id.* at 99.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 80–82; Penned by Judge Alben Casimiro Rabe.

the conditions for his probation and violation thereof shall be a ground for the cancellation and revocation of his probation.

**SO ORDERED.**<sup>19</sup> (Emphasis in the original)

It denied reconsideration on May 27, 2019.<sup>20</sup>

### **The Proceedings Before the Court of Appeals**

Consequently, the People, through the Office of the Solicitor General, sought to annul the Decision dated May 10, 2019 and Order dated May 27, 2019 of Judge Alben Casimiro Rabe, Presiding Judge of the Regional Trial Court, Branch 15, Tabaco City, Albay via a Petition for *Certiorari*<sup>21</sup> before the Court of Appeals. The Office of the Solicitor General averred that under the Rules of Court and prevailing jurisprudence, the public prosecutor's consent is required in plea bargaining. Hence, Judge Rabe committed grave abuse of discretion amounting to lack or excess of jurisdiction correctible only by *certiorari* in granting petitioner's Motion for plea bargaining over the public prosecutor's objection.<sup>22</sup>

Petitioner, on the other hand, countered that Judge Rabe committed no grave abuse of discretion when he did not consider the consent of the prosecution as an essential element to a valid plea of guilt to a lesser offense by the accused. A contrary view is tantamount to a surrender of the court's sole and supreme authority to command the course of the case.<sup>23</sup>

### **Ruling of the Court of Appeals**

Under its assailed Decision<sup>24</sup> dated June 9, 2021, the Court of Appeals partially granted the petition, thus:

**WHEREFORE**, premises considered, the Petition for Certiorari is **PARTLY GRANTED**. The Decision dated 10 May 2019 and Order dated 27 May 2019 of the Regional Trial Court, Branch 15, Tabaco City, Province of Albay are **NULLIFIED and SET ASIDE** but only insofar as it pertains to Criminal Case No. T-7187 which permitted private respondent to enter a plea of guilty for Violation of Section 12 (Illegal Possession of Drug Paraphernalia) and his subsequent conviction therefor.

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<sup>19</sup> *Id.* at 81–82.

<sup>20</sup> *Id.* at 83–85.

<sup>21</sup> *Id.* at 55–77.

<sup>22</sup> *Id.* at 61–66.

<sup>23</sup> *Id.* at 123–125.

<sup>24</sup> *Id.* at 41–50; Penned by Associate Justice Manuel M. Barrios with Associate Justices Gabriel T. Robeniol and Alfredo D. Ampuan concurring.

However, insofar as said issuances convicted private respondent of Violation of Section 12 (Illegal Possession of Drug Paraphernalia) in Criminal Case No. T-7188, the same are maintained.

The Regional Trial Court, Branch 15, Tabaco City, Province of Albay is **DIRECTED** to proceed with the trial of Criminal Case No. T-7187, which is for Violation of Section 5, Article II of Republic Act No. 9165, as amended.

**SO ORDERED.**<sup>25</sup> (Emphasis in the original)

The Court of Appeals ruled that in Criminal Case No. T-7187 for illegal sale of dangerous drugs, the consent of the public prosecutor was an indispensable requirement in the plea-bargaining process. The absence thereof renders the plea bargain process itself void, resulting in the nullification of the judgment of conviction rendered pursuant thereto.<sup>26</sup>

In Criminal Case No. T-7188 for illegal possession of dangerous drugs, however, the Court of Appeals ruled that the public prosecutor did not have any valid justification to withhold its consent. Considering it is actually beneficial to all parties concerned to accept petitioner's plea, the same remains valid.<sup>27</sup>

It denied reconsideration on February 7, 2022.<sup>28</sup>

### **The Present Petition**

Petitioner maintains that the consent of the prosecutor is not mandatory in plea bargaining in illegal drugs cases. More, allowing the trial court to proceed with the trial in Criminal Case No. T-7187 for illegal sale of dangerous drugs would violate his constitutional right against double jeopardy.<sup>29</sup>

### **Ruling**

We reverse.

***The recently issued DOJ Circular No. 18 now conforms to the Court-issued Plea Bargaining Framework***

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<sup>25</sup> *Id.* at 49.

<sup>26</sup> *Id.* at 47.

<sup>27</sup> *Id.* at 48-49.

<sup>28</sup> *Id.* at 52-54.

<sup>29</sup> *Id.* at 22-31.

Foremost, the issues raised in this Petition have already been addressed and resolved in the recent consolidated cases of *People v. Montierro*<sup>30</sup> and *Baldadera v. People*.<sup>31</sup> In these cases, Cypher Baldadera and Erick Montierro were separately charged with violation of Section 5, Article II of Republic Act No. 9165. During the pendency of their cases, the Court promulgated *Estipona v. Lobrigo*,<sup>32</sup> which essentially ruled the allowance of plea bargaining in drugs cases. Thus, *Montierro* and *Baldadera* filed their respective proposals for plea bargaining, offering to enter a guilty plea to Section 12 of Republic Act No. 9165, in accordance with the Court's plea bargaining framework. The prosecution nevertheless interposed its objection, citing the provisions of DOJ Circular No. 27. Ultimately, however, the Court held that consistent with the amendments introduced in DOJ Circular No. 18,<sup>33</sup> the **prosecution's objection to Montierro's plea bargaining proposals, which was based solely on the superseded provisions of DOJ Circular No. 27, may now be considered to have been effectively withdrawn.**

Indeed, DOJ Circular No. 18 is a significant development in the framework on plea bargaining in drug cases as it introduced amendments which harmonized conflicting portions under A.M. 18-03-16-SC. Thus:

AM 18-03-16-SC dated May 4, 2018		DOJ 27 dated June 26, 2018		DOJ 18 dated May 10, 2022	
Offense charged in Information	Acceptable Plea Bargain	Offense charged in Information	Acceptable Plea Bargain	Offense charged in Information	Acceptable Plea Bargain
Section 5,  <i>Sale, Trading, etc. of Dangerous Drugs</i>	Section 12  <i>Possession of Equipment, Apparatus, and Other</i>	Section 5  <i>Sale, Trading, etc. of Dangerous Drugs</i>	Section 11 (3)  <i>Possession of Dangerous Drugs</i>	Section 5  <i>Sale, Trading, etc. of Dangerous Drugs</i>	Section 12  <i>Possession of Equipment, Apparatus, and Other</i>
<u>Penalty:</u>  Life Imprisonment to Death	<u>Penalty:</u>  6 months and 1 day to 4 years	<u>Penalty:</u>  Life Imprisonment to Death	<u>Penalty:</u>  12 years and 1 day to 20 years	<u>Penalty:</u>  Life Imprisonment to Death	<u>Penalty:</u>  6 months and 1 day to 4 years
<u>Fine:</u>  P500,000.00 to P10,000,000.00	<u>Fine:</u>  P10,000.00 to P50,000.00	<u>Fine:</u>  P500,000.00 to P10,000,000.00	<u>Fine:</u>  P300,000.00 to P400,000.00	<u>Fine:</u>  P500,000.00 to P10,000,000.00	<u>Fine:</u>  P10,000.00 to P50,000.00

Evidently, the recently issued DOJ Circular No. 18, which amended DOJ Circular No. 27, now conforms to A.M. 18-03-16-SC specifically as

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

<sup>31</sup> G.R. No. 254974, July 26, 2022 [Per J. Caguioa, *En Banc*].

<sup>32</sup> 816 Phil. 789 (2017) [Per J. Peralta, *En Banc*].

<sup>33</sup> Revised Amended Guidelines on Plea Bargaining for Republic Act No. 9165 Otherwise Known as the "Comprehensive Dangerous Drugs Act of 2002" dated May 10, 2022.

regards the acceptable plea bargain on Section 5, Article II of Republic Act No. 9165 to Section 12 of the same law.

In fine, following *Montierro*, the prosecution's objection to petitioner's plea bargaining proposal may now be deemed to have been effectively withdrawn.

***Approval of a Plea Bargaining proposal is ultimately subject to the sound discretion of the court***

Another. Plea bargaining in criminal cases is a process where the accused and the prosecution work out a mutually satisfactory disposition of the case subject to court approval. It usually involves the defendant pleading guilty to a lesser offense or to only one or some of the counts of a multicount indictment in return for a lighter sentence than that for the graver charge. It is essentially a give-and-take negotiation wherein both the prosecution and the defense make concessions to avoid potential losses.<sup>34</sup>

Section 2, Rule 116 of the Rules of Criminal Procedure provides:

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 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.

The provision, thus, ordains that **with the consent of the offended party and the prosecutor**, plea bargaining to a lesser offense which is necessarily included in the offense charged, may be allowed.<sup>35</sup>

True, jurisprudence has always referred to plea bargaining as a process of arriving at “a mutually satisfactory disposition of a case.” Hence, mutual consent of the prosecution and the offended party, on the one hand, and the defendant, on the other, has always been emphasized as a condition precedent or an indispensable requirement to a valid plea of guilty to lesser offense.<sup>36</sup>

Notably, though, Section 2 of Rule 116 uses the word *may*, which signifies discretion on the part of the trial court on whether to allow the accused to make such plea. As such, while plea bargaining requires the

<sup>34</sup> *Sayre v. Xenos*, G.R. Nos. 244413 & 244415-16, February 18, 2020 [Per J. Carandang, En Banc].

<sup>35</sup> See *Daan v. Sandiganbayan*, 573 Phil. 368, 376 (2008) [Per J. Austria-Martinez, Third Division].

<sup>36</sup> See *Sayre v. Xenos*, *supra* note 33.

consent of the parties, the approval of a plea bargaining proposal is ultimately subject to the sound discretion of the court.<sup>37</sup>

In *Montierro*,<sup>38</sup> the Court explained that the consent of the parties is necessary **but the approval of the accused's plea of guilty to a lesser offense is ultimately subject to the sound discretion of the court.** On this score, the Court laid down the guidelines to be observed in plea bargaining in drugs cases, thus:

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.

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<sup>37</sup> *Montierro v. People*, *supra* note 30.

<sup>38</sup> *Id.*



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 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.

In the exercise of this discretion, the trial court's duty is to evaluate the qualifications of the accused and the circumstances or evidence of the case. It is mandated to decide each case based on evidence, law, and jurisprudence. Indeed, it is the trial courts which are in the best position to objectively and disinterestedly assess whether the facts, the evidence, and the circumstances of the accused necessitate a plea bargaining agreement. As impartial tribunals, courts are in the best position to ultimately determine the propriety of plea bargaining in each case.<sup>39</sup>

In the present case, there is nothing on record showing whether petitioner 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 that the evidence of guilt is strong.

Verily, there is a need to remand the case to the trial court to ascertain, based on the aforecited guidelines, whether petitioner is qualified to avail of the benefits of plea bargaining.

**FOR THESE REASONS**, the Decision dated June 9, 2021 and Resolution dated February 7, 2022 of the Court of Appeals in CA-G.R. SP No. 161728 are **REVERSED** insofar as it **NULLIFIED** the Decision dated May 10, 2019 and Order dated May 27, 2019 in Criminal Case No. T-7187. For the purpose of determining whether petitioner Christopher Brusola y Manlangit is qualified to avail of the benefits of plea bargaining, the case is **REMANDED** to the Regional Trial Court, Branch 15, Tabaco City, Albay to ascertain: (1) whether the evidence of guilt is strong; and (2) whether Christopher Brusola y Manlangit is a recidivist, habitual offender, known in

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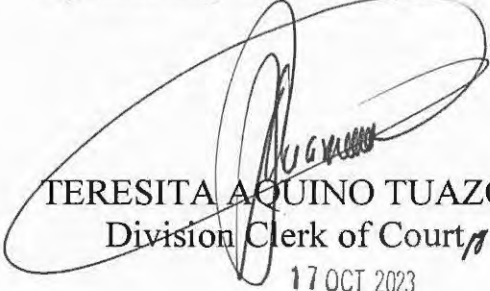
<sup>39</sup> *Id.*

the community as a drug addict and troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times.

Petitioner Christopher Brusola y Manlangit is further **ORDERED** to submit to a drug dependency test pursuant to Administrative Matter No. 18-03-16-SC.

**SO ORDERED.”**

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court  
17 OCT 2023

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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 15  
Tabaco City, Albay  
(Crim. Case No. T-7187)

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Supreme Court, Manila

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CA-G.R. SP No. 161728

\*with a copy of the March 29, 2023 Resolution  
*Please notify the Court of any change in your address.*  
GR258840. 2/22/2023(231)URES

**(231)URES**