



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

VICENTE SUAREZ JR. y BANUA,
Petitioner,

G.R. No. 268672

Members:

LEONEN, SAJ, Chairperson
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., JJ.

-versus-

PEOPLE OF THE
PHILIPPINES,
Respondent.

Promulgated:

DEC 04 2023

X-----X

DECISION

LAZARO-JAVIER, J.:

This Petition for Review on *Certiorari*¹ under Rule 45 assails the following dispositions of the Court of Appeals in CA-G.R. SP No. 167998 titled *People of the Philippines v. Vicente Suarez Jr. y Banua*:

- a) the Decision² dated October 27, 2022, which nullified the dispositions of Branch 15 of the Regional Trial Court of Tabaco City, Albay granting petitioner Vicente Suarez Jr. y Banua's motion to enter a plea of guilty to a lesser offense, convicting him for such lesser offense, and denying reconsideration of its decision; and

¹ Rollo, pp. 10-24.
² *Id.* at 31-40. Penned by Associate Justice Gabriel T. Robeniol with Associate Justices Marlene B. Gonzales-Sison and Michael P. Ong concurring.

b). the Resolution³ dated July 11, 2023 denying petitioner's motion for the reconsideration.

Antecedents

By Information⁴ dated May 27, 2019, petitioner was charged with violation of Article II, Section 5 of Republic Act No. 9165⁵ which reads:

That, on March 20, 2019, along Ziga Avenue, Basud, Tabaco City, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being authorized by law to sell, deliver, transport, distribute, or give away to another any dangerous drug, did then and there, willfully, unlawfully and feloniously, sell and deliver to a poseur buyer one heat-sealed transparent plastic sachet with marking EBB 3/20/19 1, containing 2.1585 grams of methamphetamine hydrochloride, a dangerous drug, against public order and policy.

ACTS CONTRARY TO LAW.⁶

On September 21, 2019, petitioner pleaded not guilty to the crime charged. On August 3, 2020, petitioner filed a motion to enter a plea of guilty to lesser offense of violation of Article II, Section 12 of Republic Act No. 9165, in lieu of the original charge of violation of Section 5 of the same law. Respondent People of the Philippines (respondent) opposed the motion, asserting that the evidence is sufficient to convict petitioner for illegal sale of dangerous drugs and emphasized that the approval of the public prosecutor and the arresting officers are required in plea bargaining for offenses under Republic Act No. 9165.⁷

Ruling of the Regional Trial Court

Under Order⁸ dated September 14, 2020, the trial court granted petitioner's motion. Petitioner was rearraigned, and with the assistance of counsel, pleaded guilty to violation of Article II, Section 12 of Republic Act No. 9165. The trial court then ordered that petitioner's plea of guilty be entered into the records of the case.⁹

³ *Id.* at 42–44. Penned by Associate Justice Gabriel T. Robeniol with Associate Justices Marlene B. Gonzales-Sison and Michael P. Ong concurring.

⁴ *Id.* at 86.

⁵ Otherwise known as the “Comprehensive Dangerous Drugs Act of 2002.”

⁶ *Rollo*, p. 86.

⁷ *Id.* at 32–33.

⁸ *Id.* at 75–76.

⁹ *Id.* at 76.

Subsequently, by Decision¹⁰ dated October 1, 2020, the trial court found petitioner guilty of violation of Article II, Section 12 of Republic Act No. 9165:¹¹

WHEREFORE, foregoing premises considered, judgment is hereby rendered finding the accused VICENTE SUAREZ v BANUA, JR. guilty for violation of [Article II, Section 12 of Republic Act No.] 9165 (Possession of Equipment, Apparatus, and other Paraphernalia for Dangerous Drugs) and 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).

Accordingly also, accused is hereby ordered to: 1) voluntarily submit herself (*sic*) in (*sic*) Risk Assessment Program by the concerned Rural Health Office and to undergo appropriate program (*sic*) 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), Philippine 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 a 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 drug 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 the conditions for his probation and any violation thereof shall be a ground for the cancellation and revocation of his probation.

SO ORDERED.¹² (Emphasis in the original)

Respondent sought a reconsideration, reiterating that neither the prosecution nor the arresting officers consented to petitioner's plea of guilty to a lesser offense.¹³ It was denied by the trial court per its Order¹⁴ dated November 17, 2020.

Ruling of the Court of Appeals

Dissatisfied, respondent went to the Court of Appeals on a petition for *certiorari*, faulting the trial court with grave abuse of discretion for allowing petitioner to plead guilty to a lesser offense, sans its concurrence; and even though such lesser offense is not necessarily included in the offense charged. In praying that the case be remanded to the trial court for continuation of the proceedings on the original charge, respondent averred that petitioner's right against double jeopardy will not be violated.¹⁵

¹⁰ *Id.* at 77-78.

¹¹ *Id.* at 78.

¹² *Id.*

¹³ *Id.* at 92.

¹⁴ *Id.* at 79-80.

¹⁵ *Id.* at 61-69.

In his Comment,¹⁶ petitioner countered that pursuant to *Estipona v. Lobrigo*,¹⁷ the approval or denial of the plea bargaining proposal is entirely within the sound discretion of the trial court. It is the duty of the trial court to rule against the objection of the prosecution and grant the request for plea bargaining if it is just under the circumstances. Further, a prosecution under the original charge violates petitioner's right against double jeopardy since he has pleaded to a valid information before a competent court that had already convicted him after he was allowed to plead guilty to a lesser offense.¹⁸

Under its Decision¹⁹ dated October 27, 2022, the Court of Appeals granted respondent's petition for *certiorari*, nullified the assailed dispositions and remanded the case to the trial court, thus:²⁰

WHEREFORE, the *Petition* is **GRANTED**. The September 14, 2020 *Order*, October 1, 2020 *Decision*, and November 17, 2020 *Order* of the Regional Trial Court of Tabaco City, Albay, Branch 15, in Criminal Case No. T-7583 are **NULLIFIED**. The case is **REMANDED** to Regional Trial Court of Tabaco City, Albay, Branch 15 for the continuation of the trial against private respondent Vicente Suarez y Banua, Jr. on the original charge of violation of [Article II, Section 5 of Republic Act No.] 9165.

SO ORDERED.²¹ (Emphasis in the original)

The Court of Appeals agreed with respondent that the consent of the prosecutor is a condition *sine qua non* to obtaining a valid plea of guilty to a lesser offense. Thus, the trial court allegedly acted with grave abuse of discretion when it gave due course to petitioner's motion in the absence of the prosecutor's approval and despite his objections. Since petitioner's plea to a lesser offense was invalid, it is not a bar to another prosecution for the same act or omission for which the accused was initially indicted for.²²

In its Resolution²³ dated July 11, 2023, the Court of Appeals denied petitioner's motion for reconsideration.

The Present Petition

Petitioner now seeks affirmative relief and prays that the assailed dispositions of the Court of Appeals be reversed and a new one rendered,

¹⁶ *Id.* at 102–113.

¹⁷ 816 Phil. 789 (2017) [Per J. Peralta, *En Banc*].

¹⁸ *Id.* at 104–109.

¹⁹ *Rollo*, pp. 31–40. Penned by Associate Justice Gabriel T. Robeniol with Associate Justices Marlene B. Gonzales-Sison and Michael P. Ong, concurring.

²⁰ *Id.* at 40.

²¹ *Id.*

²² *Id.* at 39.

²³ *Id.* at 42–44. Penned by Associate Justice Gabriel T. Robeniol with Associate Justices Marlene B. Gonzales-Sison and Michael P. Ong, concurring.

affirming the trial court's Order dated September 14, 2020, Decision dated October 1, 2020, and Order dated November 17, 2020.²⁴

Petitioner asserts that while the acceptance of an offer to plead guilty to a lesser offense is not demandable by the accused as a matter of right, its resolution is ultimately determined by the trial court. Even when both the accused and the prosecution agree to plea bargaining, the request remains subject to the approval of the court. Hence, notwithstanding the prosecution's objection, the trial court may still allow an accused to plead guilty to a lesser offense. Too, petitioner reiterates his argument that a remand of the case will violate his constitutional right against double jeopardy.²⁵

Our Ruling

We reverse. The guidelines in *People v. Montierro*²⁶ are apropos, 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.

²⁴ *Id.* at 23.

²⁵ *Id.* at 20-22.

²⁶ G.R. No. 254564, July 26, 2022 [Per J. Caguioa, *En Banc*].

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. 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 [Republic Act 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.²⁷ (Emphasis supplied)

On April 10, 2018, the Court adopted A.M. No. 18-03-16-SC, also known as the Plea Bargaining Framework in Drugs Cases. The same outlines the acceptable plea bargain of an accused, based on the quantity of dangerous drugs involved, depending on the specific violation of Republic Act No. 9165 charged. With respect to violation of Article II, Section 5 of Republic Act No. 9165 involving methamphetamine hydrochloride or *shabu*, the Plea Bargaining Framework in Drugs Cases states:²⁸

Offense Charged			Acceptable Plea Bargain		Remarks
Section	Penalty	Quantity	Section	Penalty	
Section 5. <i>Sale, Trading, etc. of Dangerous Drugs (Methamphetamine hydrochloride or shabu only)</i>	Life Imprisonment to Death and fine ranging from P500,000.00 to P10,000,000.00	.01 gram to .99 grams (Methamphetamine hydrochloride or shabu only)	Section 12. <i>Possession of Equipment, Apparatus and Other Paraphernalia for Dangerous Drugs</i>	6 months and 1 day to 4 years and a fine ranging from P10,000 to P50,000	In all instances, whether or not the maximum period of the penalty imposed is already served, drug dependency test shall be required. If accused admits

²⁷ *Id.*

²⁸ SC Administrative Matter No. 18-03-16-SC, April 10, 2018, Adoption of the Plea Bargaining Framework in Drugs Cases. (Emphasis supplied)

				<p><i>N.B.:</i> The court is given the discretion to impose a minimum period and a maximum period to be taken from the range of the penalty provided by law. A straight penalty within the range of 6 months and 1 day to 1 year may likewise be imposed.</p>	<p>drug use, or denies it but is found positive after drug dependency test, he/she shall undergo treatment and rehabilitation for a period of not less than 6 months. Said period shall be credited to his/her penalty and the period of his after-care and follow-up program if penalty is still unserved. If accused is found negative for drug use/dependency, he/she will be released on time served, otherwise, he/she will serve his sentence in jail minus the counseling period at rehabilitation center. However, if accused applies for probation in offenses punishable under [Republic Act No.] 9165, other than for illegal drug trafficking or pushing under Section 5 in relation to Sec. 24 thereof, then the law on probation shall apply.</p>
		<p>1.00 gram and above (Methamphetamine hydrochloride or shabu only)</p>	<p>No plea bargaining allowed</p>		

As affirmed in *Montierro*, plea bargaining must conform to the Plea Bargaining Framework in Drugs Cases. Also, the concurrence of the prosecution is not an indispensable requirement for the trial court's grant of

the motion to plead guilty to a lesser offense. Rather, the trial court must exercise its sound discretion in accepting the terms of the plea bargaining.

The Court, nonetheless, finds that the trial court should not have granted the offer to plead guilty to a lesser offense in this case for the simple reason that the original charge for which he was indicted (violation of Article II, Section 5 of Republic Act No. 9165) involved **2.1585 grams** of methamphetamine hydrochloride, in which case, plea bargaining is proscribed. Evidently, therefore, the trial court gravely erred in granting petitioner's motion for plea bargaining and in consequently convicting him of the lesser offense of violation of Article II, Section 12 of Republic Act No. 9165.

The Court notes, however, that although plea bargaining should not have been allowed based on the aforesaid guidelines, this argument was never put to fore by respondent itself in any of its pleadings before the trial court, the appellate court, and now even before the Court. Respondent's opposition was solely anchored on the fact that it did not conform to petitioner's proposed plea bargaining.²⁹ In any event, both the trial court and the appellate court themselves overlooked the fact that petitioner's case fell within the excepting clause.

As it was, the trial court approved petitioner's proposed plea bargaining which eventually led to his re-arraignment, his plea of guilty to the lesser offense of violation of Article II, Section 12 of Republic Act No. 9165, and finally, the promulgation of a judgment of conviction against him for such lesser offense, which judgment has already become final and executory.

The question now hinges on the validity of the appellate court's order to remand the case for continuation of the proceedings petitioner's arraignment and trial, and the trial court's rendition of judgment on the original charge of violation of Article II, Section 5 of Republic Act No. 9165.

On this score, however, the Court sustains petitioner's invocation of double jeopardy. Indeed, all the requisites therefor are present in this case: (1) petitioner was indicted under a valid Information, (2) the trial court possessed jurisdiction over him and the offense charged; (3) following the trial court's approval of his plea bargain, he was arraigned for the lesser offense and entered a valid plea therefor; and (4) there was a termination of the case in view of petitioner's eventual conviction for violation of Article II, Section 12 of Republic Act No. 9165.³⁰

²⁹ *Rollo*, p. 68.

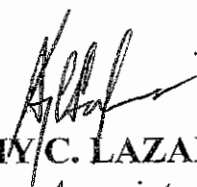
³⁰ *People v. Nitafan*, 362 Phil. 58, 74 (1999) [Per J. Martinez, *En Banc*].

In *Villa Gomez v. People*,³¹ the Court held that since rules of procedure are not ends in themselves, courts may still brush aside procedural infirmities in favor of resolving the merits of the case. Correlatively, since legal representation before the courts and quasi-judicial bodies is a matter of procedure, any procedural lapse pertaining to such matter may be deemed waived when no timely objections have been raised.³² In the same vein, plea bargaining being a rule of procedure,³³ respondent's failure to invoke petitioner's disqualification from plea bargaining may be deemed waived. That the trial court and the Court of Appeals erred in their application of the Plea Bargaining Framework in Drugs Cases in favor of petitioner; and respondent was even deemed to have waived the exclusion clause therein should not be blamed on petitioner. His right against double jeopardy should therefore be sustained.

ACCORDINGLY, the Petition for Review on *Certiorari* is **PARTLY GRANTED**. The Decision dated October 27, 2022 and Resolution dated July 11, 2023 of the Court of Appeals in CA-G.R. SP No. 167998 are **REVERSED**. Criminal Case No. T-7583 is declared **CLOSED** and **TERMINATED**.

Let entry of final judgment be issued immediately.

SO ORDERED.

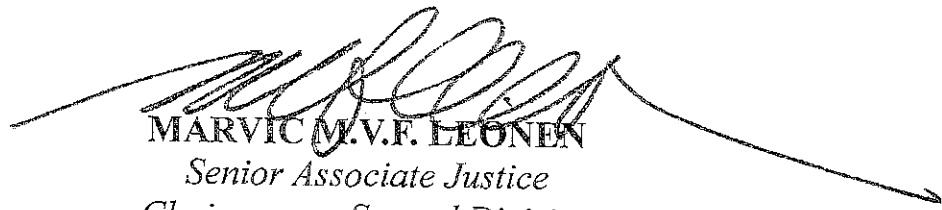

AMY C. LAZARO-JAVIER
Associate Justice

³¹ 889 Phil. 915, 962 (2020) [Per J. Gesmundo, *En Banc*].

³² *Id.*

³³ *Estipona v. Lobrigo*, 816 Phil. 789, 796 (2017) [Per J. Peralta, *En Banc*].

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

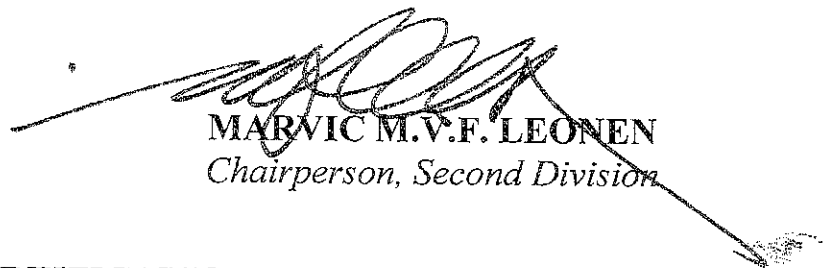

MARIO V. LOPEZ
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

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


MARVIC M.V.F. LEONEN
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision 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