

# **SPECIAL EN BANC**

**[ G.R. No. 249629, March 15, 2021 ]**

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. EDGAR  
MAJINGCAR Y YABUT AND CHRISTOPHER RYAN LLAGUNO Y  
MATOS, RESPONDENTS.**

## **D E C I S I O N**

**LAZARO-JAVIER, J.:**

### **The Case**

The People of the Philippines<sup>[1]</sup> seeks to set aside the following dispositions<sup>[2]</sup> of the Court of Appeals in CA-G.R. SP No. 158396:

1. Decision<sup>[3]</sup> dated April 5, 2019 dismissing the petition for late filing and for lack of merit; and
2. Resolution<sup>[4]</sup> dated September 24, 2019 denying its motion for reconsideration.

### **Antecedents**

Respondents Edgar Majingcar y Yabut (Majingcar) and Christopher Ryan Llaguno y Matos (Llaguno) were charged with violations of Sections 5 and 11, Article II of Republic Act No. 9165 (RA 9165) docketed as Criminal Case Nos. 2016-0774 and 2016-0775, respectively, thus:

#### **Criminal Case No. 2016-0774**

(Section 5, Article II of RA No. 9165)

That on or about October 5, 2016, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, without authority of law did, then and there, willfully, unlawfully and criminally sell, dispense and deliver one (1) pc. medium heat sealed transparent plastic sachet with markings EM-1 10-5-16, weighing 0.056 gram of white crystalline substance to poseur buyer SP02 Clifford A. De Jesus, which when tested, were found positive for the presence of Methamphetamine Hydrochloride popularly known as 'shabu', a dangerous [drug], in violation of above-cited law.<sup>[5]</sup>

#### **Criminal Case No. 2016-0775**

(Section [11], Article II of RA No. 9165)

That on or about October 5, 2016, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, without authority of law did, then and there, willfully, unlawfully and criminally

have in his possession, custody and control of nine (9) pieces [sic] small heat sealed transparent plastic sachet with markings EM-1A-1 10-5-16, EM-1A-2 10-5-16, EM-1A-3 [10-5-16], EM-1A-4 10-5-16, EM-1A-5 10-5-16, EM-1A-6 10-5-16, EM-1A-7 10-5-16, EM-1A-8 10-5-16, EM-1A-9 10-5-16, all containing white crystalline substance with total weight of 0.309 grams, tested and determined to be Methamphetamine Hydrochloride popularly known as 'shabu', a dangerous [drug], in violation of above-cited law.<sup>[6]</sup>

On arraignment, respondents Majingcar and Llaguno pleaded not guilty to both charges. Thereafter, trial ensued.<sup>[7]</sup>

On separate occasions, respondents submitted their proposals to plead guilty to a lesser offense, specifically to violation of Section 12, Article II of RA 9165 pursuant to A.M. No. 18-03-16-SC entitled *Adoption of the Plea Bargaining Framework in Drugs Cases*.<sup>[8]</sup>

In its comment,<sup>[9]</sup> the prosecution, citing Department of Justice (DOJ) Circular No. 027 dated June 26, 2018, counter proposed that respondents plead guilty to violation of Section 5, albeit the penalty would be that as provided under paragraph 3, Section 11 of RA 9165 for Criminal Case No. 2016-0774.

As for respondents' proposal to plead guilty in Criminal Case No. 2016-0775 on violation of Section 12 of RA 9165, in lieu of Section 11, the prosecution interposed no objection.

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

Under Plea Bargaining Resolution<sup>[10]</sup> dated August 6, 2018, the trial court allowed both respondents to plead to a lesser offense, as proposed. It further declared DOJ Circular Nos. 061 dated November 21, 2017 and 027 dated June 26, 2018 and Regional Prosecution Office (RPO) Order No. 027-E-18 dated May 17, 2018 unconstitutional for allegedly infringing the rule-making power of the Supreme Court, thus:

WHEREFORE, premises considered[, the] Department of Justice (DOJ) Circular No. 061 dated [November] 21, 2017, DOJ Circular No. 027 dated June 26, 2018 and Regional Prosecution Office (RPO) Order No. 027-E-18 dated May 17, 2018 are hereby DECLARED UNCONSTITUTIONAL AND INVALID for being in contravention to or undermining the rule-making power of the SC, its *Estipona* Decision, its A.M. No. 18-03-16-SC Resolution (*Adopting the Plea Bargaining Framework in [Drugs] Cases*), and the equal protection clause in their (the said DOJ issuances) application if not in their design. The defense Proposal for Plea Bargaining is ALLOWED over the 'vigorous' objection of the prosecution. RE-ARRAIGN the accused in accordance therewith at the next scheduled hearing (on August 8).<sup>[11]</sup>

The prosecution moved to reconsider<sup>[12]</sup> but it was denied under Plea Bargaining Resolution II<sup>[13]</sup> dated September 1, 2018.

Consequently, on September 5, 2018, respondents were re-arraigned. Pursuant to their respective plea bargaining proposals, as approved by the court, they changed

their individual pleas of "not guilty" to "guilty" to the lesser offense of violation of Section 12, Article II of RA 9165 in both Criminal Case Nos. 2016-0774 and 2016-0775.

On September 18, 2018, the trial court issued the assailed Judgment,<sup>[14]</sup> viz.:

WHEREFORE, premises considered, judgment is hereby rendered FINDING both accused **EDGAR MAJINGCAR y Yabut**, and **CHRISTOPHER RYAN LLAGUNO y Matos** GUILTY beyond reasonable doubt:

[a] In Crim. Case No. 0774 as principals in the special offense of violation of R.A. 9165, Sec. 12 and are EACH SENTENCED to an indeterminate prison term of TWO (2) YEARS **as minimum** to THREE (3) YEARS **as maximum**, and a FINE of TWENTY THOUSAND PESOS (P20,000.00); and

[b] In Crim. Case No. 0775 as principals in the special offense of violation of R.A. 9165, Sec. 12 and are EACH SENTENCED to an indeterminate prison term of ONE (1) YEAR **as minimum** to TWO (2) YEARS **as maximum**, and a FINE of TWENTY THOUSAND PESOS (P20,000.00).<sup>[15]</sup>

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

On a petition for *certiorari* initiated by the People, the Court of Appeals, as borne in its Decision<sup>[16]</sup> dated April 5, 2019, dismissed the petition on two (2) grounds: late filing and lack of merit.<sup>[17]</sup> The Court of Appeals stated that the petition should be dismissed as it was filed only on November 16, 2018 beyond the sixty (60) day period which supposedly expired on November 4, 2018. On the merits, the Court of Appeals pronounced that the petition should still fail for failure to show that the trial court gravely abused its discretion when it allowed respondents to plead to a lesser offense in both cases, following A.M. No. 18-03-16-SC. On this score, the Court of Appeals cited ***Estipona v. Hon. Lobrigo***<sup>[18]</sup> which struck down as unconstitutional the prohibition against plea bargaining in drugs cases. It further upheld the trial court's declaration that DOJ Circular Nos. 027 and 061 and RPO Order No. 027-E-18 are unconstitutional for being contrary to the intent of ***Estipona*** and A.M. No. 18-03-16-SC.

By Resolution<sup>[19]</sup> dated September 24, 2019, the People's motion for reconsideration was denied for lack of merit.

### **The Present Petition**

The People<sup>[20]</sup> now prays anew that respondents' pleas to a lesser offense of violations of Section 12, Article II of RA 9165 in Criminal Case Nos. 2016-0774 and 2016-0775 be set aside, and the case, remanded to the trial court for further proceedings. It faults the Court of Appeals for ruling that its petition for *certiorari* was filed out of time. For in truth, November 16, 2018, the date when it filed the petition was well within the sixty day reglementary period reckoned from September 18, 2018 when the Naga City Prosecution Office received the assailed judgment. Thus, it actually had until November 17, 2018 within which to file its petition.

On the merits, the People faults the Court of Appeals for upholding respondents' plea bargaining proposal over the vehement objection of the prosecution. It asserts

that A.M. No. 18-03-16-SC does not dispense with the required consent of the prosecutor whenever an accused puts on the table a plea bargaining proposal. Hence, the trial court gravely abused its discretion when it allowed respondents to plead to a lesser offense in Criminal Case No. 2016-0774, sans the consent of the prosecutor who had invariably objected to it. In so doing, the trial court encroached upon the prosecutor's direction and control in the prosecution of the criminal case.

Too, the trial court gravely abused its discretion when it declared as unconstitutional DOJ Circular Nos. 027 and 061 and RPO Order No. 027-E-18 when none of the parties themselves even prayed for it.

Since the plea bargaining was improper, respondents cannot claim double jeopardy. They can still be prosecuted under the original charges filed against them.

For his part, Majingcar<sup>[21]</sup> seeks to dismiss the petition due to the purported finality of the trial court's judgment, the People's failure to file a motion for reconsideration of the assailed decision of the Court of Appeals, and the People's resort to an improper remedy against a final and executory judgment of conviction. He likewise posits that while the prosecutor retains direction and control in the prosecution of criminal cases, plea bargaining is addressed to the sound discretion of the judge. Further, although the constitutionality of the DOJ circulars was not raised or prayed for, its resolution was necessary since it directly affected the core issue on plea bargaining. Lastly, he invokes his constitutional right against double jeopardy resulting from the People's challenge against the final judgment of conviction rendered against him.

As for Llaguno,<sup>[22]</sup> he, too, seeks to dismiss the petition due to its belated filing before the Court of Appeals and in light of the People's failure to show exceptional circumstances to warrant a liberal application of the rules in its favor.

## **Issues**

### **I**

Did the Court of Appeals commit reversible error when it declared that the People initiated the petition for *certiorari* out of time?

### **II**

Did the Court of Appeals commit reversible error when it affirmed the grant of respondents' proposal to plead guilty to the lesser offense of violation of Section 12, Article II of RA 9165 in Criminal Case Nos. 2016-0774 and 2016-0775?

### **III**

Did the Court of Appeals commit reversible error when it affirmed the unconstitutionality of DOJ Circular Nos. 027 and 061 and RPO Order No. 027-E-18, as decreed by the trial court?

### **IV**

Does the People's challenge against the verdict of conviction violate respondents' right against double jeopardy?

## **Ruling**

**The Court of Appeals committed reversible error when it declared that the petition for *certiorari* was filed out of time**

Under Rule 65 of the Rules of Court, a petition for *certiorari* must be filed within sixty (60) days from notice of the judgment, order, or resolution sought to be assailed. Here, the People claims that it reckoned the sixty (60) day period from September 18, 2018 when the prosecutor received a copy of the trial court's judgment of conviction that was rendered on the same day. Remarkably, neither respondents nor the Court of Appeals disagrees that indeed, on September 18, 2018, the trial rendered the assailed judgment and it was on the same day, too, when the prosecutor had notice thereof. It follows, therefore, that starting from September 18, 2018, the sixty-day period expired on November 17, 2018. So when the People filed its petition for *certiorari* on November 16, 2018, it did so still well within the reglementary period.

At any rate, the Court of Appeals clearly had its way of counting the sixty days. Although it did not mention from what date it started counting, logic dictates that it started counting on September 5, 2018, when respondents were re-arraigned and allowed to plead "guilty" to the lesser offense of violation of Section 12, Article II of RA 9165 in Criminal Case Nos. 2016-0774 and 2016-0775. We arrive at this conclusion because the Court of Appeals referred to November 4, 2018 as the last day for filing the petition for *certiorari*. Counting backward, the Court of Appeals appears to have started counting from September 5, 2018, the date when respondents got re-arraigned and pleaded guilty to the lesser offense of violation of Section 12, Article II of RA 9165 in both Criminal Case Nos. 2016-0774 and 2016-0775.

But this counting is erroneous. For it was still much later, on September 18, 2018, when the prosecutor actually had notice of the trial court's judgment of conviction that was rendered on the same day. Hence, the People correctly reckoned the sixty-day period from September 18, 2018 or until November 17, 2018. Therefore, we repeat that when the People subsequently filed its petition for *certiorari* on November 16, 2018, it was well within the reglementary period.

To clarify, the Plea Bargaining Resolutions dated August 6, 2018 and September 1, 2018 are mere interlocutory orders which cannot be the subject of a petition for *certiorari*. To allow a challenge thereof via Rule 65 will not only breed undue delay in the administration of justice but a much frowned upon piecemeal attacks against the court's mere interim issuances. Consistent with consideration of expediency, the proper remedy is a one-time challenge against the court's final judgment on the merits. To allow otherwise would result in a never ending trial, not to mention the clogging of the dockets of appellate court with *ad infinitum* petitions of aggrieved parties-litigants against every interlocutory order of the trial court.<sup>[23]</sup>

At any rate, we keenly note the successive, nay, rapid actions of the trial court on the People's motion for reconsideration (September 1, 2018) respondents' re-arraignment (September 5, 2018) and the decision on the merits itself (September 18, 2018) which the People could not have also challenged every step of the way, with the same lightning speed.