

NOEL FERNANDEZ Y VILLEGAS AND ANDREW PLATA Y SUMATRA, PETITIONERS, V. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 224708. October 02, 2019

Ponente: J. REYES, JR., J.

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J. REYES, JR., J.:

Before us is a Manifestation[1] dated January 3, 2019 filed by Noel Fernandez y Villegas (Fernandez) and Andrew Plata y Sumatra (Plata) seeking the reduction of the penalty of imprisonment imposed on them by the Regional Trial Court (RTC), Branch 30, Dumaguete City in Criminal Case Nos. 19668 and 19669, respectively, which was affirmed by the Court of Appeals-Cebu City (CA-Cebu) and this Court.

On May 15, 2012, the RTC rendered a Joint Judgment[2] finding Fernandez and Plata guilty beyond reasonable doubt of illegal possession of dangerous drugs, defined and penalized under Section 11, Article II of Republic Act (R.A.) No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002. The dispositive portion of the Joint Judgment provides:

x x x x

1.

In Criminal Case No. 19668, the accused Noel Fernandez y Villegas is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 0.03 gram of shabu in violation of Section 11, Article II of R. A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The one (1) heat-sealed transparent plastic sachet containing 0.03 gram of Methamphetamine Hydrochloride or shabu is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

2.

In Criminal Case No. 19669, the accused Andrew Plata y Sumatra is hereby found GUILTY beyond reasonable doubt of the offense of illegal possession of 0.03 gram of shabu in violation of Section 11, Article II of R.A. No. 9165 and is hereby sentenced to suffer an indeterminate penalty of twelve (12) years and one (1) day as minimum term to fourteen (14) years as maximum term and to pay a fine of Four Hundred Thousand Pesos (P400,000.00).

The one (1) heat-sealed transparent plastic sachet containing 0.03 gram of Methamphetamine Hydrochloride or

shabu is hereby confiscated and forfeited in favor of the government and to be disposed of in accordance with law.

In the service of sentence, the accused Noel Fernandez y Villegas and the accused Andrew Plata y Sumatra shall be credited with the full time during which they have undergone preventive imprisonment, provided they agree voluntarily in writing to abide by the same disciplinary rules imposed upon convicted prisoners.

SO ORDERED.[3]

On appeal, the CA-Cebu affirmed the RTC's Joint Judgment in its Decision[4] dated June 30, 2015 and Resolution[5] dated April 12, 2016 in CA-G.R. CR No. 01948.

On June 13, 2016, Fernandez and Plata, through the Public Attorney's Office (PAO), filed a Petition for Review on Certiorari under Rule 45 of the Rules of Civil Procedure assailing the June 30, 2015 Decision and April 12, 2016 Resolution of the CA-Cebu.

On August 3, 2016, the Court issued a Resolution[6] denying the Petition for Review on Certiorari for the PAO's failure to: (1) sufficiently show any reversible error in the challenged decision and resolution as to warrant the exercise of the Court's discretionary appellate jurisdiction; (2) state the material date of filing of the motion for reconsideration in violation of Sections 4(b) and 5, Rule 45 of the Rules of Civil Procedure in relation to Section 5(d), Rule 56; and (3) submit a soft copy of the petition pursuant to Administrative Matter (A.M.) No. 11-9-4-SC (Efficient Use of Paper Rule) in relation to Section 5(e), Rule 56 of the Rules of Court.

On November 9, 2016, the PAO filed a Manifestation/Compliance with attached Motion for Reconsideration[7] submitting the soft copy of the petition and its annexes. Fernandez and Plata imputed error on the part of the court a quo in not giving credence to their testimony that no illegal drugs were confiscated from their possession when the police officers arrested them. They argued that the procedures in preserving the integrity and evidentiary value of the seized items were not properly observed especially with respect to the marking of the item seized from Fernandez. They challenged the identity of the corpus delicti in the light of the prosecution's failure to present all persons who marked and had custody of the confiscated illegal drugs.[8]

In its Resolution[9] dated March 27, 2017, the Court denied the Motion with finality, as no compelling reason exists and no substantial arguments were raised to warrant its reconsideration. Thus, the August 3, 2016 Resolution of the Court became final and executory and an Entry of Judgment was made.

On January 11, 2019, Fernandez and Plata filed the instant Manifestation asking the Court to grant them leniency and to allow the application of the plea bargaining framework in A.M. No. 18-03-16-SC for the purpose of reducing their sentence. They hinged their request on the fact that at the time of the trial of their case, plea bargaining in drugs cases was still prohibited.

The Court resolves to DENY the plea for the reduction of the penalty imposed on Fernandez and Plata.

On April 10, 2018, the Court issued a Resolution in A.M. No. 18-03-16-SC ordering the adoption of a plea bargaining framework in cases involving illegal drugs. The new framework is an offshoot of our ruling in *Estipona v. Lobrigo*[10] where we declared unconstitutional Section 23 of R.A. No. 9165 which bars plea bargain deals in drugs cases. Thus, under the framework, an accused charged with violation of Section 11 paragraph 3 of R.A. No. 9165 for illegal possession of dangerous drugs where the quantity is less than 5 grams may be allowed to enter a plea of guilty to a lesser offense of possession of equipment, instrument, apparatus and other paraphernalia for dangerous drugs under Section 12 of R. A. No. 9165. Consequently, the accused shall suffer the

penalty of imprisonment for six months and one day to four years and pay the fine ranging from P10,000.00 to P50,000.00 instead of 12 years and one day to 20 years in prison and a fine ranging from P300,000.00 to P400,000.00.

A plain reading of the Manifestation filed by Fernandez and Plata will show that they seek the reduction of the penalty imposed upon them by the RTC pursuant to the plea bargaining framework sans a plea of guilty to a lesser offense.

"Plea bargaining in criminal cases is a process whereby the accused and the prosecution work out a mutually satisfactory disposition of the case subject to court approval. It usually involves the defendant's pleading guilty to a lesser offense or to only one or some of the counts of a multi-count indictment in return for a lighter sentence than that for the graver charge." [11] Section 2, Rule 116 of the Rules of Court provides:

SEC. 2. Plea of guilty to a lesser offense. — The accused, with the consent of the offended party and the fiscal, may be allowed by the trial court to plead guilty to a lesser offense, regardless of whether or not it is necessarily included in the crime charged, or is cognizable by a court of lesser jurisdiction than the trial court. No amendment of the complaint or information is necessary.

The basic requisites of plea bargaining are: (1) consent of the offended party; (2) consent of the prosecutor; (3) plea of guilty to a lesser offense which is necessarily included in the offense charged; and (4) approval of the court. Among these conditions, the requirement of a plea offer is the most crucial, without which there is no plea bargain to speak of and, logically, there is no basis upon which to sustain a claim for the reduction of sentence under the plea bargaining framework.

Interestingly, Fernandez and Plata anchored their request for the reduction of the sentence imposed on them on the mere issuance of the plea bargaining framework which, they claim, offers a more favorable penalty than that prescribed under R.A. No. 9165. It bears stressing, however, that the reduction of penalty is but a consequence of the plea negotiation. In *People v. Magat*, [12] the Court had the occasion to enunciate that "it is the essence of a plea of guilty that the accused admits absolutely and unconditionally his guilt and responsibility for the offense imputed to him." Hence, absent a categorical and unqualified admission of guilt for a lighter offense than that actually charged, the accused should be sentenced to suffer the penalty prescribed for the offense to which he actually pleaded. Accordingly, Fernandez and Plata should serve the penalty of imprisonment of twelve (12) years and one (1) day to fourteen (14) years imposed by the RTC.

WHEREFORE, the Manifestation with prayer for the commutation of sentence filed by Noel Fernandez y Villegas and Andrew Plata y Sumatra is DENIED.

SO ORDERED.

Carpio (Chairperson), Caguioa, Lazaro-Javier, and Zalameda, JJ., concur.

[1] Rollo, pp. 131-132.

[2] *Id.* at 52-62.

[3] *Id.* at 61.

[4] Penned by Associate Edward B. Contreras, with Associate Justices Edgardo L. Delos Santos and Renato C. Francisco, concurring; *id.* at 83-90.

[5] *Id.* at 95-96.

[6] Id. at 102-103.

[7] Id. at 114-15.

[8] Id. at 116-120.

[9] Id. at 123-124.

[10] G.R. No. 226679, August 15, 2017, 837 SCRA 160, 194.

[11] *Daan v. Sandiganbayan*, 573 Phil. 368, 375 (2008).

[12] *People v. Magat*, 388 Phil. 311, 320 (2000).

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