



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ANTHONY ARNALDO LO @
“White,” and ALWIN BORILLA
NAGALLO @ “Tali Boy,”
Petitioners,

G.R. No. 258420

Present:

CAGUIOA, J.,
Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, and
KHO, JR.,* JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

FEB 26 2023
MICROBAST

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DECISION

GAERLAN, J.:

Before the Court is a Petition for Review on *Certiorari*¹ filed to assail both the Decision² dated November 10, 2020 and the Resolution³ dated December 1, 2021 of the Court of Appeals (CA) in CA-G.R. SP No. 161602. Said rulings of the appellate court granted the original Petition for *Certiorari*⁴ filed by the People of the Philippines (the People), through the Office of the Solicitor General (OSG), in order to assail the various rulings⁵ of Branch 15, Regional Trial Court (RTC) of Tabaco City, Albay relative to the said trial

* Designated additional Member vice Singh, J., per Raffle dated December 7, 2022.

¹ *Rollo*, pp. 20–37.

² *Id.* at 42–56; penned by Associate Justice Ramon R. Garcia, and concurred in by Associate Justices Maria Filomena D. Singh (now a Member of this Court) and Alfredo D. Ampuan of the Special Eighth Division, Court of Appeals, Manila.

³ *Id.* at 58–59; penned by Associate Justice Ramon R. Garcia, and concurred in by Associate Justices Maria Filomena D. Singh (now a Member of this Court) and Alfredo D. Ampuan of the Former Special Eighth Division, Court of Appeals, Manila.

⁴ *Id.* at 60–70.

⁵ *Id.* at 103–108, (Order dated March 15, 2019); pp. 112–115, (Decision dated April 2, 2019; p. 119, (Order dated April 15, 2019); and pp. 123–124, (Order dated May 3, 2019). All these rulings were promulgated by Presiding Judge Alben C. Rabe.

court's approval of a plea-bargaining proposal, the subsequent downgraded conviction, and the approval of the application for probation of petitioners Anthony Arnaldo Lo @ White (Lo) and Alwin Borilla Nagallo @ Tali Boy (Nagallo) in Criminal Case Nos. T-7005 and T-7017. Said criminal cases initially involved charges against the two for violation of Sections 5 and 12 of Republic Act No. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, as amended.

Factual Antecedents and Rulings of the Trial Court

The relevant facts of the case can be gathered from the trial court's quite discursive Order dated March 15, 2019, which is necessarily quoted below *in toto* for easy and full reference:

Prescinding upon the Plea Bargaining Agreement with Motion for Approval, *vis-à-vis* the Objection interposed by Public Pros. Danilo Brotamonte as well as the Reply Memorandum submitted by Atty. Kent Cardino positing that both accused in the instant cases are charged for Violation of Section 5 Article II of Republic Act No. 9165 (Crim. Case Nos. [sic] T-7005) for allegedly selling one sachet of suspected illegal drugs (methamphetamine hydrochloride[,]) popularly known as *shabu*) the quantity of the same [being] 0.039 gram[,]) and for Violation of Sec. 12 [sic] of R.A. 9165 (Crim. Case No. T-7006 [sic]) for allegedly possessing drug paraphernalia.

A Plea Bargaining Agreement with Motion for its Approval has been filed by the accused thru [sic] counsel wherein the accused had agreed to withdraw his original plea of not guilty for Violation of Sec. 5 of R.A. 9165 and to substitute the same with a plea of guilty to a lesser offense under Section 12 of Article II of R.A. No. 9165 and be meted the penalty of six (6) months and one (1) day to four (4) years and a fine ranging from Ten Thousand Pesos (P10,000[.00]) to Fifty Thousand Pesos (P50,000.00) and for Violation of Sec. 12 of R.A. 9165. [T]he accused would enter a plea [of] guilty to [the] lesser offense under Sec. 15 of R.A. 9165 and be imposed the penalty of six (6) months of treatment and rehabilitation.

In sum, the accused will plead guilty to the lesser offenses for violation[s] of Sec. 12 and Sec. 15 of R.A. 9165 in a joint judgment in order for [them] to avail of the benefits of the Probation Law since the penalties provided for under Sec. 12 of R.A. 9165 is below six (6) years imprisonment and for Sec. 15 of R.A. 9165 is [sic] six (6) months of treatment and rehabilitation[,]) and this is the first time that the accused is charge[d] for the above-mentioned cases. More[over], the accused agreed to undergo Treatment and Rehabilitation [sic] pursuant to A.M. No. 18-03-16-SC[,]) which is [entitled the] Adoption of the Plea Bargaining Framework in Drugs Cases and [the] confiscation of the drugs, paraphernalia and moneys as listed on the Chemistry Report and the Receipt of Evidence [sic].

On the other hand[,]) the City Prosecutor expresses opposition and disagreement to the aforementioned Plea Bargaining Agreement with Motion

for its Approval[,] a copy of the said opposition by the good prosecutor alleging that DOJ Department Circular #027 dated June 26, 2018 provides that if the charge [is] for Violation of Sec. 5 of R.A. 9165[,] the acceptable plea bargaining proposal is for Violation under Sec. 11 of R.A. 9165 that imposes the penalty of 12 years and 1 day to 20 years imprisonment and P300,000 to P400,000 fine[:] and for Violation under Sec. 12 of R.A. 9165. [T]he good prosecutor opposes that the lesser offense be under Sec. 15 of R.A. 9165[,] alleging that it will disproportionately downgrade the crime charged where the penalties are imprisonment and fine to no jail term nor fine and, besides, it would already be considered as customary that for violation of Sec. 12 [sic].

The state avers that the acceptable plea bargain for Violation of Sec. 5 of R.A. 9165 under A.M. No. 18-03-16-SC[,] which is the Adoption of the Plea Bargaining Framework in Drug Cases issued by the Supreme Court *En Banc*[,] is the penalty provided for under Sec. 12 of R.A. 9165[,] and for violation of Sec. 12 of R.A. 9165[,] the acceptable lesser offense in under [sic] Sec. 15 of R.A. 9165 while the acceptable bargain under DOJ Department Circular No. 027 issued by the Department of Justice for Violation of Sec. 5 of R.A. 9165 is the penalty stated under Sec. 11 of R.A. 9165[,] and for violation of Sec. 12 of R.A. 9165 is under [sic] Sec. 15 of R.A. 9165.

Prescinding from the foregoing, the issue at hand [is] whether or not the Plea Bargaining Proposal of the Accused should be approved and/or granted? [sic]

After a serious evaluation of the matter, this court finds for the defense since the same is in consonance and in obedience to the Framework in Drug Cases in consonance with the Supreme Court *En Banc* ruling in that Memorandum circular issued by the Supreme Court[,] which was an option of that jurisprudence rendered by the Supreme Court in that *Estipona vs. Hon. Lobrigo* guiding the imposition over the objection of the public prosecutor.

The decision of the Supreme Court in that case of *Salvador Estipona, Jr. vs. Hon. Frank E. Lobrigo*[,] G.R. No. 226679 dated August 15, 2017 declaring Section 23 of Republic Act No. 9165 unconstitutional for being contrary to the rule-making authority of the Supreme Court under Section 5(5), Article VIII of the 1987 Constitution and allowing the plea bargaining in drug cases. It is worthy to note that the decision in the above-mentioned case is already final and executory.

Pursuant to the said ruling of the Supreme Court in the above-entitled case, OCA Circular No. 09-2018 was issued, allowing the plea-bargaining in drugs cases and that the Honorable Judge can accordingly act thereon.

It is true that there has been confusion as to what Sections of Republic Act 9165 are allowed to be the subject of a plea-bargaining. To resolve the matter, [the] Supreme Court *En Banc* issued A.M. No. 18-03-16-SC (Adoption of the Plea Bargaining Framework in Drugs Cases) allowing Sec. 5 and 11 of R.A. 9165 to be the subject of the plea bargaining agreement provided that the illegal drugs pertains [sic] only to methamphetamine hydrochloride/*shabu* and marijuana, provided further [that] it is within the quantity of the illegal drugs as stated therein and the acceptable plea bargain

is under Sec. 12 of R.A. 9165 or Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs[,] and has a penalty of 6 months and one day to 4 years and a fine ranging from P10,000 to P50,000. The same Administrative Matter also allows the accused charged for violation of Sec. 12 of R.A. 9165 to enter into a plea bargaining and the acceptable lesser offense is under Sec. 15 of R.A. 9165 or Use of Dangerous Drugs.

The above-mentioned Administrative Matter allows the accused to enter into a plea-bargaining agreement with respect to Section 5 of Art. II of R.A. 9165, plea-bargaining is allowed[so] long as the quantity of methamphetamine hydrochloride or *shabu* is ranging from 0.01 gram to 0.99 grams[,] and the acceptable plea bargaining is under Sec. 12 of Art. II of R.A. 9165 or Possession of Equipment, Instrument, Apparatus and Other Paraphernalias [*sic*] for Dangerous Drugs[,] and the penalty for the same is six (6) months and one (1) day to four (4) years and a fine from P10,000 to P50,000. For Violation of Sec. 12 of R.A. 9165 the acceptable lesser offense is under Sec. 15 of R.A. 9165 or for the Use of Dangerous Drugs[,] and the imposable penalty is six (6) months of treatment and rehabilitation.

In the instant case, the accused in Criminal Case No. T-7005 [are] charged for allegedly selling suspected methamphetamine hydrochloride or *shabu* and the quantity of the same is 0.039 gram. In accordance and in obedience to the above-stated Administrative Matter, the quantity of the methamphetamine hydrochloride/*shabu* subject of the instant case and to which the accused [are] charged for selling (0.039 gram) is clearly and undoubtedly well within the range of 0.01 to 0.99 grams [*sic*] of *shabu* allowed and admitted to be the subject of the plea bargaining pursuant to A.M. No. 18-03-16-SC.

....

Moreover, the Constitution of the Republic of the Philippines, Article VIII, Section 5(5) declares one of the powers of the Supreme Court [*sic*], which states that [*sic*]:

“(5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice and procedure in all courts, the admission to the practice of law, the Integrated Bar and Legal Assistance to the underprivileged. Such rules shall provides a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.”
(Emphasis Ours)

Corollarily, in a catena of cases, the Supreme Court has ruled that Plea Bargaining is allowed during the arraignment, pre-trial and even up to the point when the prosecution has already rested its case.

Consequently, the cardinal [rule] is that plea bargaining is a rule of procedure. It is a matter of procedure which is within the sole province and

prerogative of the Supreme Court to determine, decide and promulgate. In consonance therewith, it is the submission of the accused that OCA Circular No. 09-2018 and Administrative Matter No. 18-03-16-SC issued by the Supreme Court *En Banc* itself prevails over and above any issuances and/or circulars with respect to plea-bargaining in drugs cases. Any issuances and/or circulars issued shall be considered null and void for being contrary to the rule-making power and authority of the Supreme Court. [H]enceforth, not only is it illegal but also unconstitutional.

The Supreme Court *En Banc* promulgated A.M. No. 18-03-16[-SC] or the Adoption of the Plea Bargaining Framework in Drugs Cases, which allows the accused to enter into a plea bargaining agreement under Sec. 5 of R.A. 9165 as long as the quantity of methamphetamine hydrochloride or *shabu* is 0.01 gram to 0.99 grams [*sic*] and the acceptable plea bargain is under Sec. 12 of R.A. 9165 or for Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs[,] which carries with it the penalty of six (6) months and one (1) day to four (4) years and a fine ranging from P10,000 to P50,000.

DOJ Circular #027[,] which has become the basis for the opposition to the Proposal for Plea Bargaining submitted by the accused[,] provides that if the charge is under Sec. 5 of R.A. 9165 [for] less than 5 grams of *shabu*, the acceptable plea bargain shall be under Sec. 11, par. 3(*ibid*) of R.A. 9165 with penalties of twelve (12) years and one (1) day imprisonment and a fine ranging from P300,000 to P400,000.

DOJ Circular #027[,] which was made the basis of the opposition, can otherwise be declared, [*sic*] not only that it is contrary to the Rule-Making power of the Supreme Court in the *Estipona* Case which already forms part of the law of the land[,] but most importantly, the same DOJ Circular is also contrary to the rule-making authority of the Supreme Court, hence, it is not only illegal but also unconstitutional.

Henceforth[,] DOJ Circular No. 027 issued by the Department of Justice is null and void and is contrary and in contrast [*sic*] to A.M. No. 18-13-19 [*sic*] (Adoption of the Plea Bargaining Framework in Drug[s] Cases) issued and promulgated by the Supreme Court *En Banc* in the exercise of its rule-making power and authority conferred to the Supreme Court under Section 5(5), Article VIII of the 1987 Constitution. DOJ Circular #027 is contrary to the Rule[-]making power of the Supreme Court and encroaches on the Power of the Supreme Court vested upon it and enshrined under the 1987 Constitution of the Republic of the Philippines. Therefore, DOJ Circular No. 027 shall be considered void, illegal and unconstitutional.

Settled is the rule that fundamental principle [*sic*] in applying and interpreting criminal laws, which necessarily includes Plea-Bargaining in Drugs Cases, is to resolve the same in favor of the accused. This is in consonance with the constitutional guarantee that the accused ought to be presumed innocent until and unless guilt is established beyond reasonable doubt.

Applications and interpretations of the Plea-Bargaining for violations of R.A. 9165 should be construed liberally in favor of the accused. The main

essence of the same is to look kindly on the accused. [T]he application or interpretation that is more favorable to the accused should be upheld.

Therefore, between DOJ Circular #027 and A.M. No. 18-13-19 [*sic*] (Adoption of the Plea Bargaining Framework in Drug Cases), the latter should be ruled with favor [*sic*] and the same is favorable to the accused since it provides for a more lenient penalty.

WHEREFORE, the plea bargaining proposal filed by the accused through counsel is granted[,] since the same is in accordance with what is provided for under A.M. No. 18-03-16-SC over the opposition and objection of the City Prosecutor[,] since the basis for the same is CONTRARY to the Rules of Court and an encroachment on the Rule-Making Power of the Supreme Court.

Today, when re-arraigned[,] accused Arnaldo Lo @ [W]hite and Alwin Borilla Nagallo @ Tali Boy manifested their willingness to withdraw their previous plea of not guilty to the information[s] charged of them [in] the above[-]entitled criminal cases[,] and to substitute the same to [*sic*] a plea of guilty to a lesser offense being invoked by the defense counsel. Having been informed of the accusation in [B]icol dialect[,] a language fully understood by both of the accused[, they] respectively pleaded guilty.

Let their respective plea of guilty be entered into the record and issue the corresponding certificate[,] and set the promulgation on APRIL 05, 2019, at 8:30 A.M.

SO ORDERED.⁶ (*Italics supplied*)

Pursuant to the aforementioned Order, the trial court promulgated its Decision⁷ dated April 2, 2019, which convicted Lo and Nagallo, as follows:

WHEREFORE, foregoing premises considered, judgment is hereby rendered finding the accused **ANTHONY ARNALDO LO @ WHITE and ALWIN BORILLA NAGALLO @ TALI BOY**, guilty for:

1. Violation of Section 12 of RA 9165 (Possession of Equipment, Apparatus, and other Paraphernalia for Dangerous Drugs) with an indeterminate penalty of two (2) years to four (4) years and a fine of Ten Thousand Pesos (Php10,000.00);
2. Violation of Section 15 of RA 9165 (Use of Dangerous Drugs, 1st Offense). However, if the accused, after a confirmatory test, is found to be negative for the use of any dangerous drug, instead of being imposed a minimum [*sic*] of six (6) months rehabilitation in a government center, the accused shall render community service for six (6) months in lieu thereof.

⁶ *Id.* at 103-108.

⁷ *Id.* at 112-115.

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Accordingly also, accused are hereby ordered to fulfill the conditions set forth and agreed upon in the Plea Bargaining Agreement.

SO ORDERED.⁸ (Emphasis in the original)

On behalf of the People, the prosecution filed a Motion for Reconsideration⁹ relative to the aforementioned Decision. In the meantime, Lo and Nagallo filed their joint Application for Probation,¹⁰ which was also duly opposed by the prosecution,¹¹ but was approved by the trial court via its Order dated April 15, 2019, viz.:

Finding the Application for Probation filed by accused-applicants Anthony Arnaldo Lo @ White and Alwin Borilla Nagallo @ Tali Boy thru [*sic*] counsel Atty. Kent Cardino being meritorious, the same is hereby granted.

In view thereof, the Probation Officer through the Parole and Probation Administration is hereby mandated to conduct the necessary post-sentence investigation conformably with the provisions of Sec. 5 and Sec. 8 of PD 968[,] as amended[,] and if qualified[,] to submit to court the corresponding recommendation appurtenant therewith in due time.

Pending the submission of the investigation report by the Probation Officer and its approval thereof, accused-applicants Anthony Arnaldo Lo @ White and Alwin Borilla Nagallo @ Tali Boy shall remain in the custody [of] the BJMP, San Lorenzo, Tabaco City, Albay.

SO ORDERED.¹² (Emphasis in the original)

Eventually, the trial court promulgated its Order¹³ dated May 3, 2019, which denied the prosecution's Motion for Reconsideration relative to the Decision dated April 2, 2019, viz.:

WHEREFORE, foregoing premises considered, the Motion to reconsider the Decision of this court promulgated on April 5, 2019 [*sic*] is **set aside** and **denied**.

SO ORDERED.¹⁴ (Emphasis in the original)

As mentioned, the OSG filed on behalf of the People an original Petition for *Certiorari* before the CA to question the rulings of RTC-Tabaco City.

⁸ *Id.* at 114–115.

⁹ *Id.* at 116–117.

¹⁰ *Id.* at 110–111.

¹¹ *Id.* at 118.

¹² *Id.* at 119.

¹³ *Id.* at 123–124.

¹⁴ *Id.* at 124.

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Ruling of the Appellate Court

In its Decision dated November 10, 2020, the CA Special 8th Division granted the People's original Petition for *Certiorari*, annulled and set aside the rulings of RTC-Tabaco City, and accordingly ordered the remand of the case for continuation of trial, viz.:

WHEREFORE, premises considered, the instant Petition for Certiorari is hereby **GRANTED**. The Regional Trial Court, Branch 15, Tabaco City's assailed Order dated March 15, 2019 granting the plea bargaining proposal of private respondents Anthony Arnaldo Lo and Alwin Borilla Nagallo; the Decision dated April 2, 2019 convicting private respondents of the lesser offenses of violation of Sections 12 and 15, Article II of RA No. 9165; the Order dated April 15, 2019 granting private respondents' application for probation; and the Order dated May 3, 2019 denying petitioner People of the Philippines' motion for reconsideration, are all **ANNULLED and SET ASIDE**.

Accordingly, Criminal Case Nos. T-7005 and T-7006 [*sic*] are **REMANDED** to the Regional Trial Court, Branch 15, Tabaco City for the continuation of trial on the original charges of violation of Sections 5 and 12 of RA No. 9165, otherwise known as the *Comprehensive Dangerous Drugs Act of 2002*.

SO ORDERED.¹⁵ (Emphasis and italics in the original)

The appellate court essentially ruled that RTC-Tabaco City committed grave abuse of discretion when it allowed the plea-bargaining deal over the objection of the prosecution, viz.:

Clearly, the acceptance of an offer to plead guilty to a lesser offense under [Rule 116, Section 2 of the Rules of Court] is not demandable by the accused as a matter of right. For a valid plea[-]bargaining, both the accused and the prosecution must give their consent to the same. The very essence of plea[-]bargaining is mutuality. As such, it is essential that both the accused and the prosecution must conform to it. Where the prosecution does not agree to the plea[-]bargaining proposal of the accused because it has a counter[-]proposal or offer[,], or opts to exercise its right to prosecute the crime charged to its fullest, it cannot be compelled to accept the offer.¹⁶

....

That the consent of the public prosecutor and the offended party is mandatory is reiterated in the recent case of *Sayre vs. Hon. Xenos, et al.*[,] wherein the Supreme Court ruled that the respondent judge therein did not act with grave abuse of discretion when he did not approve the plea bargaining proposal of the accused notwithstanding its conformity with A.M. No. 18-03-

¹⁵ *Id.* at 55–56.

¹⁶ *Id.* at 50–51, citing *Estipona v. Judge Lobrigo*, 816 Phil. 789 (2017) [Per J. Peralta, *En Banc*].

16-SC in the [*sic*] light of the continuing objection of the prosecution. Furthermore, it was ruled that the DOJ Circular No. 27 pertaining to plea[-] bargaining under Section 5 to Section 11 of RA No. 9165 did not contravene the Plea[-]Bargaining Framework found in A.M. No. 18-03-16-SC. This is because the DOJ Circular merely serves as an internal guideline for prosecutors to observe before they may give their consent to proposed plea bargains.¹⁷ . . . (Citation omitted)

. . . .

It is therefore evident that the court *a quo*'s act of approving private respondents' plea[-]bargaining proposal over the objection of the public prosecutor as representative of petitioner People was done contrary to existing laws and jurisprudence. Instead, it should have ordered the continuation of the proceedings because there was no mutual agreement to plea[-]bargain. As such, the assailed Order dated March 15, 2019 must be annulled and set aside for having been rendered with grave abuse of discretion amounting to lack or excess of jurisdiction.

As a consequence of the annulment and setting aside of the Order dated March 15, 2019 allowing private respondents to withdraw their initial plea of "not guilty" to the offenses charged and to substitute the same with a plea of guilty to the lesser offenses of violation[s] of Sections 12 and 15, Article II of RA No. 9165, it necessarily follows that the Decision dated April 2, 2019 convicting private respondents of the lesser offenses of violation of Sections 12 and 15, Article II of RA No. 9165; the Order dated April 15, 2019 granting private respondents' application for probation; and the Order dated May 3, 2019 denying petitioner People's motion for reconsideration must also be annulled and set aside.

Accordingly, the instant case must be remanded to the court *a quo* for continuation of trial on the original charges of violation of illegal sale of dangerous drugs and illegal possession of drug paraphernalia under Sections 5 and 12 of RA No. 9165.¹⁸

Additionally, the CA also briefly noted that extant jurisprudence dispelled the notion that Lo and Nagallo would suffer double jeopardy, since "no double jeopardy would attach[,] considering that the accused's plea of guilty to the lesser offense was done without the consent of the public prosecutor, pursuant to Rule 117, Section 7 of the Rules of Court."¹⁹

Lo and Nagallo duly filed their Motion for Reconsideration,²⁰ but the CA denied the same via its Resolution dated December 1, 2021, viz.:

WHEREFORE, the instant Motion for Reconsideration is hereby **DENIED.**

¹⁷ *Id.* at 51.

¹⁸ *Id.* at 55.

¹⁹ *Id.* at 54, citing *People v. Villarama, Jr.*, 285 Phil. 723 (1992) [Per J. Medialdea, First Division].

²⁰ *Id.* at 134-139.

SO ORDERED.²¹ (Emphasis in the original)

Hence, the instant Petition.

Further Preliminaries

The Court notes for the record that co-accused Nagallo filed through counsel his Manifestation with Motion to Withdraw to Appeal²² [*sic*], which informs that he is no longer interested to pursue the instant Petition after being made aware of the legal implications and possible consequences of such withdrawal. Attached to said Manifestation with Motion is Nagallo's handwritten statement²³ dated January 20, 2022 confirming his decision to withdraw from the instant Petition, explaining that he instead wishes to just defend himself in the trial proper. In a Notice of Resolution²⁴ dated January 18, 2023, the Court granted Nagallo's motion for his prayed withdrawal, and concurrently deemed the present case against him closed and terminated.

Arguments of the Parties

Lo basically argues that the CA gravely abused its discretion in granting the People's original Petition for *Certiorari*, which effectively invalidated his plea-bargaining agreement with the prosecution below and all attendant results therefrom, including his reduced sentence and his approved application for probation. He asserts that the trial court below had full discretion and proper jurisdiction to approve the plea-bargaining proposal over the objections of the prosecution, based on the Court's Resolution in *In Re: Letter of Associate Justice Diosdado M. Peralta on the Suggested Plea Bargaining Framework Submitted by the Philippine Judges Association*,²⁵ which has the following critical paragraph:

Significantly, plea[-]bargaining is always addressed to the sound discretion of the judge, guided by Court issuances, like A.M. No. 18-03-16-SC dated April 10, 2018. **If the objection to the plea bargaining is solely to the effect that it will weaken the drug campaign of the government, then the judges may overrule such objection because they are constitutionally bound to settle actual controversies involving rights which are legally demandable and enforceable. Judges must decide cases based on evidence, law and jurisprudence, and they cannot just defer to the policy of another Branch of the government. However, if objections to the plea[-]bargaining are valid and supported by evidence to the effect that**

²¹ *Id.* at 59.

²² *Id.* at 11–13.

²³ *Id.* at 16.

²⁴ *Id.* at 144–145.

²⁵ A.M. No. 18-03-16-SC, April 2, 2019.

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the offender is a [recidivist], a habitual offender, or known in the community as a drug addict and a troublemaker, or one who has undergone rehabilitation but had a relapse, or has been charged many times, or when the evidence of guilt of [sic] the charge is strong, courts should not allow plea[-]bargaining, because that will not help keep law and order in the community and the society. And just because the prosecution and the defense agree to enter into a plea bargain, it does not mean that the courts will approve the same. The judge must still exercise sound discretion in granting or denying plea[-]bargaining, taking into account relevant circumstances, such as the character of the accused.²⁶

(Emphasis in the original)

It is thus Lo's assertion that the objection of the prosecution below was simply based on the latter's invocation of the Department of Justice's (DOJ's) own guidelines and policies, and not on any of the circumstances as enumerated above that would constitute valid reasons not to approve a plea bargain. It indeed must be noted that the prosecution's Opposition²⁷ as filed with RTC-Tabaco City does simply state that as to the charge under Section 5 of Republic Act No. 9165, the plea bargain would go against the range set in the DOJ's Department Circular No. 27 (dated June 26, 2018), and that as to the charge under Section 12 of Republic Act No. 9165, the plea bargain would disproportionately downgrade the offense charged. *No other reasons were given, aside from the prosecution's insistence that its concurrence must first be secured before the plea bargain's approval.*

Additionally, Lo notes that the Court's ruling in *Sayre v. Xenos*,²⁸ which actually affirmed the necessity of all parties consenting to plea bargains, should not apply retroactively to the case, since the trial court rendered its rulings in 2019. And finally, the fact that the amount of *shabu* involved here is only 0.039 gram should frame the case as one properly suitable for plea-bargaining, since it is the Court's own policy to mitigate the apparent harshness of penalties in drug cases and to unclog trial court dockets.

In its Comment²⁹ filed on behalf of the People, the OSG basically offers the counter-argument that the constancy of jurisprudence relating to plea bargains indicate an absolute necessity for the consent of the prosecution, most especially in drug cases. Crucially, the Comment mentions the relatively new landmark case of *People v. Montierro*,³⁰ where the Court recently laid down the following guidelines for all plea-bargaining issues in drug cases, viz.:

²⁶ *People v. Montierro*, 926 Phil. 430, 451–452 (2022) [Per J. Caguioa, *En Banc*], citing *Re: Letter of Associate Justice [(now retired Chief Justice)] Diosdado M. Peralta on the Suggested Plea Bargaining Framework Submitted by the Philippine Judges Association*, *id.*

²⁷ *Rollo*, pp. 77–78.

²⁸ 871 Phil. 86 (2020) [Per J. Carandang, *En Banc*].

²⁹ *Rollo*, pp. 153–170.

³⁰ 926 Phil. 430 (2022) [Per J. Caguioa, *En Banc*].

To summarize the foregoing discussion, the following guidelines shall be observed in plea[-]bargaining in drugs [*sic*] cases:

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 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 [*sic*] Cases, the judge shall order that a drug dependency assessment be administered. If the accused admits [to] drug use, or denies it but is found [to be] 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 [the] 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.
6. Plea[-]bargaining in drugs [*sic*] cases shall not be allowed when the proposed plea bargain does not conform to the Court-issued Plea[-]Bargaining Framework in Drugs [*sic*] 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.³¹

However, the OSG still insists that the prosecution's consent to the plea bargain is an absolute necessity.

In his Reply,³² Lo notes that the *Montierro* case is actually favorable to him, since the new guidelines imply that the trial court had every power to overrule the prosecution's objection that was based on mere reliance on DOJ guidelines and policies on plea-bargaining, and not among those enumerated as valid objections. The Reply also reiterates Lo's previous arguments as discussed in the Petition proper.

Issue before the Court

The sole issue for the court's determination is whether or not the new *Montierro* guidelines should be applied to the instant Petition, which will require further reception of evidence relative to any valid objection to the plea-bargaining agreement as approved by the trial court below.

Ruling of the Court

The Court answers the aforementioned in the negative in light of the newest guidelines promulgated in the case of *Aquino v. People*.³³ Accordingly, the instant Petition is granted.

Briefly, it must be noted that the Court's landmark disposition in *Montierro* seemed to finally address the issue of conflict between the prosecution's objections to plea bargains in drug cases and the trial courts' power to overrule such objections when not based on evidence. Following said

³¹ *Id.* at 468–469.

³² *Id.* at 189–197.

³³ G.R. No. 259094, January 28, 2025 [Per J. Dimaampao, *En Banc*].

precedent, the Court of late has consistently opted to remand cases of a similar nature back to the trial courts of origin in order to provide both parties an opportunity to conform with the *Montierro* guidelines. In *Cereza v. Judge Suarez*,³⁴ the Court emphasized and explained anew the rationale for the new guidelines, viz.:

To reiterate, the guidelines issued by this Court serves as the authority for the trial courts to decide on an application for plea[-]bargaining. **While public prosecutors may give or withhold their consent thereto, trial courts are authorized to overrule their objection when the same are not based on the pieces of evidence presented. Reiteration of principles such as the executive's [sic] war on drugs or being tied up to guidelines issued by the DOJ are not sufficient reasons to deny an application for a plea bargain.** Being courts of law, trial courts must be guided by the Rules on Evidence. **Any principle espoused by the public prosecutor must thus be complemented by corresponding evidence to a particular case, and it is these pieces of evidence that the trial courts must carefully examine.**³⁵ (Emphasis and underscoring supplied)

In a related vein, the Court in *Orda v. People*³⁶ made the following statement regarding the nature of a trial court's role with regard to the approval of plea bargains:

In sum, the Court clarifies that the consent of the parties is necessary in the plea bargaining process. **The approval of the accused's plea of guilty to a lesser offense, however, is ultimately subject to the sound discretion of the trial court. Thus, petitioner's plea[-]bargaining depends on the trial court's assessment of their qualifications, along with the foregoing guidelines, and not whether the public prosecutor will interpose his or her objection thereto.** Verily, we find it necessary to remand the case to the trial court to determine whether petitioner is qualified to avail of the benefits of plea[-]bargaining.³⁷ (Emphasis supplied)

The Court must clarify that the aforementioned ruling does indeed state that the prosecution's consent is necessary—but not *absolutely* necessary—for the approval of a plea bargain in accordance with the *Montierro* guidelines. Ultimately, it boils down to the merits of the prosecution's objections, and the Court confirmed this in *Tresvalles v. People*³⁸ when it stated that “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

³⁴ 930 Phil. 993 (2022) [Per J. J. Lopez, Second Division]. See *Billoso v. People*, G.R. No. 257733, January 11, 2023 [Per J. J. Lopez, Second Division]; see also *People v. Esma*, G.R. No. 250979, January 11, 2023 [Per J. Inting, Third Division].

³⁵ *Cereza v. Judge Suarez*, *id.* at 1013.

³⁶ G.R. No. 258894, January 30, 2023 [Per J. Lazaro-Javier, Second Division].

³⁷ *Id.*

³⁸ G.R. No. 260214, April 17, 2023 [Per J. Singh, Third Division]. See *Biron v. People*, G.R. No. 258126, April 19, 2023 [Per J. Singh, Third Division].

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merits. If the RTC finds the prosecution's objection meritorious, it shall order the continuation of the criminal proceedings."³⁹

In *Aguilar v. People*,⁴⁰ the Court reiterated what the sole valid objections are to a plea bargain, and the need for the remand of such drug cases in order to afford both the prosecution and the accused the opportunity to present their respective pieces of evidence on the issue, viz.:

Nevertheless, the criminal cases against Aguilar must be remanded to the RTC. Following the parameters laid out in *Montierro*, the trial court may disallow plea[-]bargaining if it is shown that the accused is a recidivist, a habitual offender, a known drug addict within the community, had relapsed after rehabilitation, or had been charged many times, or if the evidence of guilt is strong. In this case, the records are bereft of any indication that the RTC made an evaluation to determine if Aguilar's case falls within these circumstances that would qualify or disqualify him from plea[-]bargaining.⁴¹

All in all, there was perceived to be an absolute need for both the prosecution below to present evidence to support any valid grounds it may raise relative to Lo's plea bargain as proposed, and for Lo himself to offer any evidence to counter such opposition. As the Court in *Montierro* so aptly put:

Again, to emphasize, plea[-]bargaining is a mechanism in criminal procedure geared towards achieving an efficient, speedy and inexpensive disposition of a case. It enables the prosecution and the defense to mitigate the offense charged in exchange of a plea of guilty that is enforceable only if approved by the court. Under this mechanism, the accused is permitted to plead guilty to a lesser offense that is equivalent to a judicial admission while the prosecution obtains a final judgment of conviction without proof. To ensure that the ends of plea[-]bargaining are achieved, the trial court independently assesses the merits of the plea[-]bargaining proposal of the accused. Therefore, the approval or denial of the plea[-]bargaining, regardless of the mutual consent of the parties, is strictly within the sole power and discretion of the court.⁴²

However, the Court in *Aquino* recently noted that the volume of remanded cases has only caused further delay, viz.:

However, the Court has observed that the remand of these cases has had the unfortunate effect of further delaying their disposition. Indeed, cases which have already been decided and sentences which have already been

³⁹ *Tresvalles v. People*, *id.*

⁴⁰ G.R. No. 257410, August 9, 2023 [Per J. Gaerlan, Third Division]. See *Bason v. People*, G.R. No. 262664, October 3, 2023 [Per J. Inting, *En Banc*]. See also *Domen v. People*, G.R. No. 258893, May 29, 2024 [Per J. Hernando, First Division].

⁴¹ *Id.*

⁴² *People v. Montierro*, 926 Phil. 430, 466 (2022) [Per J. Caguioa, *En Banc*].

determined are now required to be reopened for the purpose of determining questions relating to the *strength of the prosecution's evidence, and the character of the accused*, despite the fact that the prosecution never submitted such grounds to object to the motion to plea bargain. This problem also arises due to the present formulation of Rule 116, Section 2 of the Rules of Criminal Procedure where the accused is mandated to proffer his proposal for plea bargaining upon arraignment *and before trial*, i.e., before the prosecution has the opportunity to present its evidence[-]in[-]chief:

....

Thus, any time and effort “saved” by the plea bargaining system is effectively rendered nugatory as the trial court must again reopen the case and receive the prosecution’s evidence. This is undoubtedly anathema to the chief virtues advanced by plea bargaining, that is, *speed, economy and finality* for the accused, the offended party, the prosecution, and the court.

Forcing a trial court to make a determination as to the existence and propriety of grounds for objecting to a plea bargaining proposal where the prosecution itself did not even bother to propound such grounds in the first place is akin to arrogating upon such court the power to determine whether to interpose an objection, what ground to use for such objection, both of which are highly critical determinations reserved solely for the Executive. After all, the power to prosecute is purely an executive function, and the prosecutor has a wide discretion of whether, what, and whom to charge due to the range of variables present when pursuing a criminal case.⁴³ (Emphasis and italics in the original, citations omitted)

Thus, the Court in *Aquino* opted to adopt the new rule, based on the principle behind the Omnibus Motion Rule in Section 8, Rule 15 of the Rules of Court: “where the prosecution’s objection is anchored only on one or a few—but not all—grounds for opposing such proposal, all other possible grounds not thus raised shall be deemed waived.”⁴⁴

The Court’s specific guidelines in applying the aforementioned new rule are as follows:

First. Where the prosecution’s objection to an accused’s motion for plea bargaining is grounded on only a few but not all possible grounds for opposing the motion, it is understood that the prosecution is waiving the grounds not thus raised.

Second. Where the prosecution has raised multiple grounds in its opposition, but the trial court only ruled in one but was silent with regard to the rest, the trial court shall be directed to rule on such pending issues in accordance with the principles in *Montierro* and this case.

⁴³ *Aquino v. People*, G.R. No. 259094, January 23, 2025 [Per J. Dimaampao, *En Banc*].

⁴⁴ *Id.*

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Third. Where the records before the Court are incomplete to determine if it falls in any of the preceding scenarios, the trial court shall be directed to rule again on the matter following the principles laid down in *Montierro* and this case.⁴⁵ (Emphasis in the original)

The Court also updated the *Montierro* guidelines to read as follows:

Upon this point, the following comprehensive guidelines shall be observed in plea bargaining in cases involving dangerous drugs:

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 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 [*sic*].
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. Although 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 objections raised by the prosecution and* other relevant circumstances, including the character of the accused.
5. *In cases where the prosecution, in its comment or opposition to the accused's motion to plea bargain, raised only a few but not all possible grounds for opposing the motion, it must be understood that the prosecution has waived such grounds not raised, similar to the principle behind the Omnibus Motion Rule.*

⁴⁵ *Id.*

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6. 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.
7. 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.
8. 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, although in accordance with the plea bargaining framework issued by the Court, if any.
9. If the prosecution objects to the accused's plea bargaining proposal due to the circumstances enumerated in *item no. 6*, 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. ***The trial court shall hear and receive evidence on any and all grounds raised by the prosecution for opposing the motion to plea bargain and must rule on each ground accordingly.***
10. 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.
11. ***Where the prosecution has raised multiple grounds in its opposition, but the trial court only ruled in one but was silent with regard to the rest, either the appellate court or this Court shall direct the trial court to rule on such pending issues in accordance with the principles in Montierro and this case.***
12. ***Where the records before either the appellate court or this Court are incomplete to determine if it falls in any of the preceding scenarios, the trial court shall be directed to rule again on the matter following the principles laid down in Montierro and this case.***
13. ***As a result of the foregoing rule, if the trial court or the appellate court has ruled correctly on the issue, the correct judgment shall be reinstated or affirmed, as the case may be.***
14. ***In cases where both the trial court and the appellate court ruled incorrectly on the issue (i.e., not in accordance with Montierro),***

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*a new judgment shall be entered by the Court directing the trial court to allow plea bargaining in the accused's case, and to render a guilty verdict accordingly.*⁴⁶ (Emphasis and italics in the original)

The Court immediately notes that the plea-bargaining proposal as embodied and approved in RTC-Tabaco City's Order dated March 15, 2019 actually conforms to the letter of A.M. No. 18-03-16-SC dated April 10, 2018, otherwise known as the Court-Adopted Plea Bargaining Framework in Drug Cases. Also, as previously stated, the prosecution's Opposition to the said plea-bargaining proposal does not state any other substantive objection aside from the non-conformity with the DOJ's own guidelines and the supposedly disproportionate downgrading of the offenses, presumably in contradiction to the DOJ's own guidelines. With no other valid reasons and objections to bar it from approving the plea-bargaining proposal, RTC-Tabaco City was well within its sound discretion to approve the same.

In accordance with the *Aquino* guidelines, the Court hereby notes that the prosecution below had effectively waived its opportunity to object to the plea-bargaining proposal based on valid grounds other than essentially the non-conformity to the DOJ's own guidelines. Items 5 and 13 of the *Aquino* guidelines are thus applicable here, and thus the trial court's rulings relative to the plea-bargain (but only as to Petitioner Lo) are to be reinstated immediately.

As a parting note, the Court would simply quote its reasoning in *Estipona v. Lobrigo*⁴⁷ as a repeating admonition to both prosecution and defense in drug cases:

In this jurisdiction, plea bargaining has been defined as "a process whereby the accused and the prosecution work out a mutually satisfactory disposition of the case subject to court approval." There is give-and-take negotiation common in plea bargaining. The essence of the agreement is that both the prosecution and the defense make concessions to avoid potential losses. Properly administered, plea bargaining is to be encouraged because the chief virtues of the system—speed, economy, and finality—can benefit the accused, the offended party, the prosecution, and the court.

Considering the presence of mutuality of advantage, the rules on plea bargaining neither create a right nor take away a vested right. Instead, it [*sic*] operates as a means to implement an existing right by regulating the judicial process for enforcing rights and duties recognized by substantive law and for justly administering remedy and redress for a disregard or infraction of them.

The decision to plead guilty is often heavily influenced by the defendant's appraisal of the prosecution's case against him and by the


⁴⁶ *Id.*

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


apparent likelihood of securing leniency should a guilty plea be offered and accepted. In any case, whether it be to the offense charged or to a lesser crime, a guilty plea is a "serious and sobering occasion" inasmuch as it constitutes a waiver of the fundamental rights to be presumed innocent until the contrary is proved, to be heard by himself and counsel, to meet the witnesses face to face, to bail (except those charged with offenses punishable by *reclusión perpetua* when evidence of guilt is strong), to be convicted by proof beyond reasonable doubt, and not to be compelled to be a witness against himself.⁴⁸ (Italics in the original, citations omitted)

ACCORDINGLY, the instant Petition for Review on *Certiorari* is **GRANTED**. The Decision dated November 10, 2020 and the Resolution dated December 1, 2021 of the Court of Appeals in CA-G.R. SP No. 161602 *relative only to petitioner Anthony Arnaldo Lo @ "White"* are both hereby **SET ASIDE**, and the following rulings of Branch 15, Regional Trial Court of Tabaco City, Albay, are hereby **REINSTATED relative only to petitioner Anthony Arnaldo Lo @ "White"**: 1) the Order dated March 15, 2019, which approved and granted the plea-bargaining proposal; 2) the Decision dated April 2, 2019, which convicted petitioner for the downgraded offenses; and 3) the Order dated April 15, 2019, which approved petitioner's application for probation. Petitioner Anthony Arnaldo Lo @ "White" is also hereby **ORDERED** to submit to a drug dependency test pursuant to A.M. No. 18-03-16-SC (dated April 10, 2018), otherwise known as the Plea-Bargaining Framework in Drug Cases.


SO ORDERED.


SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

⁴⁸ *Id.* at 813.



HENRI JEAN PAUL B. INTING
Associate Justice



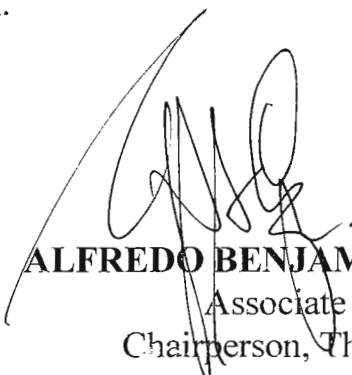
JAPAR B. DIMAAMPAO
Associate Justice



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.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

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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