

EN BANC

[G.R. No. 226679, August 15, 2017]

SALVADOR ESTIPONA, JR. Y ASUELA, PETITIONER, VS. HON. FRANK E. LOBRIGO, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 3, LEGAZPI CITY, ALBAY, AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

DECISION

PERALTA, J.:

Challenged in this petition for *certiorari* and prohibition^[1] is the constitutionality of Section 23 of Republic Act (R.A.) No. 9165, or the "*Comprehensive Dangerous Drugs Act of 2002*,"^[2] which provides:

SEC 23. *Plea-Bargaining Provision.* - Any person charged under any provision of this Act regardless of the imposable penalty shall not be allowed to avail of the provision on plea-bargaining.^[3]

The facts are not in dispute.

Petitioner Salvador A. Estipona, Jr. (*Estipona*) is the accused in Criminal Case No. 13586 for violation of Section 11, Article II of R.A. No. 9165 (*Possession of Dangerous Drugs*). The Information alleged:

That on or about the 21st day of March, 2016, in the City of Legazpi, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, not being lawfully authorized to possess or otherwise use any regulated drug and without the corresponding license or prescription, did then and there, willfully, unlawfully and feloniously have, in his possession and under his control and custody, one (1) piece heat-sealed transparent plastic sachet marked as VOP 03/21/16-1G containing 0.084 [gram] of white crystalline substance, which when examined were found to be positive for Methamphetamine Hydrochloride (*Shabu*), a dangerous drug.

CONTRARY TO LAW.^[4]

On June 15, 2016, Estipona filed a *Motion to Allow the Accused to Enter into a Plea Bargaining Agreement*,^[5] praying to withdraw his not guilty plea and, instead, to enter a plea of guilty for violation of Section 12, Article II of R.A. No. 9165 (*Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs*) with a penalty of rehabilitation in view of his being a first-time offender and the minimal quantity of the dangerous drug seized in his possession. He argued that Section 23 of R.A. No. 9165 violates: (1) the intent of the law expressed in paragraph 3, Section 2 thereof; (2) the rule-making authority of the

Supreme Court under Section 5(5), Article VIII of the 1987 Constitution; and (3) the principle of separation of powers among the three equal branches of the government.

In its Comment or Opposition^[6] dated June 27, 2016, the prosecution moved for the denial of the motion for being contrary to Section 23 of R.A. No. 9165, which is said to be justified by the Congress' prerogative to choose which offense it would allow plea bargaining. Later, in a Comment or Opposition^[7] dated June 29, 2016, it manifested that it "is open to the Motion of the accused to enter into plea bargaining to give life to the intent of the law as provided in paragraph 3, Section 2 of [R.A. No.] 9165, however, with the express mandate of Section 23 of [R.A. No.] 9165 prohibiting plea bargaining, [it] is left without any choice but to reject the proposal of the accused."

On July 12, 2016, respondent Judge Frank E. Lobrigo of the Regional Trial Court (RTC), Branch 3, Legazpi City, Albay, issued an Order denying Estipona's motion. It was opined:

The accused posited in his motion that Sec. 23 of RA No. 9165, which prohibits plea bargaining, encroaches on the exclusive constitutional power of the Supreme Court to promulgate rules of procedure because plea bargaining is a "rule of procedure." Indeed, plea bargaining forms part of the Rules on Criminal Procedure, particularly under Rule 118, the rule on pre-trial conference. It is only the Rules of Court promulgated by the Supreme Court pursuant to its constitutional rule-making power that breathes life to plea bargaining. It cannot be found in any statute.

Without saying so, the accused implies that Sec. 23 of Republic Act No. 9165 is unconstitutional because it, in effect, suspends the operation of Rule 118 of the Rules of Court insofar as it allows plea bargaining as part of the mandatory pre-trial conference in criminal cases.

The Court sees merit in the argument of the accused that it is also the intendment of the law, R.A. No. 9165, to rehabilitate an accused of a drug offense. Rehabilitation is thus only possible in cases of use of illegal drugs because plea bargaining is disallowed. However, by case law, the Supreme Court allowed rehabilitation for accused charged with possession of paraphernalia with traces of dangerous drugs, as held in People v. Martinez, G.R. No. 191366, 13 December 2010. The ruling of the Supreme Court in this case manifested the relaxation of an otherwise stringent application of Republic Act No. 9165 in order to serve an intent for the enactment of the law, that is, to rehabilitate the offender.

Within the spirit of the disquisition in *People v. Martinez*, there might be plausible basis for the declaration of Sec. 23 of R.A. No. 9165, which bars plea bargaining as unconstitutional because indeed the inclusion of the provision in the law encroaches on the exclusive constitutional power of the Supreme Court.

While basic is the precept that lower courts are not precluded from resolving, whenever warranted, constitutional questions, the Court is not unaware of the admonition of the Supreme Court that lower courts must

observe a becoming modesty in examining constitutional questions. Upon which admonition, it is thus not for this lower court to declare Sec. 23 of R.A. No. 9165 unconstitutional given the potential ramifications that such declaration might have on the prosecution of illegal drug cases pending before this judicial station.^[8]

Estipona filed a motion for reconsideration, but it was denied in an Order^[9] dated July 26, 2016; hence, this petition raising the issues as follows:

I.

WHETHER SECTION 23 OF REPUBLIC ACT NO. 9165, WHICH PROHIBITS PLEA BARGAINING IN ALL VIOLATIONS OF THE SAID LAW, IS UNCONSTITUTIONAL FOR BEING VIOLATIVE OF THE CONSTITUTIONAL RIGHT TO EQUAL PROTECTION OF THE LAW.

II.

WHETHER SECTION 23 OF REPUBLIC ACT NO. 9165 IS UNCONSTITUTIONAL AS IT ENCROACHED UPON THE POWER OF THE SUPREME COURT TO PROMULGATE RULES OF PROCEDURE.

III.

WHETHER THE REGIONAL TRIAL COURT, AS PRESIDED BY HON. FRANK E. LOBRIGO, COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT REFUSED TO DECLARE SECTION 23 OF REPUBLIC ACT NO. 9165 AS UNCONSTITUTIONAL.^[10]

We grant the petition.

PROCEDURAL MATTERS

The People of the Philippines, through the Office of the Solicitor General (OSG), contends that the petition should be dismissed outright for being procedurally defective on the grounds that: (1) the Congress should have been impleaded as an indispensable party; (2) the constitutionality of Section 23 of R.A. No. 9165 cannot be attacked collaterally; and (3) the proper recourse should have been a petition for declaratory relief before this Court or a petition for *certiorari* before the RTC. Moreover, the OSG argues that the petition fails to satisfy the requisites of judicial review because: (1) Estipona lacks legal standing to sue for failure to show direct injury; (2) there is no actual case or controversy; and (3) the constitutionality of Section 23 of R.A. No. 9165 is not the *lis mota* of the case.

On matters of technicality, some points raised by the OSG maybe correct. Nonetheless, without much further ado, it must be underscored that it is within this Court's power to make exceptions to the rules of court. Under proper conditions, We may permit the full and exhaustive ventilation of the parties' arguments and positions despite the supposed technical infirmities of a petition or its alleged procedural flaws. In discharging its solemn duty as the final arbiter of constitutional issues, the Court shall not shirk from its obligation to determine novel issues, or issues of first impression, with far-reaching implications.^[11]

Likewise, matters of procedure and technicalities normally take a backseat when issues of substantial and transcendental importance are present.^[12] We have acknowledged that the Philippines' problem on illegal drugs has reached "epidemic," "monstrous," and "harrowing" proportions,^[13] and that its disastrously harmful social, economic, and spiritual effects have broken the lives, shattered the hopes, and destroyed the future of thousands especially our young citizens.^[14] At the same time, We have equally noted that "as urgent as the campaign against the drug problem must be, so must we as urgently, if not more so, be vigilant in the protection of the rights of the accused as mandated by the Constitution x x x who, because of excessive zeal on the part of the law enforcers, may be unjustly accused and convicted."^[15] Fully aware of the gravity of the drug menace that has beset our country and its direct link to certain crimes, the Court, within its sphere, must do its part to assist in the all-out effort to lessen, if not totally eradicate, the continued presence of drug lords, pushers and users.^[16]

Bearing in mind the very important and pivotal issues raised in this petition, technical matters should not deter Us from having to make the final and definitive pronouncement that everyone else depends for enlightenment and guidance.^[17] When public interest requires, the Court may brush aside procedural rules in order to resolve a constitutional issue.^[18]

x x x [T]he Court is invested with the power to suspend the application of the rules of procedure as a necessary complement of its power to promulgate the same. *Barnes v. Hon. Quijano Padilla* discussed the rationale for this tenet, viz.:

Let it be emphasized that the rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed. Even the Rules of Court reflect this principle. The power to suspend or even disregard rules can be so pervasive and compelling as to alter even that which this Court itself has already declared to be final, x x x.

The emerging trend in the rulings of this Court is to afford every party litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities. Time and again, this Court has consistently held that rules must not be applied rigidly so as not to override substantial justice.^[19]

SUBSTANTIVE ISSUES

Rule-making power of the Supreme Court under the 1987 Constitution

Section 5(5), Article VIII of the 1987 Constitution explicitly provides:

Sec. 5. The Supreme Court shall have the following powers:

x x x x

(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 provide 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.

The power to promulgate rules of pleading, practice and procedure is now Our exclusive domain and no longer shared with the Executive and Legislative departments.^[20] In *Echegaray v. Secretary of Justice*,^[21] then Associate Justice (later Chief Justice) Reynato S. Puna traced the history of the Court's rule-making power and highlighted its evolution and development.

x x x *It should be stressed that the power to promulgate rules of pleading, practice and procedure was granted by our Constitutions to this Court to enhance its independence, for in the words of Justice Isagani Cruz "without independence and integrity, courts will lose that popular trust so essential to the maintenance of their vigor as champions of justice." Hence, our Constitutions continuously vested this power to this Court for it enhances its independence. Under the 1935 Constitution, the power of this Court to promulgate rules concerning pleading, practice and procedure was granted but it appeared to be co-existent with legislative power for it was subject to the power of Congress to repeal, alter or supplement. Thus, its Section 13, Article VIII provides:*

"Sec. 13. The Supreme Court shall have the power to promulgate rules concerning pleading, practice and procedure in all courts, and the admission to the practice of law. Said rules shall be uniform for all courts of the same grade and shall not diminish, increase, or modify substantive rights. The existing laws on pleading, practice and procedure are hereby repealed as statutes, and are declared Rules of Court, subject to the power of the Supreme Court to alter and modify the same. *The Congress shall have the power to repeal, alter or supplement the rules concerning pleading, practice and procedure, and the admission to the practice of law in the Philippines.*"

The said power of Congress, however, is not as absolute as it may appear on its surface. In *In re: Cunanan* Congress in the exercise of its power to amend rules of the Supreme Court regarding admission to the practice of law, enacted the Bar Flunkers Act of 1953 which considered as a passing grade, the average of 70% in the bar examinations after July 4, 1946 up to August 1951 and 71% in the 1952 bar examinations. *This Court struck down the law as unconstitutional.* In his *ponencia*, Mr. Justice Diokno held that "x x x the disputed law is not a legislation; it is a judgment - a