573 Phil. 368

THIRD DIVISION

[G.R. Nos. 163972-77, March 28, 2008]

JOSELITO RANIERO J. DAAN, PETITIONER, V.S. THE HON. SANDIGANBAYAN (FOURTH DIVISION), RESPONDENT

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Joselito Raniero J. Daan (petitioner), one of the accused in Criminal Cases Nos. 24167-24170, 24195-24196,[1] questions the denial by the *Sandiganbayan* of his plea bargaining proposal.

The antecedents facts are laid down by *Sandiganbayan* in its Resolution dated March 25, 2004, as follows:

> Said accused,[2] together with accused Benedicto E. Kuizon, were charged before this Court for three counts of malversation of public funds involving the sums of P3,293.00, P1,869.00, and P13,528.00, respectively, which they purportedly tried to conceal by falsifying the time book and payrolls for given period making it appear that some laborers worked on the construction of the new municipal hall building of Bato, Leyte and collected their respective salaries thereon when, in truth and in fact, they did not. Thus, in addition to the charge for malversation, the accused were also indicted before this Court for three counts of falsification of public document by a public officer or employee.
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> In the falsification cases, the accused offered to withdraw their plea of "not guilty" and substitute the same with a plea of "guilty", provided, the mitigating circumstances of confession or plea of guilt and voluntary surrender will be appreciated in their favor. In the alternative, if such proposal is not acceptable, said accused proposed instead to substitute their plea of "not guilty" to the crime of falsification of public document by a public officer or employee with a plea of "guilty", but to the lesser crime of falsification of a public document by a private individual. On the other hand, in the malversation cases, the accused offered to substitute their plea of "not guilty" thereto with a plea of "guilty", but to the lesser crime of failure of an accountable officer to render accounts.
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> Insofar as the falsification cases are concerned, the prosecution found as acceptable the proposal of the accused to plead "guilty" to the lesser crime of falsification of public document by a private individual. The prosecution explained:
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> > "With respect to the falsification cases earlier mentioned, it appears that the act of the accused in pleading guilty for a lesser offense of falsification by a

> private individual defined and penalized under Article 172 of the Revised Penal code will strengthen our cases against the principal accused, Municipal Mayor Benedicto Kuizon, who appears to be the master mind of these criminal acts."
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> Insofar as the malversation cases are concerned, the prosecution was likewise amenable to the offer of said accused to plead "guilty" to the lesser crime of failure of an accountable officer to render accounts because:
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> "x x x JOSELITO RANIERO J. DAAN has already restituted the total amount of P18,860.00 as per official receipt issued by the provincial government of Leyte dated February 26, 2002. In short, the damage caused to the government has already been restituted x x x.[3]

The *Sandiganbayan*, in the herein assailed Resolution,[4] dated March 25, 2004, denied petitioner's Motion to Plea Bargain, despite favorable recommendation by the prosecution, on the main ground that no cogent reason was presented to justify its approval[5] The *Sandiganbayan* likewise denied petitioner's Motion for Reconsideration in a Resolution dated May 31, 2004.

This compelled petitioner to file the present case for *certiorari* and prohibition with prayer for the issuance of a temporary restraining order and/ or writ of preliminary injunction under Rule 65 of the Rules of Court.

Petitioner argues that the *Sandiganbayan* committed grave abuse of discretion in denying his plea bargaining offer on the following grounds: first, petitioner is not an accountable officer and he merely affixed his signature on the payrolls on a "routinary basis," negating any criminal intent; and that the amount involved is only P18,860.00, which he already restituted.[6]

The petition is meritorious.

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.[7]

Plea bargaining is authorized under Section 2, Rule 116 of the Revised Rules of Criminal Procedure, to wit:

> SEC. 2. *Plea of guilty to a lesser offense.* -- At arraignment, the accused, with the consent of the offended party and the prosecutor, may be allowed by the trial court to plead guilty to a lesser offense which is necessarily included in the offense charged. After arraignment but before trial, the accused may still be allowed to plead guilty to said lesser offense after withdrawing his plea of not guilty. No amendment of the complaint or information is necessary. (sec. 4, cir. 38-98)

Ordinarily, plea bargaining is made during the pre-trial stage of the proceedings. Sections 1 and 2, Rule 118 of the Rules of Court, require plea bargaining to be

considered by the trial court at the pre-trial conference,[8] *viz*:

> SEC. 1. *Pre-trial*; *mandatory in criminal cases.* - In all criminal cases cognizable by the *Sandiganbayan*, Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court and Municipal Circuit Trial Court, the court shall, after arraignment and within thirty (30) days from the date the court acquires jurisdiction over the person of the accused, unless a shorter period is provided for in special laws or circulars of the Supreme Court, order a pre-trial conference to consider the following:
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> > (a) **plea bargaining**;
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> > (b) stipulation of facts;
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> > (c) marking for identification of evidence of the parties;
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> > (d) waiver of objections to admissibility of evidence;
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> > (e) modification of the order of trial if the accused admits the charge but interposes a lawful defense; and
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> > (f) such matters as will promote a fair and expeditious trial of the criminal and civil aspects of the case.
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> SEC. 2. *Pre-trial agreement.* - All agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel, otherwise, they cannot be used against the accused. The agreements covering the matters referred to in section 1 of this Rule shall be approved by the court. (Emphasis supplied)

But it may also be made during the trial proper and even after the prosecution has finished presenting its evidence and rested its case. Thus, the Court has held that it is immaterial that plea bargaining was not made during the pre-trial stage or that it was made only after the prosecution already presented several witnesses.[9]

Section 2, Rule 116 of the Rules of Court presents the basic requisites upon which plea bargaining may be made, *i.e.*, that it should be with the consent of the offended party and the prosecutor,[10] and that the plea of guilt should be to a lesser offense which is necessarily included in the offense charged. The rules however use word *may* in the second sentence of Section 2, denoting an exercise of discretion upon the trial court on whether to allow the accused to make such plea. [11] Trial courts are exhorted to keep in mind that a plea of guilty for a lighter offense than that actually charged is not supposed to be allowed as a matter of bargaining or compromise for the convenience of the accused.[12]

In *People of the Philippines v. Villarama*,
[13] the Court ruled that the acceptance of an offer to plead guilty to a lesser offense is not demandable by the accused as a matter of right but is a matter that is addressed entirely to the sound discretion of the trial court,[14] *viz*:

> x x x In such situation, jurisprudence has provided the trial court and the Office of the Prosecutor with a yardstick within which their discretion may be properly exercised. Thus, in *People v. Kayanan* (L-39355, May 31,

> 1978, 83 SCRA 437, 450), We held that the *rules allow such a plea only when the prosecution does not have sufficient evidence to establish the guilt of the crime charged*. In his concurring opinion in *People v. Parohinog* (G.R. No. L-47462, February 28, 1980, 96 SCRA 373, 377), then Justice Antonio Barredo explained clearly and tersely the rationale or the law:
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> x x x **(A)fter the prosecution had already rested**, *the only basis on which the fiscal and the court could rightfully act in allowing the appellant to change his former plea of not guilty to murder to guilty to the lesser crime of homicide could be nothing more nothing less than the evidence already in the record*. The reason for this being that Section 4 of Rule 118 (now Section 2, Rule 116) under which a plea for a lesser offense is allowed was not and could not have been intended as a procedure for compromise, much less bargaining.[15] (Emphasis supplied)

However, *Villarama* involved plea bargaining after the prosecution had already rested its case.

As regards plea bargaining during the pre-trial stage, as in the present case, the trial court's exercise of its discretion should neither be arbitrary nor should it amount to a capricious and whimsical exercise of discretion. Grave abuse of discretion implies such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction or, in other words, where the power is exercised in an arbitrary manner by reason of passion, prejudice, or personal hostility; and it must be so patent or gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined by law, or to act at all in contemplation of law.[16]

In the present case, the *Sandiganbayan* rejected petitioner's plea offer on the ground that petitioner and the prosecution failed to demonstrate that the proposal would redound to the benefit of the public. The *Sandiganbayan* believes that approving the proposal would "only serve to trivialize the seriousness of the charges against them and send the wrong signal to potential grafters in public office that the penalties they are likely to face would be lighter than what their criminal acts would have merited or that the economic benefits they are likely to derive from their criminal activities far outweigh the risks they face in committing them; thus, setting to naught the deterrent value of the laws intended to curb graft and corruption in government." [17]

Apparently, the *Sandiganbayan* has proffered valid reasons in rejecting petitioner's plea offer. However, subsequent events and higher interests of justice and fair play dictate that petitioner's plea offer should be accepted. The present case calls for the judicious exercise of this Court's equity jurisdiction -

> Equity as the complement of legal jurisdiction seeks to reach and do complete justice where courts of law, through the inflexibility of their rules and want of power to adapt their judgments to the special circumstances of cases, are incompetent so to do. Equity regards the spirit of and not the letter, the intent and not the form, the substance rather than the circumstance, as it is variously expressed by different courts.[18]