Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

EDGAR SILVANO *y* DOLLAR, JR.,	**G.R. No. 273931**
Petitioner,	Present:
	CAGUIOA, *J., Chairperson*,
	INTING,
	GAERLAN,
- versus -	DIMAAMPAO, and
	SINGH, *JJ.*
	Promulgated:
PEOPLE OF THE PHILIPPINES,	FEB 12 2026
Respondent.	MisPDCBatt

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DECISION

DIMAAMPAO, *J.:*

Via this Petition for Review on *Certiorari*[1] filed under Rule 45 of the Revised Rules of Court, petitioner Edgar Silvano *y* Dollar, Jr. (Silvano), expostulates against the Decision[2] and the Resolution[3] of the Court of Appeals (CA) in CA-G.R. CR No. 47174. In the assailed Decision, the CA affirmed the Judgment[4] rendered by Branch 255 of the Regional Trial Court, Las Piñas City (RTC) convicting Silvano of violation of Section 9(e), Republic Act No. 8484.[5] The assailed Resolution, on the other hand, denied the ensuing motion for reconsideration[6] lodged by Silvano.

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1 *Rollo*, pp. 10–44.

2 CA *rollo*, pp. 118–129. The November 24, 2023 Decision was penned by Associate Justice Mary Charlene V. Hernandez-Azura, with the concurrence of Associate Justices Ruben Reynaldo G. Roxas and Florencio M. Mamauag, Jr. of the Special Twelfth Division, Court of Appeals, Manila. *See also rollo*, pp. 45–56.

3 *Id.* at 179–180. Dated May 17, 2024.

4 RTC records, pp. 363–376. The May 17, 2022 Judgment was rendered by Presiding Judge Victor R. Aguba.

5 Republic Act No. 8484 (1998), Access Devices Regulation Act of 1998.

6 CA *rollo*, pp. 130–151, Motion for Reconsideration (of the Decision Dated 24 November 2023).

Information

Two separate Informations were filed against Silvano, charging him with violation of Sections 9(a), (c), (j) and (n)[7] of Republic Act No. 8484, the inculpatory averments of which read:

Criminal Case No. 16-0792

That on or about the **13th day of July, 2016**[,] in the City of Las Piñas, Philippines[,] and within the jurisdiction of this Honorable Court, the above-named accused, with intent to gain, did then and there willfully, unlawfully[,] and feloniously have in his possession, custody and control [] two (2) counterfeit **Visa** card[s] supposedly issued by **American Express International, Inc.**, for **Account No. 371328108853009 and 379731990131008** and therefore an unauthorized access device, in violation of the aforesaid law and by using the same to the damage and prejudice of cardholder **V S Tan.**

CONTRARY TO LAW.[8] (Emphasis in the original)

Criminal Case No. 16-0793

*That on or about the **13th day of July, 2016[,]** in the City of Las Piñas, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, and feloniously have in possession, custody and control of scheming device making or altering equipment consisting of the following items to wit[:]*

One (1) unit	*magnetic stripe card reader*
One (1) unit	*card writer*
One (1) unit	*dry seal for Civil Registrar Office*
Four (4) boxes	*blank notarial seals*
One (1) unit	*electronic money counter*
Three (3) units	*laptop computers*
One (1) unit	*desktop computer*
	several blank magnetic cards
One (1) unit	*computer hard disk*
One (1) unit	*external hard disc*

without being in the business or employment, which lawfully deals with the manufacture, issuance, or distribution of such equipment which

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7 SEC. 9. *Prohibited Acts.* – The following acts shall constitute access device fraud and are hereby declared to be unlawful:

a. producing, using, trafficking in one or more counterfeit access devices;

....

c. using, with intent to defraud, an unauthorized access device;

....

j. obtaining money or anything of value through the use of an access device, with intent to defraud or with intent to gain and fleeing thereafter;

....

n. effecting transaction, with one or more access devices issued to another person or persons, to receive payment or any other thing of value[.]

8 RTC records, p. 1.

constitute access device fraud or violation of the aforesaid law to the damage and prejudice of numerous and different ATM cardholders.

CONTRARY TO LAW.[9] (Emphasis in the original)

At his arraignment, Silvano pled not guilty to the charges hurled against him.[10] Trial on the merits ensued.[11]

Version of the Prosecution

Atty. Eduardo Ramos (Atty. Ramos) of the National Bureau of Investigation (NBI) Anti-Illegal Drugs Division received information that Silvano was selling illegal drugs and was likewise involved in computer hacking, particularly credit cards. Atty. Ramos instructed the informant to purchase methamphetamine hydrochloride from Silvano. On July 9, 2016, the informant bought the substance at Silvano's residence. Subsequent analysis and examination confirmed that it was methamphetamine hydrochloride.[12]

Acting on this information, Atty. Ramos applied for a search warrant against Silvano, identifying methamphetamine hydrochloride and other drug paraphernalia as the objects of the search. The NBI coordinated with the Philippine Drug Enforcement Agency to execute the warrant that evening.[13] Before implementation, a briefing was conducted and attended by members of the team, including Atty. Ramos, Atty. Jerome Bomediano, Atty. Mark Santiago, Atty. Glenn Damasing, Agent Oliver de Rivera, Jr., and Special Investigators Melvin Escorel, Elson Saul (Agent Saul), and Salvador Arteche, Jr. (Investigator Arteche).[14]

Upon arriving at Ohana Place Residence, some members of the team coordinated with the building administrator while others coordinated with the Office of the City Prosecutor of Las Piñas City. The team entered Unit 404, Silvano's residence, where they found him in the living room. They introduced themselves, explained their purpose, and presented the search warrant. Silvano reacted violently, but after he was pacified, the team waited for representatives from the media, the Department of the Justice and the barangay to arrive. However, only Barangay Kagawad Benjamin Martin (Kagawad Martin) of Almanza Uno, his executive officer Darius Sosa (Sosa), and representatives of Ohana Place arrived.[15]

During the search, Atty. Ramos entered one of the bedrooms and saw several computers and ATM cards on a table. Upon further search, the team

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9 *Id.* at 364.
10 *Id.* at 78, Certificate of Arraignment.
11 *Id.* at 112–113, December 1, 2016 RTC Order.
12 *Id.* at 365–369.
13 *Id.*
14 *Id.*
15 *Id.*

also recovered several paraphernalia located in one of the rooms, including a desktop computer, three laptops, a money counter, a dry seal, boxes of notarial seal, and a card-scheming device. They also discovered two American Express credit cards. They seized these items and conducted an inventory in Silvano's presence. The inventory receipt was signed by Silvano, Kagawad Martin, Sosa, and one Edwin Sevillan.[16]

After the search, Agent Saul called Jeralyn Jalagat (Jalagat), manager of Global Security Services for American Express, to verify the American Express credit cards, which bore the numbers 371328108853009 and 379731990131008.[17] The results indicated that the cards, under the name V S Tan, did not match the original account holder and were, therefore, counterfeit.[18]

Version of the Defense

The defense presented Sosa and Rafaelito Lumbre (Lumbre). Sosa testified that when he arrived at Silvano's unit, NBI agents asked him to sign the inventory receipt without explaining its contents. Meanwhile, Lumbre attested that he was inside the unit with Silvano when the team suddenly entered. They immediately proceeded to Silvano's bedroom and handcuffed him as he was lying down. The team did not show any documents upon entry.[19]

Ruling of the RTC

In Criminal Case No. 16-0792, the RTC found Silvano guilty beyond reasonable doubt of violation of Section 9(e) of Republic Act No. 8484 for possession of counterfeit access device. However, in Criminal Case No. 16-0793, Silvano was acquitted upon the RTC's finding that the prosecution failed to prove guilt beyond reasonable doubt that he was not in the business or employment, which lawfully deals with manufacture, issuance, or distribution of device making or altering equipment. The dispositive portion of the Judgment reads:

> **WHEREFORE**, premises considered, the Court finds accused **[SILVANO] a.k.a. "BOY TATTOO"** as follows:
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> 1) Under Criminal Case No. 16-0792, GUILTY beyond reasonable doubt of violating Section 9(e) of Republic Act No. 8484 and is hereby sentenced to suffer imprisonment of sic (6) years, as a minimum, to ten (10) years, as maximum, and to pay a fine of [T]en [T]housand [P]esos ([PHP] 10,000.00[,]

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16 *Id.*
17 *Id.* at 87.
18 *Id.* at 368–369.
19 *Id.* at 369–371.

> 2) Under Criminal Case No. 16-0793, NOT GUILTY of violating Section 9(f) of Republic Act No. 8484 and should be acquitted for failure of the Prosecution to establish accused[sic] guilt beyond reasonable doubt.
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> SO ORDERED.[20]

The RTC found that the prosecution was able to establish the existence and possession by Silvano of the access devices. The prosecution likewise established that the two American Express cards recovered from his possession were counterfeit cards, as testified to by Jalagat that such did not match the details reflected in their database.[21]

Aggrieved, Silvano appealed to the CA.[22]

Ruling of the CA

The CA rendered the assailed Decision denying Silvano's appeal and thus upholding his conviction. In affirming *in toto* the RTC's findings, the CA disposed in this wise:

> **WHEREFORE**, the appeal is **DENIED**. Accordingly, the conviction of the accused-appellant [Silvano] a.k.a. "Boy Tattoo" for the crime of violation of Section 9(e) of [Republic Act] No. 8484, as pronounced in the *Judgment dated May 17, 2022* of the Regional Trial Court Branch 255 of Las Piñas City in Criminal Case No. 16-0792, is hereby **AFFIRMED** *in toto.*
>
> **SO ORDERED.**[23] (Emphasis in the original)

The CA upheld the prosecution's finding that Silvano had in his possession a counterfeit access device. While inside his home, he was found in possession of two American Express credit cards bearing the name V S Tan, which certainly was not Silvano.[24] The CA ratiocinated that the NBI did not need to comply with the provisions of Section 21[25] of Republic Act No. 9165[26] as the chain of custody rule applies to fungible things. The credit cards confiscated were distinct and readily identifiable by the numbers indicated on them.[27] Moreover, in executing the search warrant, the NBI agents had the

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20 *Id.* at 375–376.
21 *Id.* at 38, 373–375.
22 *Id.* at 380–387.
23 CA *rollo*, p.128.
24 *Id.* at 127.
25 SEC. 21. Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.
26 Republic Act No. 9165 (2002), Comprehensive Dangerous Drugs Act of 2002.
27 CA *rollo*, p. 127.

right to seize items in plain view, such as the credit cards in question, even if it were not included in the search warrant.[28]

Silvano's motion for reconsideration having been denied in the challenged Resolution, he comes to this Court via the present Petition, which was subsequently followed by the filing of a Supplemental Petition.[29]

Issues

Stated simply, the issues for the Court's resolution revolve around:

One, whether Section 21 of Republic Act No. 9165 applies to non-drug items seized under a search warrant issued and executed for violations of the said law;

Two, whether the seized American Express credit cards were in plain view, thereby allowing their warrantless seizure; and

Three, whether the prosecution proved beyond reasonable doubt the elements of a violation of Section 9(e) of Republic Act No. 8484.

Silvano argues that his possession of the two American Express credit cards was not established as the cards were not identified and marked during the inventory of seized items conducted by the NBI agents.[30] He likewise asserts that Section 21 of Republic Act No. 9165 should have been complied with because—*first*, the generic manner in which the credit cards seized were described by the NBI made it susceptible to contamination, tampering and even planting of evidence, and, *second*, the search and seizure of the items were done on the basis of a possible violation of Republic Act No. 9165, as amended by Republic Act No. 10640.[31] Thus, non-compliance with Section 21 renders the credit cards inadmissible in evidence. Silvano further contends that the items were not in plain view[32] because their discovery was not shown to be inadvertent[33] and their incriminating nature was not immediately apparent.[34] Ultimately, he argues that the CA and the RTC erred in convicting him of violation of Republic Act No. 8484.[35]

Respondent People of the Philippines, through the Office of the Solicitor General, maintains that the Petition should be dismissed[36] as it raises

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28 *Id.* at 128.
29 *Rollo*, pp. 446–510.
30 *Id.* at 18–22 and 448–454.
31 *Id.* at 23–33 and 454–462.
32 *Id.* at 34–39.
33 *Id.* at 467–489.
34 *Id.* at 489–501.
35 *Id.* at 34–39 and 501–505.
36 *Id.* at 523–544, Comment.

questions of fact.[37] Even so, the CA correctly affirmed Silvano's conviction,[38] stressing that the implementation of the search warrant and the seizure of the counterfeit credit cards in plain view were valid.[39] The prosecution presented evidence sufficient to meet the requisite quantum of proof beyond reasonable doubt for a conviction of Section 9(e) of Republic Act No. 8484.[40]

Ruling of the Court

The Petition carries weight and conviction.

In *Peñaranda v. People of the Philippines*,[41] this Court explicated —

> [Q]uestions of fact, as a rule, cannot be entertained in a Rule 45 petition, where the Court's jurisdiction is limited to reviewing and revising errors of law that might have been committed by the lower courts. Nevertheless, when it appears that the assailed judgment is based on a misapprehension of facts, as in this case, the Court may address and resolve questions of fact in a Rule 45 proceeding.[42] (Citations omitted)

Although the instant Petition raises mixed questions of facts and law, the Court finds that the assailed judgment rests on a misapprehension of facts. Thence, the Court may address and resolve factual issues raised.

Non-compliance with Section 21 of Republic Act No. 9165 does not bar admission of readily identifiable evidence

The question on whether Section 21 of Republic Act No. 9165, as amended by Republic Act No. 10640,[43] extends to seizure of non-drug items has long been settled by the Court. *People v. Olarte*,[44] through then Associate Justice Alexander Gesmundo, expounded on the rationale behind the chain of custody rule as a means of authenticating illegal drug substances to determine their admissibility, thusly:

> Historically, the Court has applied the "chain of custody" rule as a mode of authenticating illegal drug substances in order to determine its admissibility. However, such rule has not yet been extended to other

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37 *Id.* at 529–532.
38 *Id.* at 532.
39 *Id.* at 532–535.
40 *Id.* at 535–539.
41 917 Phil. 297 (2021) [Per J. Caguioa, First Division].
42 *See Peñaranda v. People of the Philippines*, 917 Phil. 297 (2021) [Per J. Caguioa, First Division].
43 Republic Act No. 10640 (2014), An Act to Further Strengthen the Anti-Drug Campaign of the Government Amending for the Purpose Section 21 of Republic Act No. 9165, Otherwise Known as the 'Comprehensive Dangerous Drugs Act of 2002'.
44 848 Phil 821 (2019) [Per J. Gesmundo, First Division].

> substances or objects for it is only a variation of the principle that real evidence must be authenticated prior to its admission into evidence. At this point, it becomes necessary to point out that the *degree of fungibility* of *amorphous objects* without an inherent unique characteristic capable of scientific determination, *i.e.*, DNA testing, is *higher* than stably structured objects or those which retain their form because the likelihood of tracing the former objects' source is more difficult, if not impossible. Narcotic substances, for example, are relatively easy to source because they are readily available in small quantities thereby allowing the buyer to obtain them at lower cost or minimal effort. It makes these substances highly susceptible to being used by corrupt law enforcers to plant evidence on the person of a hapless and innocent victim for the purpose of extortion. Such is the reason why narcotic substances should undergo the tedious process of being authenticated in accordance with the chain of custody rule.
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> In this regard, the Court emphasizes that if the proffered evidence is unique, readily identifiable, and relatively resistant to change, that foundation need only consist of testimony by a witness with knowledge that the evidence is what the proponent claims otherwise, the chain of custody rule has to be resorted to and complied with by the proponent to satisfy the evidentiary requirement of relevancy. And at all times, the ***source*** of amorphous as well as firmly structured **objects** being offered as evidence **must be tethered to and supported by a testimony**. Here, the determination whether a proper foundation has been laid for the introduction of an exhibit into evidence rests within the discretion of the trial court; and a higher court reviews a lower court's authentication ruling in a deferential manner, testing only for mistake of law or a clear abuse of discretion. In other words, the credibility of authenticating witnesses is for the trier of fact to determine.[45] (Emphasis in the original, citations omitted)

Olarte held that the chain of custody rule does not apply to an undetonated grenade—an object made unique or one that is made readily identifiable—because it is not amorphous and its form is relatively resistant to change.[46] The prosecution need only to show, based on personal knowledge, that the structured object is what it purports to be and that it came from the person of the accused.[47] In any event, the integrity and evidentiary value of the explosive had to be sufficiently established by the prosecution.[48]

The Court, in *Pablo v. People*,[49] similarly ruled that the chain of custody rule under Republic Act No. 9165 does not extend to non-drug objects. In affirming a conviction for violation of Section 28(a) of Republic Act No. 10591, the Court underscored—

> Regarding whether the chain of custody was properly established in this case, the Court emphasizes that the application of the chain of custody

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45 *Id.* at 854–855.
46 *See id.* at 855.
47 *Id.*
48 *Id.*
49 935 Phil. 132 (2023) [Per J. Kho, Jr., Second Division].

> rule under Section 21 of [Republic Act No.] 9165 has not been extended to other objects seized. Where the proffered evidence is ***unique, readily identifiable, and relatively resistant to change,*** that foundation need only consist of testimony by a witness with knowledge that the evidence is what the proponent claims. The chain of custody rule does not apply to an object which is amorphous and relatively resistant to change; a witness of the prosecution need only identify the structured object based on personal knowledge that the same contraband or the article is what it purports to be and that it came from the person of the accused. Thus, a testimony showing the handling of the firearms and ammunition upon confiscation, turnover to the crime laboratory, and its later identification to the court, will suffice. In this case, the prosecution ***substantially complied*** with the foregoing rule as PO1 Nadura and PO1 Tuble were able to testify on the handling and turnover of the firearms and ammunition and were able to identify the same in open court.[50] (Emphasis in the original, citation omitted)

Stated simply, when the object evidence submitted is unique, readily identifiable, and relatively resistant to change, a testimony establishing its handling upon confiscation, turnover to the crime laboratory, and its later identification in court is sufficient.

In the more recent case of *Patotoy v. People*,[51] the Court also ruled that failure to comply with Item 2.2.3(e) of the Philippine National Police Criminal Investigation Manual (PNP Manual) does not automatically cast doubt on the integrity of the seized evidence. The Court, speaking through Associate Justice Jhosep Lopez, illumined—

> In the instant case, this Court concurs with the CA that the police officers are not bound to comply with the procedural requirements outlined in the chain of custody rule in dangerous drugs cases, since firearms and ammunition are considered as readily identifiable, or objects made unique. In addition, We agree with the courts *a quo* that the prosecution adequately preserved the integrity of the seized evidence.
>
> As to the failure to adhere to Item 2.2.3(e) of the PNP Manual, this Court finds that such is not detrimental to this case. Despite this lapse, the seized evidence remains admissible due to substantial compliance with Our pronouncement in *Olarte*. To recapitulate, when the evidence is "unique, readily identifiable, and relatively resistant to change," i.e., the subject firearm and ammunition, it can be authenticated through the testimony of a witness having personal knowledge that the evidence is what it claims to be and that it originated from the accused. "Thus, a testimony showing the handling of the firearms and ammunition upon confiscation, turnover to the crime laboratory, and its later identification to the court, [would] suffice."[52] (Emphasis in the original, citations omitted)

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50 *Id.* at 149–150.

51 G.R. No. 257910, March 4, 2025 [Per J. J. Lopez, *En Banc*].

52 *Id.* at 21–22. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

While jurisprudence on the non-applicability of the chain of custody rule generally involved firearms and ammunition, the Court is not precluded from extending the same reasoning to items other than firearms, including the credit cards seized, as in the case at bench. As reiterated in *Olarte*, "if the proffered evidence is unique, readily identifiable, and relatively resistant to change, that foundation need only consist of testimony by a witness with knowledge that the evidence is what the proponent claims."[53]

The American Express credit cards seized from Silvano during the execution of the search warrant for violation of Republic Act No. 9165 were made unique by their identifiable markings, such as their printed card numbers. Under prevailing jurisprudence, the failure to establish an unbroken chain of custody pursuant to Section 21 does not necessarily result in their exclusion in evidence. Likewise, non-compliance with Item 2.2.3(e) of the PNP Manual does not automatically undermine their integrity. The prosecution need only to establish how these items were handled upon confiscation, turn over to the crime laboratory, if applicable, and the in-court identification.

Unfortunately, the prosecution miserably fell short in complying with this bounden duty. *For one*, it failed to explain how the cards were confiscated and how they were handled after. The inventory of seized items merely listed "several items of credit cards. . . collectively marked as GDD-01 dated 071316"[54] without specifying how many credit cards were seized. Unlike other seized items that were clearly accounted for, the credit cards were not identified with particularity. *For another*, the prosecution also defaulted in proving that the cards presented in court were part of the deck of credit cards found inside the confiscated bag. Atty. Ramos merely stated that there were several cards inside the bag, including BDO cards, BPI cards, and American Express cards. He did not specify where the American Express credit cards subject of this case were located in the stack—was it on the topmost of the deck? Middle portion? Or at the bottom portion of the deck? So, too, Atty. Ramos inadvertently did not identify how many American Express cards were inside the bag. Although a photograph of the bag's contents was presented,[55] as aptly pointed out by Silvano, the two subject American Express cards were not shown in that photograph.

The records evince that the prosecution *collectively* marked the bag and all its contents, neither establishing how many cards were inside nor identifying them individually. Without such specificity, the Court cannot determine whether the American Express credit cards presented during trial

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53 *See People v. Olarte*, 848 Phil. 821, 854–855 (Per J. Gesmundo, First Division].
54 RTC records, p. 25.
55 *Id.* at 33.

were the same cards purportedly seized during the execution of the search warrant.

Contrary to the findings of the RTC and the CA, this Court finds that the integrity and identity of the subject American Express credit cards were not sufficiently established by the prosecution. As such, they carry no probative value.

Even assuming that the integrity and identity of the cards bearing numbers 371328108853009 and 379731990131008 were substantiated, the Court finds that the same are inadmissible in evidence for they constitute an unreasonable seizure.

Failure of the prosecution to establish a valid seizure in plain view

Article III, Section 2 of the 1987 Constitution guarantees the right of the people against unreasonable searches and seizures. It reads:

> SECTION 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

In *Pilapil v. Cu*,[56] the Court declared—

> Fortifying such right is the *exclusionary principle* adopted in Section 3[](b), Article III of the Constitution. The principle renders any evidence obtained through unreasonable search or seizure as inadmissible for any purpose in any proceeding, *viz.*:
>
> (2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.
>
> What then are unreasonable searches and seizures as contemplated by the cited constitutional provisions?
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> The rule of thumb, as may be deduced from Section 2, Article III of the Constitution itself, is that searches and seizures which are undertaken by the government outside the auspices of a valid search warrant are considered unreasonable. To be regarded reasonable, government-led search and

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[56] 880 Phil. 88 (2020) [Per C.J. Peralta, First Division].

> seizure must generally be sanctioned by a judicial warrant issued in accordance with requirements prescribed in the aforementioned constitutional provision.[57] (Emphasis in the original)

However, in *Pilapil*, the Court recognized several exceptions, including seizure in plain view, which are considered reasonable.[58] The plain view doctrine authorizes the seizure and presentation as evidence of objects that fall in the "plain view" of an officer "who has a right to be in the position to have that view."[59] In the earlier case of *People v. Lagman*,[60] the Court laid down the following parameters for the application of the plain view doctrine:

> **Objects falling in plain view of an officer who has a right to be in a position to have that view are subject to seizure even without a search warrant and may be introduced in evidence.** The 'plain view' doctrine applies when the following requisites concur: **(a) the law enforcement officer in search of the evidence has a prior justification for an intrusion or is in a position from which he can view a particular area; (b) the discovery of evidence in plain view is inadvertent; (c) it is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband or otherwise subject to seizure.** The law enforcement officer must lawfully make an initial intrusion or properly be in a position from which he can particularly view the area. In the course of such lawful intrusion, he came inadvertently across a piece of evidence incriminating the accused. The object must be open to eye and hand and its discovery inadvertent.[61] (Emphasis in the original)

The first requisite of the plain view doctrine assumes that the law enforcement officer has "*a prior justification for an intrusion or is in a position from which he can view a particular area.*" This means that the officer who made the warrantless seizure must have been in a *lawful* position when he discovered the target contraband or evidence in a plain view.[62]

The second requisite—inadvertence—requires that the discovery of evidence is unintentional. Along this vein, the Court, in *Comamo v. People*,[63] expounded on the requirement of inadvertence during the implementation of search warrants—

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57 *Id.* at 98.

58 *See id.* at 98–99. Some of the recognized instances, studded throughout case law, are: (1) consented searches; (2) searches incidental to a lawful arrest; (3) searches of a moving vehicle; (4) seizures of evidence in plain view; (5) searches incident of inspection, supervision and regulation sanctioned by the State in the exercise of its police power; (6) customs searches; (7) stop and frisk searches; and (8) searches under exigent and emergency circumstances.

59 *People of the Philippines v. Leng Haiyun*, 920 Phil. 830, 845–846 (2022) [Per J. J. Lopez, Third Division]. (Citation omitted)

60 593 Phil. 617 (2008) [Per J. Carpio-Morales, *En Banc*].

61 *Id.* at 628–629.

62 *See Pilapil v. Cu*, 880 Phil. 88, 100 (2020) [Per C.J. Peralta, First Division]. (Citation omitted)

63 G.R. No. 236548, March 4, 2025 [Per J. M. Lopez, *En Banc*].

> Associate Justice Caguioa added that the execution of a search warrant necessitates a meticulous search for evidence of a crime. The element of inadvertence, in the context of implementation of search warrants, should not require that the police officers are not searching for evidence against the individual, as this goes against the very nature of the said exercise. Rather, it should only require that the discovery of the items be unintentional. The police officers should not have known in advance the location of the evidence, otherwise, they should have included the same in their application for a search warrant. Associate Justice Javier concurred that the law enforcers were not aware in advance that the cabinet contained the subsequently seized firearm and ammunitions. There is no evidence adduced that the authorities anticipated the discovery of contraband upon the opening of the cabinet or that they requested petitioner to open the same because they knew that it contained firearm and ammunitions. Associate Justice Japar B. Dimaampao elucidated that the validity of the seizure of the additional items is justified if they were seized prior to the discovery of the items particularly described in the search warrant. Verily, the search warrant had not been fully executed because the operatives were still in the course of searching "*Cal. 9MM Pistol[,]*" when the other contrabands were discovered.[64] (Emphasis in the original)

Inadvertent discovery during the execution of a search warrant requires only that the non-listed items be found unintentionally, without prior knowledge of their location. Thus, where the police officers did not know that the cabinet contained firearms and ammunition, seizure of such items is valid.

The last requisite of the plain view doctrine requires that it must be established that the seized item—on the basis of the attending facts and surrounding circumstances—reasonably appeared, to the officer who made the seizure, as a contraband or an evidence of a crime.[65] *Pilapil* decreed—

> Even in the midst of a valid intrusion by a law enforcement officer, the plain view doctrine cannot be used to justify the indiscriminate seizure of any item that happens to fall within such officer's open view. A contrary rule is nothing short of allowing government agents to conduct general exploratory searches of evidence - a scenario precisely condemned by the Constitution. Thus, as conceived in jurisprudence, only items whose *incriminating character is immediately apparent* to the law enforcement officer may be seized pursuant to the plain view doctrine.
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> In *United Laboratories, Inc. v. Isip*, we laid down the test to determine when the "*incriminating character*" of a seized item may be considered as "*immediately apparent*" for purposes of applying the plain view doctrine:
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> The immediately apparent test does not require an unduly high degree of certainty as to the incriminating character of evidence. **It requires merely that the seizure be presumptively reasonable assuming that there is probable cause to**

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64 *Id.* at 11–12. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

65 *Pilapil v. Cu*, 880 Phil. 88, 112–113 (2020) [Per C.J. Peralta, First Division].

> **associate the property with criminal activity; that a nexus exists between a viewed object and criminal activity.**
>
> Incriminating means the furnishing of evidence as proof of circumstances tending to prove the guilt of a person.
>
> Indeed, probable cause is a flexible, common sense standard. **It merely requires that the facts available to the officer would warrant a man of reasonable caution and belief that certain items may be contrabanded or stolen property or useful as evidence of a crime.** It does not require proof that such belief be correct or more likely than true. A practical, non-traditional probability that incriminating evidence is involved is all that is required. The evidence thus collected must be seen and verified as understood by those experienced in the field of law enforcement.
>
> Stated otherwise, in order to satisfy the third requisite of the plain view doctrine, it must be established that the seized item—*on the basis of the attending facts and surrounding circumstances*—reasonably appeared, to the officer who made the seizure, as a contraband or an evidence of a crime.[66] (Emphasis in the original, citations omitted)

From the foregoing disquisition, only items particularly described in a search warrant may be seized. Items not so described cannot be seized and used as evidence, unless justified by a recognized exception. Evidence obtained in violation of the right against unreasonable search and seizure is inadmissible for any purpose. The plain view doctrine requires that the incriminating object be *plainly exposed and immediately visible* to officers who are *lawfully present*, and that the evidence be *inadvertently discovered* without further search. Thus, to constitute a valid seizure in plain view, all three requisites—lawful presence, inadvertence, and immediate apparentness—must concur.

A perusal of the records reveals that only the first requisite was complied with.

The NBI agents were informed that Silvano was engaged in drug activities, computer hacking, and credit card hacking.[67] Despite this, they did not act on the information regarding Silvano's hacking and credit card fraud activities by forwarding it to the proper division or applying for a search warrant covering possible violations of Republic Act No. 8484 or any cybercrime.[68] Instead, Atty. Ramos applied for and obtained a search warrant only for possible drug offenses, claiming that they were only limited to drug offenses.[69] During the execution of the warrant, the team seized several credit cards placed inside a bag, including the two American Express credit cards, that are now subject of the instant case for violation of Republic Act No. 8484.

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66 *Id.* at 111–113.

67 RTC records, p. 13 (Joint Affidavit of Arrest). *See also* TSN, Atty. Eduardo F. Ramos, Jr., February 16, 2017, pp. 8, 36.

68 TSN, Atty. Eduardo F. Ramos, Jr., February 16, 2017, p. 38.

69 *Id.* at 8.

Here, the warrant being implemented by the NBI agents covered only drugs and related items. It did not list credit cards or other access devices. While the Court has upheld the validity of seizure of unlisted items in certain cases, such cases involved recognized exceptions to unreasonable searches and seizures.

The prosecution cannot rely on *Comamo*, which involved the seizure of additional firearms and ammunitions that were not listed in the search warrant issued for a specific firearm. The Court explained that the "existence of a valid search warrant established probable cause that petitioner is in possession of illegal firearms and ammunitions. The incriminating character of the contrabands found inside the cabinet was immediately apparent to the police officers because these objects are related to the criminal charge described in the search warrant."[70] In contrast, Silvano's case concerns the seizure of credit cards during the execution of a warrant for drug offenses. A violation of Republic Act No. 8484 is unrelated to drug offenses. Thus, the seizure of any evidence for such violation would have to fall within any of the exceptions recognized by law, which is absent here.

While the NBI agents had lawful prior justification for the intrusion, the discovery of the credit cards was neither inadvertent nor was its incriminating nature immediately apparent. The officers already had prior information about Silvano's alleged hacking activities. Yet, they did not apply a search warrant for access device fraud or related cybercrime activities. The discovery of any evidence in relation to access device fraud or cybercrime cannot be said to have been inadvertent.

Moreover, the credit cards were placed inside a non-transparent bag. Their incriminating character, if at all, was not in plain view before the bag was opened. Even after opening, and even assuming that the bag was open to begin with, a mere deck of credit cards is not, by itself, a contraband. Were it not for the tip they received beforehand, the law enforcement officers could not have perceived that the credit cards themselves were counterfeit. Their incriminating nature is not immediately apparent without further checking of names, banks, accounts or matching to reported fraud, as was done in this case.[71]

All told, the Court finds that the two American Express credit cards subject of this case were not seized in plain view and cannot, therefore, be used in evidence against Silvano.

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[70] *See Comamo v. People*, G.R. No. 236548, March 4, 2025 [Per J. M. Lopez, *En Banc*] at 12. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

[71] TSN, Atty. Eduardo F. Ramos, Jr., February 16, 2017, p. 31.

Silvano's conviction cannot be sustained

The Court now proceeds to rule on whether the prosecution proved beyond reasonable doubt Silvano's guilt for violation of Section 9(e) of Republic Act No. 8484 despite exclusion of the two American Express credit cards.

Republic Act No. 8484 or the Access Devices Regulation Act of 1998 considers a credit card as an access device because it is "any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, goods, property, labor or services or anything of value on credit."[72] Section 9(e) of this law makes the possession and use of a counterfeit access device as access device fraud. What the law prohibits is the possession and use of a counterfeit access device.[73] The *corpus delicti* of the crime is not merely the access device, but also any evidence that proves that it is counterfeit. Thus, to successfully sustain a conviction for possession and use of a counterfeit access device, the prosecution must present not only the access device but also any evidence that proves that the access device is counterfeit.

With the exclusion in evidence of the two American Express credit cards, the prosecution utterly failed to present the very access device itself. Ineluctably, Silvano cannot be held liable for violation of Section 9(e) of Republic Act No. 8484 and his acquittal of the charge against him in Criminal Case No. 16-0792 is in order.

ACCORDINGLY, the Petition for Review on *Certiorari* is **GRANTED**. The November 24, 2023 Decision and the May 17, 2024 Resolution of the Court of Appeals in CA-G.R. CR No. 47174 are **REVERSED**. Petitioner Edgar Silvano *y* Dollar, Jr. is **ACQUITTED** of the crime under Section 9(e) of Republic Act No. 8484 for failure of the prosecution to prove his guilt beyond reasonable doubt.

Let entry of judgment be **ISSUED IMMEDIATELY**.

SO ORDERED.

JAPAR B. DIMAAMPAO
Associate Justice

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72 Republic Act No. 8484 (1998), sec. 3(b).

73 *See Cruz v. People*, 810 Phil. 801, 813 (2017) [Per J. Leonen, Second Division].

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

(on official business)
MARIA FILOMENA D. SINGH
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

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 this Court.

ALEXANDER G. GESMUNDO
Chief Justice