

# Anthony De Silva Cruz vs. People of the Philippines (G.R. No. 214801)

**\*\*Facts:\*\***

On April 18, 2006, Anthony De Silva Cruz attempted to make two separate purchases using a Citibank Visa credit card at Duty Free Philippines Fiesta Mall in Parañaque City. At approximately 7:30 p.m., Cruz paid for two bottles of Calvin Klein perfume costing US\$96.00, after which Danilo Wong, the cashier, had suspicions about the card's validity due to misalignment. At around 8:00 p.m., Cruz attempted to purchase a pair of Ferragamo shoes worth US\$363.00. Ana Margarita Lim, the cashier at another counter, noticed discrepancies in the credit card's embossing and validity dates. Upon verification, Citibank affirmed the card was counterfeit, linked to the name "Gerry Santos", and authorized her to transfer the matter to security.

Redentor Quejada, Security Supervisor of Duty Free Philippines, testified that Cruz and his companion were retained at the security office until a Citibank representative and members of the Philippine National Police (PNP) arrived. Gerardo T. Santos, Head of Citibank's Fraud Risk Management Division, verified that the card was counterfeit. Cruz attempted escape was thwarted by closing the mall's main gate, after which he and his companion were taken to Camp Crame for questioning along with the counterfeit Citibank Visa card.

**\*\*Procedural Posture:\*\***

Cruz was charged under three criminal cases for violation of Section 9(a) and (e) of Republic Act No. 8484. Cruz pleaded not guilty during arraignment on October 17, 2006. After the hearing of evidence and testimonies, Cruz filed a Demurrer to Evidence, challenging the credit card's admissibility, which was denied by the Regional Trial Court (RTC). The trial resulted in a guilty verdict for Criminal Case Nos. 06-0479 and 06-0480, but an acquittal for Criminal Case No. 06-0481. Cruz received an indeterminate sentence and filed an appeal to the Court of Appeals (CA), which affirmed the RTC's decision with modifications. Cruz subsequently petitioned the Supreme Court (SC) for review, focusing on evidentiary and procedural issues.

**\*\*Issues:\*\***

1. Whether the prosecution was able to prove beyond reasonable doubt that Cruz was guilty of violating Section 9(a) and (e) of Republic Act No. 8484.
2. Whether the alleged counterfeit access device could be admitted as evidence despite procedural lapses during pre-trial.
3. Whether the alleged negligence of Cruz's former counsel affected the defendant's right to

a fair trial.

**\*\*Court's Decision:\*\***

1. **\*\*Proof of Guilt:\*\***

The SC ruled that the prosecution successfully proved Cruz's possession and use of a counterfeit access device beyond reasonable doubt. The tangible evidence and consistent testimonies established the counterfeit nature of the credit card used by Cruz:

- The counterfeit card bore the name "Gerry Santos" - relevant because Gerry Santos was the Head of Citibank's Fraud Risk Management.
- Citibank's certification identified the card as counterfeit.
- Cruz's attempt to escape corroborated the guilty action.

2. **\*\*Admissibility of Evidence:\*\***

The SC affirmed the trial court's discretion in admitting the counterfeit credit card into evidence, despite its lack of pre-marking during pre-trial, citing "good cause shown." The court reasoned that the card was integral to a certified exhibit already presented.

3. **\*\*Counsel's Negligence:\*\***

Although Cruz argued negligence on his former counsel's part, the SC found this non-prejudicial to due process. The legal strategy, including objections and demurrer, indicated adequate representation. Moreover, Cruz's decision to waive defense evidence was recorded voluntarily, and the prosecution's evidence successfully overcame the presumption of innocence.

**\*\*Doctrine:\*\***

1. **\*\*Access Device Fraud:\*\***

Possession and use of counterfeit credit cards are illegal under Republic Act No. 8484. Both possession (Section 9(e)) and use (Section 9(a)) are punishable with varying degrees of imprisonment and fines.

2. **\*\*Evidentiary Discretion:\*\***

Courts can allow evidence not pre-marked during pre-trial if there is "good cause shown," reflecting the judiciary's flexibility to ensure substantial justice over strict procedural adherence.

3. **\*\*Trial Representation:\*\***

A counsel's negligence does not automatically reverse a conviction unless it results in a deprivation of due process or liberty and property rights.

**\*\*Class Notes:\*\***

- **\*\*Elements of Access Device Fraud:\*\***
- Possession of a counterfeit access device.
- Use of a counterfeit access device for transactions.
  
- **\*\*Relevant Legal Provisions:\*\***
- Republic Act No. 8484, Section 9(a) and (e).
- Penalties under Republic Act No. 8484, Section 10.
  
- **\*\*Procedural Rules:\*\***
- A.M. No. 03-1-09-SC regarding pre-trial and marking of evidence.
- Flexibility in courts' discretion for admitting evidence with substantial reason.
  
- **\*\*Analysis Tips:\*\***
- Scrutinize the procedural safeguards in criminal trials.
- Assess the role of counsel's defense strategy and its impact on fair trial rights.

**\*\*Historical Background:\*\***

The Access Devices Regulation Act of 1998 emerged as a response to increasing cases of credit card fraud and other electronic financial crimes in the Philippines. It incorporated penalties for possession and fraudulent use of counterfeit access devices to bolster consumer protection and financial security in the digital age. The case of Cruz further reflects the judiciary's commitment to upholding these regulations and maintaining the integrity of financial transactions within the country.