Republic of the Philippines
Supreme Court
Manila

EN BANC

RUBEN COMAMO *y* JIMENO,
Petitioner,

– *versus* –

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 236548

Present:

GESMUNDO, *C.J.*,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,
MARQUEZ,
KHO, JR., and,
SINGH, *JJ.*[*]

Promulgated:
March 4, 2025

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D E C I S I O N

LOPEZ, M., *J.*:

The Court examines the application of plain view doctrine with respect to the seizure of items not listed in the search warrant in resolving this Petition

[*] On leave but left a concurring vote.

for Review on *Certiorari*[1] assailing the Decision[2] of the Court of Appeals (CA) dated June 28, 2017, in CA-G.R. CR No. 38952 which affirmed the conviction of the accused for the crime of illegal possession of firearm and ammunitions.

Antecedents

On October 23, 2013, the Regional Trial Court (RTC) issued Search Warrant No. 19-13 authorizing the law enforcers to search the house of petitioner Ruben Comamo *y* Jimeno (Ruben) in Barangay Gaang, Currimao, Ilocos Norte, for alleged illegal possession of a 9mm caliber pistol,[3] to wit:

SEARCH WARRANT

TO: ANY OFFICER OF THE LAW

GREETING:

PO2 Reycar L. Almazan has applied for Search Warrant against RUBEN COMAMO [*y*] JIMENO of Barangay Gaang, Currimao, Ilocos Norte *for the purpose of seizing a Cal. 9MM Pistol[,] among other firearms which he keeps in his possession, custody and control inside his residence at the above address.*

After a thorough examination conducted on witness Larry Bumiltac, in the form of searching questions, the undersigned has found to his satisfaction that said Ruben Comamo y Jimeno has in his possession the article/item mentioned above which are being located or kept inside his room at Brgy. Gaang, Currimao, Ilocos Norte.

NOW THEREFORE, you are hereby commanded to make immediate search inside the residence of Ruben Comamo [*y*] Jimeno at Barangay Gaang, Currimao, Ilocos Norte at any time of the day and night and to forthwith seize and take possession of the above-named article[s] which are said to be kept within the residence above-described.

Return of this Warrant shall be made not later than (10) days from today.

Given thus 23rd day of October, 2013 at Batac City, Ilocos Norte, Philippines.[4] (Emphasis supplied)

On October 24, 2013, at around 3:50 a.m., the police officers and barangay officials proceeded to Ruben's house and implemented the search warrant. The authorities asked Ruben to open a small cabinet in the kitchen.

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1 *Rollo*, pp. 9–21.

2 *Id.* at 26–31. The Decision dated June 28, 2017 in CA-G.R. CR No. 38952 was penned by Associate Justice Jose C. Reyes, Jr. (now a retired member of this Court) with the concurrence of Associate Justices Stephen C. Cruz and Nina G. Antonio-Valenzuela of the Fourth Division, Court of Appeals, Manila.

3 *Id.* at 27.

4 *Id.* at 20.

Ruben obliged and opened the cabinet.[5] The operatives found firearms and ammunitions consisting of the following: (a) .45 caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunitions, and one inside holster; (b) one live ammunition for M14 rifle; and (c) *one live ammunition for 9mm caliber pistol.*[6] The police officers requested Ruben to present license authorizing him to possess these firearm and ammunitions. However, Ruben failed to show any legal document.[7] Accordingly, the operatives arrested Ruben and brought him for inquest proceedings. The public prosecutor found probable cause against Ruben and charged him with illegal possession of firearm and ammunitions before the RTC docketed as Criminal Case No. 5002-18, thus:

> That on or about 3:50 in the morning of October 24, 2013, at Brgy. Gaang, municipality of Currimao, province of Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his possession, control and custody, a high powered firearm, one Colt Caliber .45 Pistol with Serial No. 421003; three (3) magazines of Cal. 45; one live ammunition for Caliber 9mm; twenty-three (23) live ammunitions for Cal. 45; one live ammunition for Cal. M14; and one inside holster for Cal. 45, without first securing the necessary license, authority or permit to possess firearms and ammunitions from the proper authorities concerned.
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> CONTRARY TO LAW.[8]

Ruben pleaded not guilty.[9] Thereafter, Ruben moved to suppress the evidence claiming that the firearm and ammunitions are inadmissible. The confiscated items were not described in the search warrant which is limited only to the seizure of a 9mm caliber pistol. The phrase "*among other firearms*" mentioned in the search warrant constituted a general warrant that is void under the law for lack of particularity in the description of the items to be seized. Lastly, the authorities recovered the items only after they asked Ruben to open the closed cabinet.[10] Whereas, the prosecution contended that the firearm and ammunitions are admissible in evidence. The police officers seized the contraband in plain view when enforcing the search warrant.[11]

In due course, the RTC denied the motion to suppress evidence and held that the merits of the parties' arguments "can only be ventilated by the presentation of their respective evidence."[12] At the pre-trial, the parties stipulated that the case involved no other factual questions except on whether "*the seizure of the items not listed in the Search Warrant may be justified under*

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5 *Id.* at 27.
6 *Id.* at 70.
7 *Records*, p. 69.
8 *Rollo*, pp. 26–27.
9 *Id.* at 27.
10 *Records*, p. 70.
11 *Rollo*, p. 51.
12 *Id.* at 24.

the Plain View Doctrine."[13] The RTC then required the parties to submit their memoranda.[14] Ruben maintained that the seizure of evidence in plain view is present only if there is a valid intrusion based on lawful warrantless arrest. The police officers must not be searching evidence against the accused but inadvertently discovered the incriminating object.[15] In this case, the seizure of the firearm and ammunitions resulted from the implementation of the search warrant. On the other hand, the prosecution insisted that the operatives seized the items in plain view. The enforcement of the search warrant gave the police officers prior valid justification to enter Ruben's house. The authorities inadvertently and incidentally came across the contrabands during the implementation of the search warrant. In any event, the operatives recovered one magazine and one live ammunition for 9mm caliber pistol which are related to the item described in the warrant and have direct relation to the offense of illegal possession of firearm. Lastly, Ruben opened the cabinet when the authorities asked him to do so which amounted to waiver of the right against obtrusive search.[16]

On July 29, 2016, the RTC convicted Ruben of the crime charged and ruled that the seizure of the items not listed in the search warrant is justified under the plain view doctrine. The RTC explained that the plain view doctrine applies not only during valid warrantless searches but also to the implementation of a search warrant, thus:

> *After considering the undisputed facts in light of the applicable law and jurisprudence, the Court holds that the plain view doctrine justified the seizure of the items not listed in the Search Warrant. Accordingly, it finds the accused guilty as charged.*
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> . . . .
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> The argument reveals that the defense misunderstands the notion of inadvertence under the plain view doctrine. It should be reiterated that inadvertent discovery simply means that the discovery of a particular item is not anticipated. In determining whether the discovery of an item is inadvertent or not, the question to be resolved is whether that discovery was anticipated and the policemen knew in advance about the presence of that item. *The question of whether the policemen were then looking for evidence is not pertinent in determining whether the discovery was inadvertent or not.*
>
> In the implementation of a search warrant, the fact alone that the police were looking for evidence does not by itself bar the application of the plain view doctrine. This is so because to implement a search warrant is to look for evidence listed in that warrant.
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[13] *Id.* at 12.
[14] *Id.* at 54.
[15] *Id.* at 28.
[16] *Records* at 103–107.

> It should be stressed that the plain view doctrine applies even when the police are implementing a search warrant and necessarily looking for evidence. In that case, the plain view doctrine applies if the police are looking for the item listed in the search warrant but comes across another object not listed [in] the warrant and not known to them in advance. The plain view doctrine ceases to apply only when the police are looking for an item not listed in the search warrant but known to them in advance; in that case, the plain view is not applicable because the discovery of that item would no longer be inadvertent for having been anticipated by the police.
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> . . . .
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> This conclusion is bolstered by the practical consequence of the defense argument. As a practical matter, the defense argument would bar the seizure of an immediately apparent contraband like a bomb if the police discover it inside a cabinet while implementing a search warrant for illegal possession of, for example, a small plastic sachet of shabu. Under the argument of the defense, the plain view doctrine would not justify the seizure of the bomb because the police, in implementing a search warrant, would have been looking for evidence. In such case, the defense argument would require the police to secure another warrant for the seizure of the bomb. In the meantime, the police would have no other authority to seize it, and the malefactor would have the opportunity to destroy the bomb or to detonate it in the presence of and to the detriment of other people. That consequence is plainly absurd and could not have been the intention of the framers of the Constitution[.]
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> . . . .
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> Applying the foregoing discussion to the present case, the Court holds that the discovery of the caliber 45 pistol and assorted ammunitions must be deemed inadvertent, for there was no allegation or evidence that their discovery was anticipated. That the police were then looking for evidence does not bar the application of the plain view doctrine, for there was no showing that they were then looking for items other than the 9mm pistol listed in the Search Warrant. To repeat, the discovery of the said items did not cease to be inadvertent just because the police were then looking for evidence. It would have ceased to be inadvertent only if the police knew about the presence of those items in advance.
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> WHEREFORE, accused RUBEN COMAMO [*y*] Jimeno is found GUILTY beyond reasonable doubt of illegal possession of a firearm and ammunitions penalized under Republic Act No. 10591 and is hereby SENTENCED to an indeterminate penalty ranging from six (6) years and one (1) day of *prision mayor* as minimum to eight (8) years, eight (8) months and one (1) day of *prision mayor* as maximum. The firearm and ammunitions subject of this case are hereby forfeited and confiscated in favor of the government in accordance with law. Costs against the accused.
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> SO ORDERED.[17] (Emphasis supplied)

Ruben elevated the case to the CA docketed as CA-G.R. CR No. 38952.

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[17] *Id.* at 109–127. The Judgment dated July 29, 2016 in Crim. Case No. 5002-18 was penned by Acting Presiding Judge Francisco R. D. Quilala of Branch 18, Regional Trial Court, Batac City, Ilocos Norte.

Ruben reiterated that the plain view doctrine is inapplicable because the authorities were searching for evidence against him. The firearm and assorted ammunitions were neither apparent nor inadvertently discovered.[18] On June 28, 2017, the CA ruled out the application of the plain view doctrine because the seized items were not "*plainly exposed to sight*." However, the CA affirmed the judgment of conviction and ratiocinated that Ruben consented to the search, to wit:

> An object is considered in "plain view" if the object itself is plainly exposed to sight. . . In this case, it is admitted that it was only after the Accused was ordered to open a cabinet that the police officers found the caliber 45 pistol and ammunition . . . The firearms subject of the case were clearly not plainly exposed to sight, therefore not in "plain view."
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> Nevertheless, We agree with the People that the Accused is guilty of Illegal Possession of Firearms on the ground that he consented to the search and even signed the Certificate of Orderly Search, hence he is deemed to have waived his right against unreasonable searches.
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> . . . .
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> There is no question that during the Pre-Trial, the Accused admitted that he was ordered by the police to open the cabinet, to which he complied. And it was in the subject cabinet that the .45 caliber and other ammunition were discovered by the police officers.
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> The Accused also signed a Certification of Orderly Search dated October 24, 2013 . . . where he stated, among others, that "[he] was present at all time and has witnesses the conduct of search which was done in an orderly manner" and that "the search was conducted in accordance with law." Thus, the Accused "[does] not have any complaint whatsoever against any member of the Police Team that conducted the search.
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> . . . .
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> In this case, the Accused did not controvert the authenticity of the document neither did he claim having been coerced or threatened into signing the same.
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> Finding the penalty imposed by the trial court to be in accord with law, the Court hereby affirms the same.
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> WHEREFORE, the appeal is DENIED for lack of merit. The Decision dated July 29, 2016 of the Regional Trial Court, Branch 18 of Batac City in Criminal Case No. 5002-18 is hereby AFFIRMED.
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> SO ORDERED.[19]

Ruben sought reconsideration but was denied.[20] Hence, this Petition

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18 *Rollo*, p. 29.
19 *Id.* at 30–31.
20 *Id.* at 40.

for Review on *Certiorari*.[21]

Ruben argues that the only issue submitted for resolution before the CA and the RTC is whether the seizure of the items not listed in the search warrant may be justified under the plain view doctrine. The CA should have acquitted Ruben after it ruled out the application of the plain view doctrine. Yet, the CA went beyond the issue and held that the seized items were admissible in evidence under the rule on consent searches. At any rate, Ruben avers that a person confronted by police officers are armed with warrants would not have the courage to go against the order of the authorities. The obedience in such situation should not be construed as consent but involuntary conformity to the search.[22]

In contrast, the People, through the Office of the Solicitor General (OSG), maintain that an appeal opens the entire case for review. On the merits, the prosecution established all the elements of illegal possession of firearm and ammunitions. Ruben has no reason to deny the propriety of discovery and seizure of the .45 caliber firearm and assorted ammunitions. Ruben willingly complied with the instructions of the authorities to open the cabinet and admitted that the search was conducted in an orderly manner.[23]

RULING

The Petition is unmeritorious.

The right against unreasonable searches is one of the basic constitutional[24] and human liberties.[25] The courts must be vigilant in preventing an invasion of this right and must ensure that the safeguards to protect it are observed.[26] Thus, no search can be made without a valid warrant subject to certain legal and judicial exceptions.[27] Any evidence obtained in

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21 *Id.* at 9–19.

22 *Id.* at 14–15.

23 *Id.* at 48–76.

24 CONST., art. III, sec. 2 provides that:

> 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.

Notably, this right has been included in the Philippine Constitution since 1899 through the Malolos Constitution and has been incorporated in the various organic laws governing the Philippines during the American colonization, the 1935 Constitution, and the 1973 Constitution.

25 The right is recognized under the International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights. Specifically, sec. 17(1) of the Covenant states that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, while Article 17(2) of the Declaration states that no one shall be arbitrarily deprived of his property.

26 *See Ogayan v. People*, 768 Phil. 272, 283 (2015) [Per J. Brion, Second Division].

27 The exceptions include: (1) search incidental to a lawful arrest; (2) search of moving vehicles; (3) seizure in plain view; (4) customs searches; (5) consented warrantless search; (6) stop and frisk; and (7) exigent

violation of this right is inadmissible in any proceeding.[28]

A search warrant is a criminal process akin to a writ of discovery. It is a special and peculiar remedy, drastic in nature, demanded by public necessity.[29] The Revised Rules of Criminal Procedure defines a search warrant as a written order issued in the name of the People of the Philippines signed by a judge and directed to peace officers, commanding them to search for personal property and bring it before the court.[30] Moreover, a search warrant shall not issue except upon probable cause in connection with one specific offense to be determined personally by the judge after examination under oath or affirmation of the complainants and the witnesses they may produce, and particularly describing the place to be searched and the things to be seized which may be anywhere in the Philippines.[31] Simply stated, the requisites of a valid search warrant are: (1) probable cause; (2) such probable cause must be determined personally by the judge; (3) the judge must examine, in writing and under oath or affirmation, the complainants and the witnesses they may produce; (4) the applicant and the witnesses testify on the facts personally known to them; and (5) the warrant specifically describes the place to be searched and the things to be seized.[32] The absence of any of these requisites will cause the downright nullification of the search warrant.[33] Here, the requisites for the valid issuance of a search warrant are undisputed except the particularity in the description of the objects to be seized.

Corollarily, a search warrant particularly describes the things to be seized when: (1) the description is as specific as the circumstances will ordinarily allow;[34] or (2) when the description expresses a conclusion of fact—not of law—by which the warrant officer may be guided in making the search and seizure; or (3) when the things described are limited to those which bear direct relation to the offense for which the warrant is being issued.[35] In contrast, a *"general search warrant"* is void due to lack of particularity as to the property to be seized. It allows the seizure of one thing under a warrant

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and emergency circumstances. In *Valmonte v. De Villa*, 258 Phil. 838 (1989), the Supreme Court held that not all searches are prohibited. Those which are reasonable are not forbidden. *See also Esquillo v. People*, 643 Phil. 577, 592–593 (2010) [Per J. Carpio Morales, Third Division]; *People v. Nuevas*, 545 Phil. 356, 369–370 (2007) [Per J. Tinga, Third Division]; *People v. Aruta*, 351 Phil. 868, 879–880 (1998) [Per J. Romero, Second Division]; and RULES OF COURT, Rule 126, sec. 13.

28 CONST., art. III, sec. 2 provides an exclusionary rule which instructs that evidence obtained and confiscated on the occasion of such unreasonable searches and seizures are deemed tainted and should be excluded for being the proverbial fruit of a poisonous tree. In other words, evidence obtained from unreasonable searches and seizures shall be inadmissible in evidence for any purpose in any proceeding. *See Comerciante v. People*, 764 Phil. 627, 633–634 (2015) [Per J. Perlas-Bernabe, First Division], *citing Ambre v. People*, 692 Phil. 681, 693 (2012) [Per J. Mendoza, Third Division].

29 *Worldwide Web Corporation v. People*, 713 Phil. 18, 33 (2014) [Per C.J. Sereno, First Division].

30 RULES OF COURT, Rule 126, sec. 1.

31 RULES OF COURT, Rule 126, sec. 4. *See Republic v. Sandiganbayan*, 325 Phil. 762, 821 (1996). [Per J. Francisco, Third Division].

32 *See Republic v. Sandiganbayan*, 325 Phil. 762, 821–822 (1996) [Per J. Francisco, Third Division].

33 *People v. Francisco*, 436 Phil. 383, 391 (2002) [Per J. Ynares-Santiago, First Division]. *See also Uy v. Bureau of Internal Revenue*, 397 Phil. 892, 906 (2000) [Per J. Kapunan, First Division].

34 *People v. Rubio*, 57 Phil. 384, 389 (1932) [Per J. Malcolm, *En Banc*].

35 *Bache and Co., (Phil.), Inc. v. Judge Ruiz*, 147 Phil. 794, 811 (1971) [Per J. Villamor, *En Banc*].

describing another and gives the officer executing the warrant the discretion over which items to take. Indeed, the purpose of the *"particularity of description"* requirement is to limit the articles to be seized only to those specifically described in the search warrant in order to leave the officers of the law with no discretion regarding what items they shall seize. Such discretion is abhorrent, as it makes the person, against whom the warrant is issued, vulnerable to abuses. However, technical precision of description is not required. It is only necessary that there be reasonable particularity and certainty as to the identity of the property to be searched for and seized, so that the warrant shall not be a mere roving commission. The law does not require that the things to be seized must be described in precise and minute detail as to leave no room for doubt on the part of the searching authorities. If this were the rule, it would be virtually impossible for the applicants to obtain a warrant as they would not know exactly what kind of things to look for. Any description of the thing to be searched that will enable the officer making the search with reasonable certainty to locate such thing is sufficient.[36]

Guided by these precepts, the Court finds that the phrase "*among other firearms*" in Search Warrant No. 19-13 defeats the objective to eliminate general search warrants. The language used is too all-embracing as to include all conceivable firearms and ammunitions leaving the scope of the search to the discretion of the law enforcers. The executing officer's sole function is to apply the description to its subject matter, which function may frequently involve the exercise of limited discretion in identifying the property described. A description of such generality, however, as to lodge in the executing officer virtually unlimited discretion as to what property shall be seized, is repugnant to the Constitution,[37] viz.:

> A search warrant must conform strictly to the requirements of the constitutional and statutory provisions under which it was issued. Otherwise, it is void. The proceedings upon search warrants, it has rightly been held, must be absolutely legal, "for there is not a description of process known to law, the execution of which is more distressing to the citizen. Perhaps there is none which excites such intense feeling in consequence of its humiliating and degrading effect." *The warrant will always be construed strictly without, however, going into the full length of requiring technical accuracy. No presumptions of regularity are to be invoked in aid of the process when an officer undertakes to justify under it*[.][38] (Emphasis supplied)

Notably, the Philippines borrowed from the United States of America its jural concept and provisions on search warrant.[39] Thus, American

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36 *Kho v. Makalintal*, 365 Phil. 511, 519–520 (1999) [Per J. Purisima, *En Banc*].

37 *Vallejo v. Court of Appeals*, 471 Phil. 670, 688 (2004) [Per J. Callejo, Sr., Second Division].

38 *People v. Veloso*, 48 Phil. 169, 176 (1925) [Per J. Malcolm, *En Banc*].

39 *See Malaloan v. Court of Appeals*, 302 Phil. 273, 285 (1994) [Per J. Regalado, *En Banc*], *citing Macondray & Co., Inc. v. Bernabe, et al.*, 67 Phil. 658 (1939) [Per J. Concepcion, *En Banc*] *and Co Kim Chan v. Valdez Tan Keh*, 75 Phil. 113 (1945) [Per J. Feria, *En Banc*]

jurisprudence has persuasive effect in this jurisdiction. In *Dimal v. People,*[40] the Court adopted the principle under American case law that "*the seizure of goods not described in the warrant does not render the whole seizure illegal, and the seizure is illegal only as to those things which was unlawful to seize.*"[41] In the same case, the Court held that the search warrant was validly issued but most of the seized items seized are inadmissible in evidence for failure to comply with the "*particularity of description*" requirement, viz.:

> Notwithstanding the inadmissibility in evidence of the items listed above, the Court sustains the validity of Search Warrant No. 10-11 and the admissibility of the items seized which were particularly described in the warrant. *This is in line with the principles under American jurisprudence: (1) that the seizure of goods not described in the warrant does not render the whole seizure illegal, and the seizure is illegal only as to those things which was unlawful to seize; and (2) the fact that the officers, after making a legal search and seizure under the warrant, illegally made a search and seizure of other property not within the warrant does not invalidate the first search and seizure.* To be sure, a search warrant is not a sweeping authority empowering a raiding party to undertake a fishing expedition to confiscate any and all kinds of evidence or articles relating to a crime. Objects taken which were not specified in the search warrant should be restored to the person from whom they were unlawfully seized.[42] (Emphasis supplied)

Associate Justice Alfredo Benjamin S. Caguioa (Associate Justice Caguioa) aptly pointed out that the phrase "*among other firearms*" did not convert Search Warrant No. 19-13 to a general warrant because it still specified and authorized the seizure of "*Cal. 9MM Pistol*[,]" that petitioner illegally keeps in his residence. A search warrant that merely contains a general statement will not be nullified as a whole. The items not particularly described will be cut off without destroying the entire warrant. Associate Justice Amy C. Lazaro-Javier (Associate Justice Lazaro-Javier) likewise clarified that the general phrase does not render the search warrant void in its totality but merely removes from its protective mantle items confiscated which were not particularly described therein. Consistent with the above legal principles, the Court holds that the seizure of "*one live ammunition for 9mm caliber pistol*" is valid as it bears direct relation to the crime of illegal possession of "*Cal. 9MM Pistol.*" One of the tests to determine the particularity in the description of objects to be seized under a search warrant is when the things described are limited to those which bear direct relation to the offense for which the warrant is being issued. Here, the search warrant was issued for the alleged crime of illegal possession of firearm and ammunitions. As discussed, the prohibited article "*Cal. 9MM Pistol*" was particularly described in the search warrant. Obviously, the seized live ammunition bears direct relationship to the alleged offense since it can be used in the firearm specified in the search warrant. It is beyond cavil that the

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40 830 Phil. 309 (2018) [Per J. Peralta, Second Division].
41 *Id.* at 349.
42 *Id.*

confiscated ammunition during the search is of the same kind and nature as the firearm sought.

Similarly, the Court rules that the confiscated "*45mm caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunitions, one inside holster, and one live ammunition for M14 rifle*" found inside the cabinet are admissible in evidence. Contrary to the CA's theory, the plain view doctrine justifies the seizure of items not listed in the search warrant. The doctrine applies when: (a) the law enforcement officers in search of the evidence have a prior justification for an intrusion or is in a position from which they can view a particular area; (b) the discovery of evidence in plain view is inadvertent; and (c) it is immediately apparent to the officers that the item they observe may be evidence of a crime, contraband or otherwise subject to seizure.[43] Here, all the requirements are present.

First, the police officers entered the house of petitioner pursuant to a lawful search warrant. The authorities indisputably have prior justification to search and seize evidence related to a specific crime. *Second*, the law enforcers inadvertently uncovered the other firearm and ammunitions in the course of implementation of the search warrant. The discovery of other contrabands remained unintentional and unexpected notwithstanding the meticulous search of the premises. Indeed, the operatives asked petitioner to open the small cabinet in the kitchen to carry out the search warrant and not to gather additional evidence against him. Senior Associate Justice Marvic M.V.F. Leonen accurately expounded that it is imperative for law enforcement to conduct a comprehensive search of the premises to guarantee the confiscation and removal of any illicit products. The existence of the search warrant ensures that there is probable cause of illegal activity even before the search is conducted. This prevents arbitrary invasions of privacy and confers the ability to look for and confiscate evidence pertinent to the investigation. Law enforcement should be granted a degree of discretion to effectively execute the warrant. The authorities should not be expected to turn a blind eye if evidence of a crime beyond the scope of the warrant surfaces during the search. The police should confiscate such evidence under the plain view doctrine. In this case, the law enforcers were merely fulfilling their duty when they searched the cabinet within the premises. To abandon the contraband because it was not exactly described in the search warrant would pose a great risk to public safety.

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

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[43] *Miclat, Jr. v. People*, 672 Phil. 191, 206 (2011) [Per J. Peralta, Third Division].

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 contrabands 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.

Third, it bears emphasis that the "*immediately apparent*" test does not require an unduly high degree of certainty as to the incriminating character of the evidence, but only that the seizure be presumptively reasonable, assuming that there is a probable cause to associate the property with a criminal activity.[44] In this case, the existence of a valid search warrant established probable cause that petitioner is in possession of illegal firearm 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. Petitioner appellant also failed to show any legal document authorizing him to possess the seized firearm and ammunitions making it clear to the police officers that these items are illegal.

On the other hand, the CA's ratiocination that petitioner consented to the search has no factual and legal basis. The constitutional immunity against unreasonable searches and seizures is a personal right which may be waived. However, it must be shown that the consent to the search was voluntary, i.e., the consent was unequivocal, specific, and intelligently given, uncontaminated by any duress or coercion. The consent to a search is not to be lightly inferred. The State must prove with clear and positive testimony that consent was freely given, to wit:

> *The question whether a consent to a search was in fact voluntary is a question of fact to be determined from the totality of all the circumstances.* Relevant to this determination are the following characteristics of the person giving consent and the environment in which consent is given: (1) the age of the defendant; (2) whether he was in a public or secluded location; (3) whether he objected to the search or passively looked on; (4) the education and intelligence of the defendant; (5) the presence of coercive police procedures; (6) the defendant's belief that no incriminating evidence will be found; (7) the nature of the police

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[44] *Dimal v. People*, 830 Phil. 309, 348–349 (2018) [Per J. Peralta, Second Division] *citing United Laboratories, Inc. v. Isip*, 500 Phil. 342, 363 (2005) [Per J. Callejo, Sr., Second Division].

> questioning; (8) the environment in which the questioning took place; and (9) the possibly vulnerable subjective state of the person consenting. *It is the State which has the burden of proving, by clear and positive testimony, that the necessary consent was obtained and that it was freely and voluntarily given.*[45] (Emphasis supplied)

In this case, petitioner can hardly be said to have waived his right against unreasonable search and seizures. The prosecution failed to present convincing evidence that petitioner's consent was in fact voluntary. The mere signing of the certificate of orderly search is not tantamount to a waiver of constitutional right. At most, he had no choice but to sign the certificate after being confronted with the armed presence of the police officers and the presumptive authority of a judicial writ.[46]

Taken together, the Court declares that Search Warrant No. 19-13 is valid and the seized items consisting of (a) 45mm caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunitions, and one inside holster, (b) one live ammunition for M14 rifle, and (c) one live ammunition for 9mm caliber pistol are admissible in evidence. Under Republic Act No. 10591 or the Comprehensive Firearms and Ammunition Regulation Act, if the crimes of unlawful possession of ammunitions and firearms of similar classes are committed by the same person, "*the former violation shall be absorbed by the latter,*"[47] to wit:

> SECTION 28. *Unlawful Acquisition, or Possession of Firearms and Ammunition.* — The unlawful acquisition, possession of firearms and ammunition shall be penalized as follows:
>
> (g) The penalty of *prision mayor* in its minimum period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a small arm or Class-A light weapon. **If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a small arm, the former violation shall be absorbed by the latter**;
>
> . . . .
>
> (i) The penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a Class-A light weapon. **If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a Class-A light weapon, the former violation shall be absorbed by the latter**;
>
> . . . .
>
> (k)The penalty of *prision mayor* in its maximum period shall be imposed upon any person who shall unlawfully acquire or possess ammunition for a

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45 *Caballes v. Court of Appeals*, 424 Phil. 263, 286 (2002) [Per J. Puno, First Division].
46 *Roan v. Gonzales*, 230 Phil. 90, 98 (1986) [Per J. Cruz, *En Banc*].
47 Republic Act No. 10591, sec. 28(g), (i), and (k).

> Class-B light weapon. **If the violation of this paragraph is committed by the same person charged with the unlawful acquisition or possession of a Class-B light weapon, the former violation shall be absorbed by the latter.** (Emphasis supplied)

Consequently, petitoner can only be charged and convicted of illegal possession of a "small arm" which is intended to be, or primarily designed, for individual use or that which is generally considered to mean a weapon intended to be fired from the hand or shoulder, and is not capable of fully automatic bursts of discharge, such as:

> (1) Handgun which is a firearm intended to be fired from the hand, which includes:
>
> > (i) A pistol which is a hand-operated firearm having a chamber integral with or permanently aligned with the bore which may be self-loading; and
> >
> > (ii) Revolver which is a hand-operated firearm with a revolving cylinder containing chambers for individual cartridges.
>
> (2) Rifle which is a shoulder firearm or designed to be fired from the shoulder that can discharge a bullet through a rifled barrel by different actions of loading, which may be classified as lever, bolt, or self-loading; and
>
> (3) Shotgun which is a weapon designed, made and intended to fire a number of ball shots or a single projectile through a smooth bore by the action or energy from burning gunpowder.[48]

The prosecution sufficiently established the elements of the offense, to wit: (1) the existence of the subject firearm; and (2) the fact that the accused who owned or possessed it does not have the license or permit to possess the same.[49] The prosecution witnesses delivered positive testimony how they implemented the search warrant and recovered from petitioner the firearm and assorted ammunitions. The firearm 45mm caliber Colt 1911 pistol is classified as a small arm while the assorted ammunitions are also for a small arm. The prosecution witnesses then identified these confiscated items during trial and offered them in evidence. More importantly, petitioner had no license or permit to own or possess the seized firearm and ammunitions. The negative fact that petitioner is not a registered firearm holder satisfied the element of the offense.[50] The crime of illegal possession of firearm is a *malum prohibitum*. To sustain a conviction, it is enough that the accused had no

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48 Republic Act No. 10591, sec. 3(dd).

49 *People v. Castillo*, 382 Phil. 499, 507 (2000) [Per J. Puno, *En Banc*]; *See also People v. Dorimon*, 378 Phil. 660, 666–667 (1999) [Per J. Quisimbing, Second Division]; *People v. Cerveto*, 374 Phil. 220, 234 (1999) [Per J. Bellosillo, Second Division]; *Cadua v. Court of Appeals*, 371 Phil. 627, 645 (1999) [Per J. Quisimbing, Second Division]; and *People v. Khor*, 366 Phil. 762, 777 (1999) [J. Gonzaga-Reyes, Third Division].

50 *See People v. Velasco*, 860 Phil. 159, 166 (2019) [Per J. Caguioa, Second Division].

authority or license to possess the subject firearm and that he intended to possess the same, even if such possession was made in good faith and without criminal intent.[51]

Section 28(a) of Republic Act No. 10591 provides that the penalty of *prision mayor* in its medium period shall be imposed upon any person who shall unlawfully acquire or possess a small firearm. Absent any modifying circumstance, the maximum term of the indeterminate penalty must be within the medium period of the prescribed penalty which ranges from eight years, eight months one day to nine years and four months. Whereas the minimum term of the indeterminate sentence must be within the penalty next lower in degree from that prescribed or *prision mayor* in its minimum period which ranges from six years and one day to eight years. Corollarily, the CA and the RTC correctly imposed the indeterminate penalty of six years and one day of *prision mayor*, as minimum, to eight years, eight months and one day of *prision mayor*, as maximum.

All told, the Court reiterates that law enforcers, regardless of the praise-worthiness of their intentions, cannot be allowed to violate the very law they are expected to implement. Quick solutions of crimes and apprehension of malefactors do not justify a callous disregard of the Bill of Rights despite the difficulties faced by police authorities in the performance of their duties.[52] If the courts of justice are to be of understanding assistance to our law enforcement agencies, however, it is necessary to adopt a realistic appreciation of the physical and tactical problems, instead of critically viewing them from the placid and clinical environment of judicial chambers.[53]

ACCORDINGLY, the Petition is **DISMISSED**. The Court of Appeals' Decision dated June 28, 2017 in CA-G.R. CR No. 38952 is **AFFIRMED**. Petitioner Ruben Comamo *y* Jimeno is **GUILTY** of illegal possession of firearm and is sentenced to suffer an indeterminate penalty of six years and one day of *prision mayor*, as minimum, to eight years, eight months and one day of *prision mayor*, as maximum.

SO ORDERED.

MARIO V. LOPEZ
Associate Justice

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51 *See Evangelista v. People*, 634 Phil. 207, 222 (2010) [Per J. Del Castillo, Second Division].
52 *People v. Encinada*, 345 Phil. 301, 321 (1997) [Per J. Panganiban, Third Division]
53 *People v. Montilla*, 349 Phil. 640, 658 (1998) [Per J. Regalado, *En Banc*].

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice

MARVIC M.V.F. LEONEN
Senior Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

On leave but left a concurring vote
MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified 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.

ALEXANDER G. GESMUNDO
Chief Justice

SECOND DIVISION

G.R. No. 236548 – RUBEN COMAMO *y* JIMENO, Petitioner, **v. PEOPLE OF THE PHILIPPINES,** Respondent.

Promulgated:

March 4, 2025

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CONCURRING OPINION

LEONEN, *J.*:

The Constitution explicitly requires that no arrest, search, or seizure can occur without a legally valid warrant obtained by a competent court authority.[1] Any evidence collected through an unlawful search or seizure may be considered inadmissible in a court of law. This protection guarantees that individuals' rights to privacy and due process are upheld. Nevertheless, the issuance of a valid warrant ensures that there is probable cause as determined by a judge. This grants law enforcement the authority to enter specific premises without arbitrarily invading one's privacy. The warrant authorizes an exhaustive search for specified items, provided the search is not abusive or conducted beyond the warrant's scope. If additional contraband that is related to the original item is discovered during the proper execution of a search warrant, it should be admissible as evidence.

I

As a basic principle, it is unlawful to carry out any arrest, search, or seizure without a valid warrant granted by a competent court authority. Article III, Section 2 of our Constitution contains the following provision:

> 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.

This protects one against "unlawful invasion of the sanctity of the home, by officers of the law acting under legislative or judicial sanction" and

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[1] CONST., art. 3, sec. 2.

prevents violations of privacy and security in person and to property. Thus, in conducting an arrest or search and seizure, there must be a warrant hinged on probable cause or the "actual belief or reasonable grounds of suspicion to believe that the accused has committed or is committing a crime."

Rule 126, Section 4 of the Rules of Criminal Procedure prescribes the requirements to issue a search warrant:

> SECTION 4. Requisites for issuing search warrant. — A search warrant shall not issue except upon probable cause in connection with one specific offense 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 things to be seized which may be anywhere in the Philippines.

In the case at hand, it is undisputed that Search Warrant No. 19-3 was lawfully issued. The warrant was granted following a comprehensive investigation of witness Larry Bumiltac, which involved asking searching questions.[2] The warrant was authorized by a judge and contained precise information regarding the targeted location and the specific item to be confiscated. This indicates that the warrant was obtained in accordance with the appropriate legal procedures. However, the legality of the confiscation of items during the execution of the warrant is called into question.

The police officers conducted a search of petitioner Ruben Comamo *y* Jimeno's (Comamo) house based on the search warrant which stated, "seizing a Cal. 9MM Pistol[,] among other firearms which he keeps in his possession, custody and control inside his residence at the above address." During the search, the police officers discovered several items inside a small cabinet in his kitchen: (a) a Colt 1911 pistol with a caliber of 45mm, along with three magazines, 23 live ammunitions, and one inside holster; (b) one live ammunition for an M14 rifle; and (c) one live ammunition for a 9mm caliber pistol.[3]

Due to Comamo's failure to present an authority to possess the firearms, he was apprehended and charged with illegal possession of firearms and ammunition.[4] Comamo filed a motion to suppress the evidence against him, contending that the search warrant was solely for the seizure of a 9mm caliber pistol.[5] However, the Regional Trial Court denied Comamo's motion and convicted him of the crime charged.[6] The Court of Appeals upheld Comamo's conviction.[7]

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2 *Ponencia*, p. 2.
3 *Id.* at 2.
4 *Id.* at 2.
5 *Id.* at 3.
6 *Id.* at 3–4.
7 *Id.* at 5.

This Court found that the seizure of the items not listed on the search warrant was valid. The *ponencia*, with the guidance of our erudite colleagues, Justice Caguioa and Justice Lazaro-Javier, found: first, the phrase "*among other firearms*" did not convert the search warrant into a general warrant since it specifically identified the 9mm caliber pistol Comamo kept in his residence.[8] Second, the *ponencia* concluded that "*one live ammunition for 9mm caliber pistol*" is admissible in evidence as it bears direct relation to the illegal possession of "*Cal. 9MM Pistol*" as indicated in the search warrant.[9] Third, the court ruled that the confiscated "45mm caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunitions, one inside holster, and one live ammunition for M14 rifle" are admissible in evidence.[10]

II

It is a time-honored rule that the items to be confiscated in a search warrant should be particularly described to preclude general searches. The seminal case of *Stonehill v. Diokno*,[11] established this when the Court explicitly prohibited the use of general warrants, highlighting its violation to the constitutional protections against unreasonable searches and seizures. A general warrant was described as one that fails to specify persons, places, or items to be searched or seized, granting law enforcement arbitrary discretion in conducting searches. There, the Court deemed the warrants in question unconstitutional for using generalizations such as "books of accounts and ... records"[12] without describing the specific items to be sought. It was held:

> Two points must be stressed in connection with this constitutional mandate, namely: (1) that no warrant shall issue but *upon probable* cause, to be determined by the judge in the manner set forth in said provision; and (2) that the warrant shall *particularly* describe the things to be seized.
>
> ....
>
> The grave violation of the Constitution made in the application for the contested search warrants was compounded by the description therein made of the effects to be searched for and seized, to wit:
>
> > Books of accounts, financial records, vouchers, journals, correspondence, receipts, ledgers, portfolios, credit journals, typewriters, and other documents and/or papers showing all business transactions including disbursement receipts, balance sheets and related profit and loss statements.

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8 *Id.* at 9.
9 *Id.*
10 *Id.* at 9–10.
11 126 Phil 738 (1967) [Per C.J. Concepcion, *En Banc*].
12 *Id.* at 749.

> Thus, the warrants authorized the search for and seizure of records pertaining to *all business transactions* of petitioners herein, regardless of whether the transactions were *legal* or *illegal*. The warrants sanctioned the seizure of all records of the petitioners and the aforementioned corporations, whatever their nature, thus openly contravening the explicit command of our Bill of Rights — that the things to be seized be *particularly* described — as well as tending to defeat its major objective: the elimination of *general* warrants.[13] (Emphasis in the original, citations omitted)

The vagueness in the warrants in *Stonehill* were deemed unconstitutional, as it granted law enforcement the authority to conduct roving and exploratory searches. This Court, time and again, has stated that a search warrant is "not a sweeping authority empowering a raiding party to undertake a fishing expedition to seize and confiscate any and all kinds of evidence or articles relating to a crime."[14] Instead, the Court mandates that the warrants must contain exact details upon which the authorities can rely for its implementation.[15]

People v. Pastrana,[16] citing *Bache and Co. Inc. v. Judge Ruiz*[17] held that the items to be seized must be described with "reasonable particularity," that is:

> It is elemental that in order to be valid, a search warrant must particularly describe the place to be searched and the things to be seized. The constitutional requirement of reasonable particularity of description of the things to be seized is primarily meant to enable the law enforcers serving the warrant to: (1) readily identify the properties to be seized and thus prevent them from seizing the wrong items; and (2) leave said peace officers with no discretion regarding the articles to be seized and thus prevent unreasonable searches and seizures. It is not, however, required that the things to be seized must be described in precise and minute detail as to leave no room for doubt on the part of the searching authorities.
>
> In *Bache and Co. (Phil.), Inc. v. Judge Ruiz*, it was pointed out that *one of the tests to determine the particularity in the description of objects to be seized under a search warrant is when the things described are limited to those which bear direct relation to the offense for which the warrant is being issued.* (Emphasis supplied, citations omitted)

The description of the objects to be seized need not be so specific as to eliminate all discretion for the executing law enforcement officer. It merely requires that the objects to be seized be described with sufficient specificity. I agree that the phrase "among other firearms" found in the search warrant

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13 *Id.* at 747–749.

14 *People v. Francisco*, 436 Phil. 383, 396 (2002) [Per J. Ynares-Santiago, First Division]; *People v. Del Rosario*, 304 Phil. 418, 427 (1994) [Per J. Melo, Third Division].

15 *Vallejo v. Court of Appeals*, 471 Phil. 670, 687 (2004) [Per J. Callejo, Sr., Second Division].

16 826 Phil 427 (2018) [Per J. Martires, Third Division].

17 147 Phil. 794 (1971) [Per J. Villamor, *En Banc*].

does not make the it overly broad and does not leave the scope of the search to the full discretion of authorities.[18]

There is no question that the Constitution clearly prohibits the use of "general, blanket and roving search warrants." Any searches or seizures conducted under such warrants are unquestionably illegal. However, the term "among other firearms" does not constitute a general warrant. It does not expand the scope of the warrant to allow a broad, exploratory search for unrelated items. The phrase "among other firearms" is a mere descriptor or acknowledgment of the potential presence of additional items related to the specific item, the 9mm caliber firearm. The subject phrase in Search Warrant No. 19-3 passes the test of particularity. In *Vallejo v. Court of Appeals*,[19] it was held:

> *The things to be seized must be described with particularity. Technical precision of description is not required. It is only necessary that there be reasonable particularity and certainty as to the identity of the property to be searched for and seized, so that the warrant shall not be a mere roving commission.* Indeed, the law does not require that the things to be seized must be described in precise and minute detail as to leave no room for doubt on the part of the searching authorities. If this were the rule, it would be virtually impossible for the applicants to obtain a warrant as they would not know exactly what kind of things to look for. Any description of the place or thing to be searched that will enable the officer making the search with reasonable certainty to locate such place or thing is sufficient.[20] (Emphasis supplied, citations omitted)

Here, the phrase provides enough specificity to guide law enforcement officers in executing the search warrant without giving them unrestricted authority on what items to seize. This interpretation aligns with jurisprudence that requires search warrants to describe items with "reasonable particularity."[21] The law does not demand absolute precision in describing items, especially when the nature of the contraband is inherently broad or uncertain. For instance, if the 9mm firearm is found to be part of an illegal cache of weapons, it would be unreasonable to expect the warrant to list every single item beforehand. Reasonable specificity is required to avoid abuse.

Thus, Search Warrant No. 19-3 is valid. A search warrant cannot have partial validity. It is either valid or void in its entirety if it fails to meet the constitutional requirements. However, if the warrant were to be deemed partially valid, the seizure of the subject firearms and ammunition should still be considered as a lawful seizure pursuant to a valid warrantless search.

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18 *Ponencia*, p. 9.
19 471 Phil. 670, 687 (2004) [Per J. Callejo, Sr., Second Division].
20 *Id.* at 686–687.
21 *Pagal v. People*, 920 Phil. 500, 511 (2022) [Per J. Leonen, Third Division]. (Citation omitted)

Law and jurisprudence have identified valid warrantless searches as the following: (1) a warrantless search incidental to a lawful arrest; (2) search of evidence in plain view; (3) search of a moving vehicle; (4) consented warrantless searches; (5) customs search; (6) stop and frisk; and (7) exigent and emergency circumstances.[22]

In a search incidental to a lawful arrest, the law[23] requires that there must first be a lawful arrest before a search can be made. This cannot be reversed.[24] Since the arrest occurred after the search in the current case, this exception cannot be used. Evidently, the aforementioned exceptions number 3, 5, 6, and 7[25] for valid warrantless searches cannot apply in this case as well.

As for consented warrantless searches, the consent must be clear, unequivocal and unattended by intimidation or duress.[26] "Mere passive conformity to the warrantless search is only an implied acquiescence which does not amount to consent and that the presence of a coercive environment negates the claim that [accused-appellant] therein consented to the warrantless search."[27] In this case, Comamo was accompanied by police officers who were equipped with a search warrant. Comamo's compliance with the search was a result of limited options rather than a voluntary decision. Thus, a consented warrantless search does not apply either.

This leaves the exception of search of evidence in plain view. For the doctrine of plain view to apply, jurisprudence has identified three requisites that must be present: (a) that the law enforcement officer in search of the evidence has prior justification for an intrusion; (b) the discovery of evidence in plain view is inadvertent; and (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.[28]

All three requisites are present in the case at hand.

For the first requisite, the officer seizing the evidence must have a lawful right to access or observe the seized object. That is, the officer should not have violated due process or any other right in arriving at the location or situation where they discovered the contraband or evidence in plain sight. In *People v. Salanguit*:[29]

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22 *People v. Jumarang*, 928 Phil. 27, 31 [Per J. J. Lopez, Second Division].

23 REVISED RULES OF CRIMINAL PROCEDURE, Rule 126, sec. 13 states:
Search incident to lawful arrest. — A person lawfully arrested may be searched for dangerous weapons or anything which may have been used or constitute proof in the commission of an offense without a search warrant.

24 *Vaporoso v. People*, 852 Phil. 508, 516 (2019) [Per J. Perlas-Bernabe, Second Division].

25 *People v. Jumarang*, 928 Phil. 27, 31 [Per J. J. Lopez, Second Division].

26 *Id.* at 37.

27 *Id.*

28 *Pilapil, Jr. v. Cu*, 880 Phil. 88, 100 (2020) [Per C.J. Peralta, First Division].

29 408 Phil. 817 (2001) [Per J. Mendoza, Second Division].

> What the 'plain view' cases have in common is *that the police officer in each of them had a prior justification for an intrusion in the course of which he came inadvertently across a piece of evidence incriminating the accused. The doctrine serves to supplement the prior justification — whether it be a warrant for another object, hot pursuit, search incident to a lawful arrest, or some other legitimate reason for being present unconnected with a search directed against the accused — and permits the warrantless seizure.* Of course, the extension of the original justification is legitimate only where it is immediately apparent to the police that they have evidence before them; the 'plain view' doctrine may not be used to extend a general exploratory search from one object to another until something incriminating at last emerges.[30] (Emphasis supplied)

Thus, the officer who carried out the warrantless seizure must have been in a legitimate position when he or she discovered the contraband or evidence in plain view. To evaluate this, the legality of the inspection that resulted in the confiscated objects must be considered.

Here, it was determined that police officers were given the opportunity to see the items seized while carrying out a legitimate warrant. To execute the search warrant, the police asked Comamo to open a tiny cupboard in the kitchen, which he did. This led to the discovery of the following: (a) a 45mm caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunitions, and one inside holster; (b) one live ammunition for an M14 rifle; and (c) one live ammunition for a 9mm caliber pistol. Here, the enforcers were entitled to enter Comamo's residence and conduct a search during the execution of the warrant, as this was their authorized action.

Nevertheless, the second requisite is less straightforward. In this instance, it is necessary that the discovery of evidence in plain sight is inadvertent or unintentional.

Here, the police searched the Comamo's residence to carry out the search warrant. In accessing the cabinet, the authorities uncovered other firearms and ammunition. This was not necessarily intended to gather additional evidence against Comamo. Instead, the police officers were simply carrying out their duty to locate the specific item mentioned in the search warrant. Coincidentally, the cabinet contained other illicit goods. It cannot be said for certain that the police officers had ulterior motives in their actions.

The last requirement is that the item be immediately apparent that it is illegal or may be used in illegal activity. The "immediately apparent" standard is one that "does not require an unduly high degree of certainty as to the incriminating character of the evidence, but only that the seizure be presumptively reasonable, assuming that there is a probable cause to associate

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[30] *Id.* at 834.

the property with a criminal activity."[31] This standard allows law enforcement officers to seize items that they reasonably believe are connected to criminal activity without needing absolute certainty.

Given the existence of a valid search warrant, it is established that there is probable cause, as determined by a judge, that Comamo may be illegally in possession of a firearm. Surely, the discovery of other firearms and ammunition incriminates Comamo of a suspected crime. At that point, the police officers did not have the luxury of time to apply for an additional search warrant to accommodate the newly found items. Furthermore, it is unreasonable to expect our law enforcement officers to disregard illicit items in their presence, despite their legitimate reason for being in the area, merely because they are not included in a search warrant.

Since the police officers' entry into Comamo's residence and search of his kitchen cabinet were lawful and justified intrusions of his privacy, the subsequent discovery and confiscation of contraband should likewise be lawful. This exception to a search warrant must be permitted for law enforcement to prevent harm to officers or others or the destruction of evidence.

III

In executing a search warrant, law enforcement cannot solely rely on visual inspection. To achieve their objective, they are required and authorized to search every nook and cranny covered by the search warrant. If, during their search, they encounter illegal items related to those on the search warrant, it would be illogical for them to disregard the contraband. Consequently, it is imperative for law enforcement to conduct a comprehensive search of the premises to guarantee the confiscation and removal of any illicit products.

In this instance, the officers were merely fulfilling their duty when they searched the cabinet within the premises. The mere act of opening the cabinet to reveal the unspecified firearms does not remove the discovered items from the ambit of the search warrant. Significantly, the existence of the search warrant ensures that there is probable cause of illegal activity or possession even before the search is conducted. This prevents arbitrary invasions of privacy and confers the ability to look for and confiscate any evidence pertinent to the investigation. Undoubtedly, abandoning contraband because it is not exactly described in the search warrant would pose a great risk to public safety.

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[31] *Dimal v. People,* 830 Phil. 309, 348–349 (2018) [Per J. Peralta, Second Division].

Reconciling the right to privacy with law enforcement's obligation to maintain public safety is crucial. This complex legal issue pertains to the degree to which authorities may encroach on an individual's privacy to uphold public order. Indeed, balancing these two competing interests requires careful consideration. The right to privacy, while enshrined in the Constitution,[32] is often balanced against police power. While the constitutional mandate protects individuals from unreasonable searches and seizures, it likewise permits searches in the presence of court-ordered warrants. Thus, courts have historically recognized that an individual's right to privacy can be limited when it conflicts with compelling state interests.

In the 1968 case of *Morfe v. Mutuc,*[33] public officials challenged a statute that required them to file their statements of assets and liabilities, claiming a violation of their right to privacy. The Court held that the provisions were valid and did not violate the public officials' rights to privacy. Privacy as a constitutional right was explicitly recognized in this case even before the 1987 Constitution was written:

> Nonetheless, in view of the fact that there is an express recognition of privacy, specifically that of communication and correspondence which 'shall be inviolable except upon lawful order of Court or when public safety and order' may otherwise require, and implicitly in the search and seizure clause, and the liberty of abode, the alleged repugnancy of such statutory requirement of further periodical submission of a sworn statement of assets and liabilities deserves to be further looked into.[34]

This Court established that the right to privacy was not violated in the following manner:

> . . . it cannot be said that the challenged statutory provision calls for disclosure of information which infringes on the right of a person to privacy. It cannot be denied that the rational relationship such a requirement possesses with the objective of a valid statute goes very far in precluding assent to an objection of such character. This is not to say that a public officer, by virtue of a position he holds, is bereft of constitutional protection; it is only to emphasize that in subjecting him to such a further compulsory revelation of his assets and liabilities, including the statement of the amounts and sources of income, the amounts of personal and family expenses, and the amount of income taxes paid for the next preceding calendar year, there is no unconstitutional intrusion into what otherwise would be a private sphere.[35]

It is necessary for public officers to disclose their financial information to ensure transparency and prevent conflicts of interest. In *Morfe*, the Court found that this was sufficient compelling state interest to allow the intrusion

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32 CONST., art. III, sec. 2.
33 130 Phil 415 (1968) [Per J. Fernando, *En Banc*].
34 *Id.* at 434.
35 *Id.* at 436–437.

of the public officers' privacy. Likewise, the right to privacy may be limited in instances of preventing crime or protecting the public. This is precisely why authorities may secure a search warrant that allows them access to an individual's private space in situations where probable cause indicates that a crime is being committed.

In executing a search warrant, law enforcement should be granted a degree of discretion to execute the warrant effectively. If, during their search, evidence of a crime beyond the scope of the warrant surfaces, authorities should not be expected to merely turn a blind eye. Instead, they should confiscate such evidence under the plain view doctrine. Law enforcement should not be expected to do nothing when they are made aware of the commission of another in the process of their search. Officers should be capable of apprehending the perpetrator. Doing otherwise would be tantamount to allowing criminals to roam free despite catching them red-handed.

In the present case, although not all items discovered were included in the search warrant, possessing such items without a permit is illegal and subject to legal penalties. The discovery of illegal firearms and ammunition poses a serious threat that cannot be ignored. Law enforcement should be given leeway to act quickly and decisively in situations where public safety is at risk, even if it means deviating slightly from the original scope of their search warrant. It must be emphasized however that the deviation is within legal parameters as the illegal items were found in plain view during the search conducted for the items stated in the warrant.

Comamo's right to privacy, while given paramount significance in this jurisdiction, is not an absolute right. For the benefit of society, it may be restricted in specific situations. Given the circumstances in the case, the plain view doctrine should apply. I reiterate that the items confiscated along with the ammunition related to the 9mm caliber pistol should be admissible in evidence against Comamo.

ACCORDINGLY, I vote to **DISMISS** the Petition.

MARVIC M.V.F. LEONEN
Senior Associate Justice

EN BANC

G.R. No. 236548 – RUBEN COMAMO *y* JIMENO, Petitioner, **v. PEOPLE OF THE PHILIPPINES,** Respondent.

Promulgated:

March 4, 2025

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CONCURRING OPINION

CAGUIOA, *J.*:

This case poses two main questions: (1) whether a search warrant with the statement, "among other firearms,"[1] complies with the *particularity of description* requirement embodied in the 1987 Constitution; and (2) whether the plain view doctrine justifies the seizure and admissibility of evidence found during the execution of the search warrant but not listed in the same.

The *ponencia* finds that the phrase "among other firearms" is too all-embracing as to include all conceivable firearms and ammunitions,[2] consequently ruling that this portion of the search warrant is null and void for failure to comply with the *particularity of description* requirement for warrants. Nonetheless, the confiscated items that were not particularly described in the search warrant are admissible in evidence under the plain view doctrine.[3]

I agree.

Indeed, the phrase "among other firearms" is too broad and general to appear in a search warrant. Moreover, ruling that the plain view doctrine does not apply in a search of the premises by virtue of a search warrant would greatly undermine both the *particularity of description* requirement and the purpose of the plain view doctrine—to supplement the prior intrusion and allow law enforcement officers to seize items that are patently illegal.

Review of relevant facts

On April 2, 2013, the Firearms and Explosives Office (FEO) of the Philippine National Police (PNP) issued Memorandum with Control Number 0402-7099B,[4] stating that the license issued to petitioner Ruben Comamo *y* Jimeno (petitioner) for a "Pistol, Caliber .9mm, Daewoo with Serial Number BA004553"[5] expired on October 2, 1998. Subsequently, PO2 Reycar L.

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1 RTC records, p. 6, Search Warrant No. 19-13 dated October 23, 2013.
2 *Ponencia*, p. 9.
3 *Id.* at 11.
4 RTC records, p. 10.
5 *Id.*

Almazan applied for a search warrant against petitioner for the purpose of seizing the said 9mm caliber pistol.

On October 23, 2013, Branch 17 of the Regional Trial Court of Batac City, Ilocos Norte issued Search Warrant No. 19-13,[6] authorizing the police officers to search the residence of petitioner at Barangay Gaang, Currimao, Ilocos Norte and to seize "a Cal. 9MM Pistol[,] among other firearms which he keeps in his possession, custody and control inside his residence."[7] The search warrant provides:

> PO2 Reycar L. Almazan has applied for Search Warrant against RUBEN COMAMO y JIMENO of Barangay Gaang, Currimao, Ilocos Norte for the purpose of seizing a Cal. 9MM Pistol[,] among other firearms which he keeps in his possession, custody and control inside his residence at the above address;
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> After a thorough examination conducted on witness Larry Bumiltac, in the form of searching questions, the undersigned has found to his satisfaction that said Ruben Comamo y Jimeno has in his possession the article/item mentioned above which are being located or kept inside his room at Brgy. Gaang, Currimao, Ilocos Norte.
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> NOW, THEREFORE, you are hereby commanded to make immediate search inside the residence of Ruben Comamo y Jimeno at Barangay Gaang, Currimao, Ilocos Norte at any time of the day and night and to forthwith seize and take possession of the above-named article which are said to be kept within the residence above-described.[8]

On October 24, 2013, at 3:50 in the morning, the police officers executed Search Warrant No. 19-13 in the presence of petitioner and three barangay officials. During the search, the police officers asked petitioner to open the door of a cabinet in the kitchen. There, they saw: one (1) Cal. 45 marked as Colt 1911 and bearing Serial No. 421003; three (3) magazines for Cal. 45; one (1) magazine for Cal. 9mm; twenty-three (23) live ammunitions for Cal. 45; one (1) live ammunition for Cal. 9mm; one (1) live ammunition for M14 Rifle; and one (1) inside holster for Cal. 45. When the police officers requested for the legal documents of the said firearm, magazines and live ammunitions, petitioner failed to present any.[9] Consequently, petitioner was arrested. Later, the PNP issued a Memorandum stating that petitioner "is not a registered firearm license holder of a Cal. 45, Colt [1911] with a serial number 421003."[10] Petitioner was then charged with Illegal Possession of Firearm and Ammunitions, under the following Information:[11]

> That on or about 3:50 in the morning of October 24, 2013, at Brgy. Gaang, municipality of Currimao, province of Ilocos Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously have in his

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6 *Id.* at 6.
7 *Id.*
8 *Id.*
9 *Id.* at 7, Joint Affidavit of PO2 Meynard P. Valerio and PO1 Erwin A. Cadaoas dated October 24, 2013.
10 *Id.* at 21, PNP Memorandum dated October 24, 2013.
11 *Id.* at 3–4.

> possession, control and custody, a high powered firearm, one Colt Caliber .45 Pistol with Serial No. 421003; three (3) magazines of Cal. 45; one live ammunition for Caliber 9mm; twenty-three (23) live ammunitions for Cal. 45; one live ammunition for Cal. M14; and one inside holster for Cal. 45, without first securing the necessary license, authority or permit to possess firearms and ammunitions from the proper authorities concerned.
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> **CONTRARY TO LAW.** [12] (Emphasis in the original)

Validity of the Search Warrant

Section 2[13] of the Bill of Rights enshrines as inviolable the right of persons to be secure in their persons and properties, free from any unreasonable searches and seizures by the State. As elucidated in the 1937 case of *Alvarez v. Court of First Instance of Tayabas*[14] (*Alvarez*), "[o]f all the rights of a citizen, few are of greater importance or more essential to his peace and happiness than the right of personal security[.]" [15] *Alvarez* further provides:

> What constitutes a reasonable or unreasonable search or seizure in any particular case is purely a judicial question, determinable from a consideration of the circumstances involved, including the purpose of the search, the presence or absence of probable cause, the manner in which the search and seizure was made, the place or thing searched, and the character of the articles procured.[16] (Citations omitted)

The rule is strict: there shall never be any *unreasonable* search and seizure of whatever nature and for whatever purpose. The way for a search to be considered *reasonable* is provided by having a court issue a warrant based solely on a finding of probable cause. However, considering the reality that searches and seizures may be necessary to public welfare and safety, and it cannot be reasonable under certain circumstances to still expect the State to apply for a warrant, various rules and case law have provided for instances of *reasonable* or permissible searches and seizures, even without a warrant. In particular to searches, the following are the recognized exceptions: (1) warrantless search incidental to a lawful arrest recognized under Section 12, Rule 126 of the Rules of Court and by prevailing jurisprudence; (2) seizure of evidence in plain view; (3) search of moving vehicles; (4) consented warrantless search; (5) customs search; (6) stop and frisk situations (Terry search); and (7) exigent and emergency circumstances.[17] To avoid transgressing the constitutional rights of citizens, these exceptions have been held to be ***strictly construed against the State and liberally in favor of the individual.***[18]

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12 *Id.* at 3.
13 CONST. (1987).
14 64 Phil. 33 (1937) [Per J. Imperial, First Division].
15 *Id.* at 41.
16 *Id.* at 44.
17 *Dominguez v. People*, 849 Phil. 610, 622–623 (2019) [Per J. Caguioa, Second Division].
18 *Rodriguez v. Villamiel*, 65 Phil. 230 (1937) [Per J. Imperial, Second Division].

In line with the rule of strictly construing against the State search warrants, Section 2 of the Bill of Rights itself mandates the *particularity of description* requirement, thus:

> [N]o 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.* (Emphasis supplied)

The *particularity of description* requirement is primarily meant to enable the law enforcers serving the warrant to readily identify the properties to be seized, to prevent them from seizing the wrong items, and to leave them with no discretion regarding the articles to be seized.[19] Although it does not require the search warrant to describe the items to be seized in precise and minute detail, the items to be seized must still be described as specific as the circumstances will ordinarily allow. In *Dimal v. People*,[20] the Court explained:

> [A] search warrant may be said to particularly describe the things to be seized (1) when the description therein is as specific as the circumstances will ordinarily allow; or (2) when the description expresses a conclusion of fact — not of law by which the warrant officer may be guided in making the search and seizure; (3) and when the things to be described are limited to those which bear direct relation to the offenses for which the warrant is being issued.[21] (Citations omitted)

Absent a sufficient description or particularization of the personal properties to be seized, the search warrant is considered a general warrant and is therefore null and void.

At this juncture, it is important to differentiate between a general warrant and a warrant that merely contains a general statement. In the latter situation, the search warrant will not be nullified as a whole.[22] Instead, the items not particularly described will be cut off without destroying the whole warrant.[23] This will render the search warrant as severable and will allow the valid portion of the warrant, as to the items specifically described, to survive.[24] As the Court held in *People v. Salanguit:*[25]

> It would be a drastic remedy indeed if a warrant, which was issued on probable cause and particularly describing the items to be seized on the basis thereof, is to be invalidated *in toto* because the judge erred in authorizing a search for other items not supported by the evidence.[26] (Emphasis in the original, citation omitted)

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19 *People v. Pastrana*, 826 Phil. 427, 447 (2018) [Per J. Martires, Third Division].
20 830 Phil. 309 (2018) [Per J. Peralta, Second Division].
21 *Id.* at 342.
22 *Microsoft Corp. v. Maxicorp, Inc.*, 481 Phil. 550, 572 (2004) [Per J. Carpio, First Division].
23 *Uy v. Bureau of Internal Revenue*, 397 Phil. 892, 921 (2000) [Per J. Kapunan, First Division].
24 *See id.* at 921–922.
25 408 Phil. 817 (2001) [Per J. Mendoza, Second Division].
26 *Id.* at 830.

Consequently, the search made pursuant to a partially valid search warrant remains valid and is not invalidated by the general statement in the warrant, obligating the law enforcement officers to execute the search warrant and search and seize the items particularly described therein.

In situations when, during the execution of the search warrant, the law enforcement officers encounter contraband that is not listed in the search warrant the search does not become void with respect to those items not specifically described in the warrant. This is where the plain view doctrine becomes material and relevant.

Thus, I agree that the phrase, "among other firearms," if appearing in a search warrant, is too broad and general to pass the *particularity of description* requirement. Indeed, the phrase is too all-embracing to include all conceivable firearms and ammunitions, significantly expanding the scope and discretion of the authorities executing the warrant. I likewise do not subscribe to the position that the phrase "among other firearms" may be used to justify the seizure of all other firearms bearing direct relation to the crime of illegal possession of firearms considering that Republic Act No. 10591 differentiates among the classifications of firearms in terms of size, operation, use, etc., in penalizing the illegal possession thereof. The classification, caliber or design of the other supposed firearms aside from the 9mm caliber pistol should have at least been mentioned in the search warrant to pass the *particularity of description* requirement.

That said, it should be emphasized that the phrase "among other firearms" did not convert the search warrant to a general warrant. Search Warrant No. 19-13 still complies with the *particularity of description* requirement as it specifies "Cal. 9MM Pistol" as the item or contraband to be seized from the petitioner's residence. Stated otherwise, even if the general statement "among other firearms" is stricken down, Search Warrant No. 19-13 would still be valid and would still limit the scope of the search and guide the law enforcement officers in making the search and seizure.

Furthermore, the phrase "among other firearms" does not appear in the dispositive portion of the search warrant. To recall, the warrant ordered the authorities to seize the "above-named article," which could then be interpreted as referring only to the "Cal. 9MM Pistol" and not to the phrase "among other firearms."

Settled is the rule that the only portion of the decision or order that may be the subject of execution is that which is ordained or decreed in the dispositive portion.[27] This rule should likewise be applied in search warrants, as warrants are determinative of the scope of the search. In relation to the aforementioned rule, it is equally settled that in case of conflict between the dispositive portion of the decision or order and the body thereof, the dispositive portion controls as it is the portion of the decision that finally

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[27] *National Power Corporation v. Tarcelo*, 742 Phil. 463 (2014) [Per J. Del Castillo, Second Division].

invests rights upon the parties, sets conditions for the exercise of those rights, and imposes the corresponding duties or obligations.[28] Consequently, in case of conflict between the body and the dispositive portion of the warrant, the dispositive portion should control. Thus, judges should be reminded to specify, as far as practicable, the place to be searched and item/s to be seized in the dispositive portion of the search warrant in order to prevent any ambiguities in the execution of the warrant.

Accordingly, the valid portion of the search warrant provided the police officers with the prior justification for an intrusion into the petitioner's residence. Considering the validity of the search warrant and the consequent search, we now consider whether the seizure of the items not listed in the search warrant is justified.

Applicability of the plain view doctrine

The plain view doctrine applies when, in the course of a prior lawful intrusion, the law enforcement officer inadvertently comes across a piece of item and it is immediately apparent to him or her that the item may be evidence of a crime, contraband, or otherwise subject to seizure.[29] The doctrine requires: (1) prior justification for an intrusion; (2) inadvertent discovery of the evidence; and (3) immediate apparent illegality of the evidence.[30]

In the execution of a valid search warrant, the authorities' purpose is precisely to search and seize evidence related to a specific crime. Execution of a search warrant necessitates searching meticulously for evidence of a crime. If, in the course of doing this the authorities find other contraband, the plain view doctrine kicks in to justify the validity of the seizure of said contraband.

On this note, I find the United States (U.S.) case of *Horton v. California*[31] (*Horton*) in relation to the pronouncement in *Coolidge v. N. H.*[32] (*Coolidge*), to be insightful. To recall, our jurisdiction adopted the plain view doctrine from *Coolidge*, where the U.S. Supreme Court explained the requirement of inadvertence as follows:

> The rationale of the exception to the warrant requirement, as just stated, is that a plain-view seizure will not turn an initially valid (and therefore limited) search into a "general" one, while the inconvenience of procuring a warrant to cover an inadvertent discovery is great. *But where the discovery is anticipated, where the police know in advance the location of the evidence and intend to seize it, the situation is altogether different.* The requirement of a warrant to seize imposes no inconvenience whatever, or at least none which is constitutionally cognizable in a legal system that regards

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28 *Florentino v. Rivera*, 515 Phil. 494, 503 (2006) [Per J. Ynares-Santiago, First Division].
29 *Dominguez v. People*, *supra* note 17, at 629.
30 *People v. Salanguit*, *supra* note 25, at 834.
31 496 U.S. 128, 137–138 (1990).
32 403 U.S. 443 (1971).

warrantless searches as "*per se* unreasonable" in the absence of "exigent circumstances."

> *If the initial intrusion is bottomed upon a warrant that fails to mention a particular object, though the police know its location and intend to seize it, then there is a violation of the express constitutional requirement of "Warrants . . . particularly describing . . . [the] things to be seized."* The initial intrusion may, of course, be legitimated not by a warrant but by one of the exceptions to the warrant requirement, such as hot pursuit or search incident to lawful arrest. But to extend the scope of such an intrusion to the seizure of objects[—]not contraband nor stolen nor dangerous in themselves[—]which the police know in advance they will find in plain view and intend to seize, would fly in the face of the basic rule that no amount of probable cause can justify a warrantless seizure.[33] (Emphasis supplied)

The U.S. Supreme Court, in *Horton*, seemingly abrogated the inadvertence requirement. In *Horton*, a police officer was executing a search warrant issued for the proceeds of a robbery. The officer did not find the stolen property but instead found weapons in plain view and seized them. The issue in the said case was whether the evidence in plain view was validly seized, even though its discovery was not "inadvertent." The U.S. Supreme Court ruled:

> [T]he suggestion that the inadvertence requirement is necessary to prevent the police from conducting general searches, or from converting specific warrants into general warrants, is not persuasive because that interest is already served by the requirements that no warrant issue unless it "particularly describes the place to be searched and the persons or things to be seized," and that a warrantless search be circumscribed by the exigencies which justify its initiation. Scrupulous adherence to these requirements serves the interests in limiting the area and duration of the search that the inadvertence requirement inadequately protects. *Once those commands have been satisfied and the officer has a lawful right of access, however, no additional Fourth Amendment interest is furthered by requiring that the discovery of evidence be inadvertent.* If the scope of the search exceeds that permitted by the terms of a validly issued warrant or the character of the relevant exception from the warrant requirement, the subsequent seizure is unconstitutional without more. Thus, in the case of a search incident to a lawful arrest, "if the police stray outside the scope of an authorized *Chimel* search they are already in violation of the Fourth Amendment, and evidence so seized will be excluded; adding a second reason for excluding evidence hardly seems worth the candle." Similarly, the object of a warrantless search of an automobile also defines its scope:
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> > "The scope of a warrantless search of an automobile thus is not defined by the nature of the container in which the contraband is secreted. Rather, *it is defined by the object of the search and the places in which there is probable cause to believe that it may be found. Just as probable cause to believe that a stolen lawnmower may be found in a garage will not support a warrant to search an upstairs bedroom, probable cause to believe that undocumented aliens are being transported in a van will not justify a warrantless search of*

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[33] *Id.* at 469–471.

> *a suitcase.* Probable cause to believe that a container placed in the trunk of a taxi contains contraband or evidence does not justify a search of the entire cab."
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> In this case, the scope of the search was not enlarged in the slightest by the omission of any reference to the weapons in the warrant. Indeed, if the three rings and other items named in the warrant had been found at the outset[—]or if petitioner had them in his possession and had responded to the warrant by producing them immediately[—]no search for weapons could have taken place. Again, Justice WHITE's dissenting opinion in *Coolidge* is instructive: *"Police with a warrant for a rifle may search only places where rifles might be, and must terminate the search once the rifle is found; the inadvertence rule will in no way reduce the number of places into which they may lawfully look."* As we have already suggested, by hypothesis the seizure of an object in plain view does not involve an intrusion on privacy. *If the interest in privacy has been invaded, the violation must have occurred before the object came into plain view, and there is no need for an inadvertence limitation on seizures to condemn it. The prohibition against general searches and general warrants serves primarily as a protection against unjustified intrusions on privacy. But reliance on privacy concerns that support that prohibition is misplaced when the inquiry concerns the scope of an exception that merely authorizes an officer with a lawful right of access to an item to seize it without a warrant.*
>
> In this case, the items seized from petitioner's home were discovered during a lawful search authorized by a valid warrant. When they were discovered, it was immediately apparent to the officer that they constituted incriminating evidence. . . The search was authorized by the warrant, the seizure was authorized by the "plain view" doctrine.[34] (Emphasis supplied, citations omitted)

From the foregoing, while I do not advocate the abandonment of the inadvertence requirement in applying the plain view doctrine, it is my considered view that the element of inadvertence, when applied to a search pursuant to a search warrant, should be appreciated differently from how it is appreciated in the context of warrantless searches. 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.

The Court must remember that the plain view doctrine serves to supplement the prior justification, such as a search warrant for another object, and permits the warrantless seizure of an evidence of a crime, a contraband or an item otherwise subject to seizure.[35] It is a recognition of the reality that it is unnecessary to require the police to obtain another warrant when they come across an item the illegality of which, as mentioned, is immediately apparent.

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[34] *Horton v. California*, *supra* note 31, at 139–142.

[35] *People v. Musa*, 291 Phil. 623, 640 (1993) [Per J. Romero, Third Division].

The immediate appearance of the illegality of the said item does not at once disappear simply because the said incriminating evidence is not covered by the warrant.[36] To limit the applicability of the plain view doctrine because a *meticulous search* is supposedly inconsistent with an *inadvertent discovery* greatly undermines the essence of the doctrine.

Nonetheless, I likewise recognize the reality that there are instances of abuse that must be addressed. Police officers should not be allowed to launch unbridled searches and indiscriminate seizures or to extend a general exploratory search made solely to find evidence of the accused's guilt. Thus, it is axiomatic that the prosecution first establish that the search warrant was validly and reasonably executed by the authorities before the seizure of items not listed in the search warrant may be justified under the plain view doctrine.

In turn, the determination of the validity and reasonableness of the execution of a search warrant and the subsequent application of the plain view doctrine is largely factual in nature. As such, it is my considered view that the following must be taken into consideration:

1. Whether the dispositive portion of the search warrant complied with the requirements set forth in the law, i.e., probable cause in the issuance thereof and particularity of description of the items to be seized and place to be searched;
2. Whether the police officers complied with the procedure for the execution of a search warrant as set forth in Rule 126 of the Rules of Court, i.e., "knock and announce"[37] rule, presence of witnesses at the time of the search, etc.;
3. Whether the item/s were found in a place where one reasonably would have expected to look while searching for the object/s listed in the search warrant, taking into consideration the size and nature of the object particularly described in the warrant and the locations and receptacles searched;
4. Whether the item/s not listed in the search warrant were found before all the objects particularly described in the search warrant were found; and,
5. Whether it is immediately apparent to the officers that the item/s may be evidence of a crime, contraband, or otherwise subject to seizure.

Thus, police officers will not be justified in searching for an M16 rifle inside a jewelry box or a small handbag. Police officers will likewise not be justified in searching a house further after they have already seized the items subject of the search warrant. They will not be allowed to search for a stolen car inside the bedroom of the accused or search for a stolen television inside a backpack.

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[36] *United Laboratories, Inc. v. Isip*, 500 Phil. 342, 362 (2005) [Per J. Callejo, Sr., Second Division].
[37] *People v. Zhen Hua*, 482 Phil. 572, 596 (2004) [Per J. Callejo, Sr., Second Division].

All told, courts must, in all instances, evaluate the reasonableness of the search and seizure conducted on a case-by-case basis. As the Court ruled in *Sr. Insp. Valeroso v. Court of Appeals*,[38]

> Unreasonable searches and seizures are the menace against which the constitutional guarantees afford full protection. While the power to search and seize may at times be necessary for public welfare, still it may be exercised and the law enforced without transgressing the constitutional rights of the citizens, for no enforcement of any statute is of sufficient importance to justify indifference to the basic principles of government. Those who are supposed to enforce the law are not justified in disregarding the rights of an individual in the name of order. Order is too high a price to pay for the loss of liberty.[39] (Citation omitted)

In this case, as earlier explained, Search Warrant No. 19-13 is partially valid, and the police officers were justified in entering the residence of petitioner. The police officers were validly executing the search warrant when they came across the firearm and ammunitions inside the small cabinet in the kitchen. Considering the size of a 9mm caliber pistol, it was reasonable for the police officers to search the small cabinet in the kitchen. Since the police officers failed to find the 9mm caliber pistol subject of the search warrant, it cannot be gainsaid that the search warrant had been fully executed at the time that the other firearm and ammunitions were discovered. Finally, considering that the police officers knew at the time of the execution of the search warrant that petitioner is not a registered license holder of any firearm, it is immediately apparent to them that the firearm and ammunitions inside the kitchen cabinet are illegal.

From the foregoing, it is my view that the police officers validly seized the firearm and ammunitions under the plain view doctrine and that these items are admissible in evidence. Consequently, I concur in affirming the conviction of petitioner for illegal possession of firearm, as the prosecution sufficiently established the elements of the offense: (1) the existence of the firearm, and (2) petitioner's lack of license or permit to possess the same.

All told, I vote to **DENY** the petition.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

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38 614 Phil. 236 (2009) [Per J. Nachura, Third Division].
39 *Id.* at 254.

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G.R. No. 236548 (RUBEN COMAMO *y* JIMENO, Petitioner, **v. PEOPLE OF THE PHILIPPINES,** Respondent).

Promulgated:

March 4, 2025

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CONCURRENCE

LAZARO-JAVIER, *J.*:

Search Warrant No. 19-13 (search warrant) was issued upon a finding of probable cause, authorizing law enforcers to search petitioner Ruben Comamo *y* Jimeno's (petitioner)'s house at Barangay Gaang, Currimao, Ilocos Norte, for alleged illegal possession of "a cal. 9mm pistol, among other firearms."[1] During the implementation of the search warrant, the officers asked petitioner to open a small cabinet in the kitchen. He obliged. It was then that the enforcers discovered the following firearms and ammunitions inside the cabinet: (a) a 45 mm caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunition, and one inside holster; (b) one live ammunition for an M14 rifle; and (c) one live ammunition for 9mm caliber pistol.[2] After the search, he signed the Certificate of Orderly Search.[3]

Consequently, petitioner was charged with illegal possession of firearms and ammunitions. Before the trial court and the appellate court, he argued that the confiscated firearms and ammunitions were inadmissible as evidence, not having been particularly described in the search warrant which was limited only to the seizure of a 9mm caliber pistol. He further contended that the firearms and ammunition were not seized pursuant to a valid warrantless search under the plain view doctrine since the same were not plainly exposed to sight. He also allegedly did not validly consent to the search given that he was intimidated by the enforcers at the time of the search.

The *ponencia* convicted petitioner of illegal possession of ammunition of a small firearm after excluding as evidence the: (a) 45 mm caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunition, and one inside holster; and (b) one live ammunition for an M14 rifle, while ordaining as admissible only the single live ammunition for 9mm caliber pistol, which bore a direct relationship to the alleged offense.

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1 *Ponencia*, p. 2.
2 *Id.*
3 *Id.* at 5.

I agree with the *ponencia*'s verdict of conviction and opine that the search and seizure of the subject firearms and ammunitions was valid.

Indeed, Article III, Section 2 of the Constitution holds sacrosanct the right of all persons to be secure against unreasonable searches and seizures, viz.:

> 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 [or she] may produce, and particularly describing the place to be searched and the persons or things to be seized.

Thus, as a rule, searches and seizures may be conducted by authorities *only* when a court issues a search warrant after it has determined the existence of probable cause through the personal examination under oath or affirmation of the complainant and the witnesses presented before the court, with the place to be searched and the persons or things to be seized particularly described.[4]

In other words, for a search and seizure to withstand the test of reasonableness, the judicial warrant upon which it is anchored must satisfy the following requisites: *first,* probable cause is present; *second,* such probable cause must be determined personally by the judge; *third,* the judge must examine, in writing and under oath or affirmation, the complainant and the witnesses he or she may produce; *fourth,* the applicant and the witnesses testify on the facts personally known to them; and *fifth, the warrant specifically describes* the place to be searched and *the things to be seized.*[5]

The absence of any of these requisites is a cause to quash the search warrant or to suppress the evidence seized.[6] If granted, the "exclusionary rule" enshrined under Article III, Section 3(2) of the Constitution[7] renders inadmissible as evidence the items seized pursuant to the invalid search. By extension, any evidence derived or indirectly obtained from this illegally seized evidence are equally inadmissible under the "fruit of the poisonous tree" doctrine.[8]

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4 *People v. Sapla,* 874 Phil. 240, 257 (2020) [Per J. Caguioa, *En Banc*].

5 *People v. Castillo,* 798 Phil. 77, 88 (2016) [Per J. Peralta, Third Division].

6 *See Abuan v. People,* 536 Phil. 672 (2006) [Per J. Callejo, Sr., First Division].

7 CONSTITUTION (1987), art. III, sec. 3 (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law.
(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

8 *See People v. Fatallo,* 842 Phil. 1060, 1084 (2018) [Per J. Caguioa, Second Division].

Here, the presence of the first four requisites is not disputed. We thus reckon with the fifth requisite: were the confiscated firearms and ammunition specifically described in the search warrant?

I join the *ponencia* in ruling that they were not.

Vallejo v. Court of Appeals[9] provides the yardstick in ascertaining whether the fifth requisite has been met, i.e., the specific property to be searched for should be so particularly described as to preclude any possibility of seizing any other property. *Vallejo* further elucidates:

> The things to be seized must be described with particularity. **Technical precision of description is not required. It is only necessary that there be reasonable particularity and certainty as to the identity of the property to be searched for and seized, so that the warrant shall not be a mere roving commission.** Indeed, the law does not require that the things to be seized must be described in precise and minute detail as to leave no room for doubt on the part of the searching authorities. If this were the rule, it would be virtually impossible for the applicants to obtain a warrant as they would not know exactly what kind of things to look for. Any description of the place or thing to be searched that will enable the officer making the search with reasonable certainty to locate such place or thing is sufficient.
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> However, the requirement that search warrants shall particularly describe the things to be seized makes general searches under them impossible and prevents the seizure of one thing under a warrant describing another. As to what is to be taken, nothing is left to the discretion of the officer executing the warrant. **Thus, the specific property to be searched for should be so particularly described as to preclude the possibility of seizing any other property.**[10] (Emphasis supplied, citations omitted)

This is because a search warrant is not a sweeping authority empowering a raiding party to undertake a fishing expedition to confiscate any and all kinds of evidence or articles relating to a crime.[11]

Following the foregoing metric, the search warrant here perceptibly failed to meet the standards of particularity required by the Constitution insofar as it authorized the enforcers to "seiz[e] a Cal. 9MM Pistol[,] *among other firearms* which he keeps in his possession, custody, and control inside his residence at the above address."[12] The phrase "among other firearms" effectively serves as a catch-all, which unlawfully authorizes enforcers to confiscate firearms other than the 9mm caliber pistol albeit, the same are not specifically described in the warrant, in patent violation of Article III, Section 2 of the Constitution.

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9 471 Phil. 670 (2004) [Per J. Callejo, Sr., Second Division].

10 *Id.* at 686–687.

11 *People v. Nuñez,* 609 Phil. 176, 187 (2009) [Per J. Quisumbing, Second Division].

12 *Ponencia*, p. 21

Indeed, this case may be differentiated from *Kho v. Macalintal,*[13] where the Court sustained the validity of the search warrant authorizing the seizure of "unlicensed firearms of various calibers and ammunitions for the said firearms," pointing out that the National Bureau of Investigation agents who conducted the prior surveillance could not have been in a position to know beforehand the exact caliber or make of the firearms to be seized. What the surveillance revealed only was that unlicensed firearms were within the premises to be searched. Besides, the law does not require that the things to be seized must be described in precise and minute detail as to leave no room for doubt on the part of the searching authorities.

Here, however, the scope of the phrase "among other firearms" is broader, as it sanctions the confiscation of firearms, whether licensed or unlicensed. Verily, this general description of the items to be seized already warrants the confiscation of items though possession thereof may be unrelated to any offense. This, we cannot uphold.

Nonetheless, I agree with the *ponencia* that this general phrase does not render the search warrant void in its totality but merely removes from its protective mantle items confiscated which were not particularly described therein. Indeed, in *Dimal v. People,*[14] the Court sustained the validity of the seizure of the items particularly described in the search warrant and merely excluded those not so particularly described.

This notwithstanding, I agree that the confiscation of the other firearms and ammunitions, apart from the live ammunition for 9mm caliber pistol, is valid under the plain view doctrine.

Indeed, well-recognized in jurisprudence are the following instances when a warrantless search is valid: (a) warrantless search incidental to a lawful arrest; (b) search of evidence in plain view; (c) search of a moving vehicle; (d) consented warrantless searches; (e) customs search; (f) stop and frisk; and (g) exigent and emergency circumstances.[15]

The plain view doctrine applies when the following requisites concur: (1) 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; (2) the discovery of the evidence in plain view is inadvertent; and (3) it is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband, or otherwise subject to seizure.[16]

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13 365 Phil. 511 (1999) [Per J. Purisima, *En Banc*].
14 830 Phil. 309 (2018) [Per J. Peralta, Second Division].
15 *People v. Jumarang,* 928 Phil. 27, 31 (2022) [Per J. J. Lopez, Second Division].
16 *Dominguez v. People,* 849 Phil. 610, 629 (2019) [Per J. Caguioa, Second Division].

All requisites are present here.

First. The entry of the enforcers into petitioner's house was completely justified as it is not disputed that the search warrant was valid save only for the general phrase therein which sanctions the confiscation of "other firearms." Verily, the enforcers had a right to enter petitioner's house and, in the course of the implementation of the warrant, to search the same, which is precisely what they were authorized to do.

It bears stress that at the time the enforcers requested petitioner to open the cabinet wherein the seized firearms and ammunition were found, the enforcers had yet to find the "cal. 9 MM pistol" they were authorized to confiscate. Taking this circumstance into consideration, it is evident that the opening of the cabinet was part and parcel of their search operation which, to reiterate, the enforcers were authorized to conduct pursuant to the validly issued search warrant.

Plainly, the first requisite has been met here since the enforcers, by virtue of the search warrant, had prior justification to enter petitioner's house and effect the search of, and consequently, view, the subject cabinet which petitioner himself opened.

Second. The enforcers discovered the firearms and ammunitions inadvertently. *United Laboratories v. Isip,*[17] explains that the requirement of inadvertence simply means that the officer must not have known in advance of the location of the evidence and intend to seize it. Discovery is not anticipated.

Here, there is simply no basis to conclude that the enforcers were aware in advance that the cabinet contained the subsequently seized firearms and ammunitions. There is no evidence adduced that they anticipated discovery of the same upon the opening of the cabinet or that they requested petitioner to open the same because they knew that it contained firearms and ammunitions. Neither can such conclusion be reasonably surmised considering that prior to the search, the item they reasonably suspected petitioner to possess was a "9mm caliber pistol" and none of the items actually seized.

Finally. It was immediately apparent to the enforcers that the firearms and ammunition inside the cabinet were the subject of the offense for which petitioner was being charged, illegal possession of firearms and ammunitions, especially since he failed to show any license to possess the same upon request.

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[17] 500 Phil. 342 (2005) [Per J. Callejo, Sr., Second Division].

Indeed, under the plain view doctrine, an object is in plain view if it is plainly exposed to sight, such that when the object seized was inside a closed package, the object itself is not in plain view and therefore cannot be seized without a warrant.[18]

True, while inside the cabinet, the seized firearms and ammunitions could not have been said to have been in plain view. But it must be pointed out that at such time, i.e., before the cabinet was opened, the plain view doctrine was yet to take effect. This is because before the confiscation of the items, the enforcers were acting completely within the authority of the search warrant. The operation, therefore, was conducted pursuant to a valid search warrant and *not yet* pursuant to a valid warrantless search.

The plain view doctrine only found application once the circumstance has been removed from the mantle of the search warrant's authority, i.e., from the moment the officers inadvertently discovered in the course of their search obviously contraband items not specifically described in the warrant. It was at this precise moment when the cabinet was opened and the items inadvertently discovered that the operation was taken outside the purview of the search warrant. Yet, at such time, with the cabinet open, the firearms and ammunition have been exposed to the officers' plain sight and their apparent unlawful nature made immediately apparent, authorizing their warrantless seizure.

At any rate, even assuming that the plain view doctrine cannot be applied here, the same can still be considered as a valid consented warrantless search.

For there to be a valid consented warrantless search or a voluntary waiver of the right against unreasonable searches and seizures, the Court must determine whether the following requisites are present: (1) it must appear that the rights exist; (2) the person involved had knowledge, actual or constructive, of the existence of such right; and (3) said person had an actual intention to relinquish the right.[19]

Further, in determining whether such waiver is indeed voluntary and freely given, the following circumstances must be taken into consideration: (1) the age of the defendant; (2) whether he was in a public or a secluded location; (3) whether he objected to the search or passively looked on; (4) the education and intelligence of the defendant; (5) the presence of coercive police procedures; (6) the defendant's belief that no incriminating evidence will be found; (7) the nature of the police questioning; (8) the environment in

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18 *People v. Nuevas*, 545 Phil 356 (2007) [Per J. Tinga, Second Division].

19 *Amado v. People*, G.R. No. 244795, December 5, 2022 [Notice, First Division].

which the questioning took place; and (9) the possibly vulnerable subjective state of the person consenting.[20]

Taken altogether, it cannot be denied that all the requisites of a voluntary waiver of the right against unreasonable searches and seizures are present. **First**, the right to waive existed during the time of the search. In fact, all the details of accused-petitioner's search were specified in the search warrant. **Second** and **third**, he likewise had knowledge of the existence of such right, and actual intention to relinquish the same. To reiterate, petitioner voluntarily opened the cabinet, where the other firearms and ammunition were found, when the police authorities ordered him to do so. Again, there was no mention of any force or intimidation that was employed when petitioner opened it upon order of the police.

Ultimately, petitioner signed the Certificate of Orderly Search. In this document, he stated, among others, that "[he] was present at all time and has witnessed the conduct of search which was done in an orderly manner" and that "the search was conducted in accordance with law." Thus, the accused-petitioner "[does] not have any complaint whatsoever against any member of the Police Team that conducted the search." In fine, he did not controvert the authenticity of the document nor did he claim having been coerced or threatened into signing the same.[21] In other words, the entire search was, at the very least, orderly implemented. In fact, petitioner focused his arguments on the inadmissibility of the seized firearms and ammunition, and never on the implementation of the actual search. Hence, there is clear and convincing evidence that the waiver was executed voluntarily.[22]

Thus, I **VOTE** that other firearms and ammunition previously ruled inadmissible by the Court of Appeals in its Decision dated June 28, 2017 in CA-G.R. CR No. 38952 be declared admissible following the plain view doctrine or consented warrantless search exception.

AMY C. LAZARO-JAVIER
Associate Justice

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20 *Amado v. People*, G.R. No. 244795, December 5, 2022 [Notice, First Division].
21 Decision dated June 28, 2017 in CA-G.R. CR No. 38952.
22 *See People v. Santos*, 930 Phil. 215 (2022) [Per SAJ, Leonen, Second Division].

G.R. No. 236548 (RUBEN COMAMO *y* JIMENO, Petitioner, **v. PEOPLE OF THE PHILIPPINES,** Respondent.)

Promulgated:

March 4, 2025

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CONCURRING OPINION

LOPEZ, *J.*:

I agree with the esteemed ponente that the Petition for Review on *Certiorari* should be dismissed.

The *ponencia* held that the phrase "*among other firearms*" in Search Warrant No. 19-13 neither transforms the warrant into a general warrant nor renders the entire warrant void. More, the *ponencia* also ruled that the seizure of the ".45 caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunitions, one inside holster, and one live ammunition for an M14 rifle," although not covered by the warrant, was nonetheless valid under the plain view doctrine.

While I agree that Search Warrant No. 19-13 did not constitute a general warrant and that the plain view doctrine justified the seizure of the .45 caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunitions, one inside holster and one live ammunition for M14 rifle, I wish to explain my position pertaining to the phrase "*among other firearms*" as specific enough to authorize the confiscation of related items. In my view, the language of the warrant, i.e., "a Cal. 9MM Pistol[,] *among other firearms* which [petitioner] keeps in his possession[,]" was sufficiently specific to authorize the seizure of the said items, all of which bear relation to the crime of illegal possession of firearm and ammunitions penalized under Republic Act No. 10591.

Indeed, no less than the Constitution requires that search warrants must particularly describe the place to be searched and the persons or things to be seized.[1] Otherwise, the warrant partakes the nature of a general warrant or one that lacks particularity, allowing for the broad and unrestricted search or seizure of items in contravention of the Bill of Rights.

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[1] CONST., art. II, sec. 2.

Guided by the foregoing principle, the test of the particularity of a search warrant has been defined in *Yao, Sr. v. People*[2] as (1) whether the description is as specific as the circumstances will ordinarily allow; (2) whether the description expresses a conclusion of fact, not of law, by which the warrant officer may be guided in making the search and seizure; or (3) whether the things described are limited to those which bear direct relation to the offense for which the warrant is being issued.[3]

In any case, jurisprudence does not require that the items to be seized must be described with exacting and minute detail to the point of leaving no room for doubt on the part of the searching authorities, as such a stringent requirement would render it virtually impossible for the applicants to obtain a search warrant. Hence, "the articles subject to the search and seizure need not be so invariant as to require absolute concordance" with those described in the warrant. "Substantial similarity of those articles described as a class or species would [already] suffice."[4]

Relevantly, this is not the first time We have been confronted with the issue presented by the instant petition.

In *Al-Ghoul v. Court of Appeals*,[5] this Court determined whether the seizure of firearms and ammunition, which were not specifically described in the questioned search warrants, was valid. On this score, We resolved the issue in the affirmative, finding the seizure of a .22 caliber handgun and a box of .22 caliber live ammunition, both not listed in the enumeration of firearms in the subject search warrants, proper. In so ruling, this Court held that the articles seized during the search were of the same kind and nature as those items enumerated in the search warrants. Where the description of those goods to be seized has been expressed technically, *all others of a similar nature but not bearing the exact technical descriptions* could still be subject to seizure. It sufficed that the search warrants were worded in such a manner that the enumerated items to be seized should bear a direct relation to the violation of Sections 1 and 3 of Presidential Decree No. 1866, as amended, penalizing illegal possession of firearms, ammunition, and explosives. By authorizing the seizure of articles proscribed by Presidential Decree No. 1866 and no other, the warrants were found to have satisfied the test of particularity to allow the seizure of the questioned items.

Meanwhile, in the case of *Kho v. Makalintal*,[6] We pronounced that the reference of the search warrant to "unlicensed firearms of various

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2 552 Phil 195 (2007) [Per J. Chico-Nazario, Third Division].
3 *Id.* at 222.
4 *Id.*
5 416 Phil 759 (2001) [J. Quisumbing, Second Division].
6 365 Phil 511 (1999) [Per J. Purisima, *En Banc*].

calibers and ammunitions for the said firearms" complied with the Constitutional standard, recognizing the fact that the agents of the National Bureau of Investigation could not be expected to know the exact caliber or make of the firearms based alone on the surveillance they conducted. Our ruling in *Kho* also underscored that adding the phrase "*and the like*" did not convert the search warrants in question into general warrants.

Guided by *Al-Ghoul* and *Kho*, the phrase "*among other firearms*" does not grant the serving officer the unbridled discretion of determining the items to seize. On the contrary, it confines such discretion only to firearms belonging to the same class or species and having a direct connection to the offense specified in the warrant. Thus, rather than construing the phrase as expanding the scope of the warrant to include all types of firearms and ammunition, I opine that it limits the search to firearms similar in nature to the 9mm caliber pistol, and only to those directly linked to the crime alleged—namely, illegal possession of firearms and ammunition. A contrary view may pose the danger of allowing the most minor deviations from a warrant's technical description to frustrate legitimate law enforcement efforts. This will ultimately undermine the objectives of Republic Act No. 10591 in curbing the proliferation of illegal firearms and weapons and preventing violence. Thus, as long as there is a description on the specific item to be seized from which the phrase "*among other firearms*" may be grouped, and for which a similar item belonging to the same class or group is found based on the said search warrant, these items must not be considered inadmissible in evidence. Neither the search warrant can be declared void.

JHOSEP Y. LOPEZ
Associate Justice

EN BANC

G.R. No. 236548 – RUBEN COMAMO *y* JIMENO, Petitioner **v. THE PEOPLE OF THE PHILIPPINES**, Respondent.

Promulgated:

March 4, 2025

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SEPARATE CONCURRING OPINION

SINGH, *J.*:

I concur that all the other seized firearms and ammunitions from petitioner Ruben Comamo's (**Ruben**) residence consisting of: (a) a .45-caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunitions, one inside holster; (b) one live ammunition for M14 rifle; and (c) one live ammunition for .9-caliber pistol, are admissible in evidence.

Nevertheless, it is my humble position that the plain view doctrine is not applicable in the present case.

Inapplicability of the plain view doctrine

As a brief summary of the case, Search Warrant No. 19-13 was issued against Ruben authorizing the law enforcers to search his house for alleged illegal possession of a .9-caliber pistol, "among other firearms," which he allegedly keeps in his possession, custody, and control inside his residence. During the implementation of the warrant, the authorities asked Ruben to open a small cabinet in the kitchen, to which he complied. They then discovered the above-mentioned firearms and ammunitions. For failing to show any license authorizing Ruben to possess the same, he was charged with illegal possession of firearms and ammunitions.[1]

The Regional Trial Court (**RTC**) convicted him of the crime charged and ruled that the plain view doctrine applies not only during valid warrantless searches, but also during the execution of a search warrant.[2] On appeal, the Court of Appeals (**CA**) held that the said doctrine does not apply because the

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1 *Ponencia*, pp. 1–2.
2 *Id.* at 3.

seized items were not plainly exposed to sight. Nonetheless, it affirmed the conviction of Ruben because he consented to the search.[3]

In his Petition for Review on *Certiorari* before the Court, Ruben maintained that the seizure of the .45-caliber pistol and assorted ammunitions is not justified under the plain view doctrine. The *ponencia* ruled otherwise and declared that "the law enforcers *inadvertently uncovered* the other firearm and ammunitions in the course of the implementation of the search warrant," and "[t]he incriminating character of the contrabands [sic] 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."[4]

I respectfully disagree.

Indeed, the right of every individual against unreasonable searches and seizures in our jurisdiction is inviolable. This is clearly defined under Article III, Section 2 of our Constitution, which reads:

> SEC. 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.

And to further protect or safeguard individuals from unreasonable searches and seizures, Section 3(2) of the same Article provides that evidence obtained and confiscated on the occasion of such unreasonable searches and seizures are deemed tainted and should be excluded from evidence for being the proverbial fruit of a poisonous tree. Stated elsewise, any evidence so obtained shall be inadmissible for any purpose in any legal proceeding.[5]

This constitutional proscription against warrantless searches and seizures, however, is subject to legal and judicial exceptions, namely: (1) warrantless search incidental to a lawful arrest recognized under Rule 126, Section 12 of the Rules of Court and by prevailing jurisprudence; (2) *seizure of evidence in plain view*; (3) search of moving vehicles; (4) consented warrantless search; (5) customs search; (6) stop and frisk situations (Terry search); and (7) exigent and emergency circumstances.[6] The Court, in

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3 *Id.* at 5.

4 *Id.* at 10–11. Emphasis supplied.

5 *See Pilapil v. Cu*, 880 Phil. 88, 98 (2020) [Per C.J. Peralta, First Division]. *See also People v. Manago*, 793 Phil. 505 (2016) [Per J. Perlas-Bernabe, First Division] citing *Comerciante v. People*, 764 Phil. 627 (2015) [Per J. Perlas-Bernabe, First Division].

6 *See People v. Jumarang*, 928 Phil. 27, 31(2022) [Per J. J.Lopez, Second Division]; *Dominguez v. People*, 849 Phil. 610, 622–623 (2019) [Per J, Caguioa, Second Division].

People v. Lagman,[7] has laid down the parameters for the application of seizure of evidence in plain view, or the so-called "plain view doctrine":

> Objects falling in plain view of an officer who has a right to be in 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; and (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.*[8] (Emphasis supplied, citation omitted)

In *Miclat v. People*,[9] where the accused was caught in the act of arranging the heat-sealed plastic sachets in plain sight of the police officer, the Court highlighted that *an object is in plain view if the object itself is plainly exposed to sight.*[10] This can hardly be said to be the case here.

To recall, the authorities, in implementing Search Warrant No. 19-13, asked Ruben to open a small cabinet in his kitchen, with which he obliged. It was only then that the operatives saw the firearm and ammunitions consisting of the following: (a) a .45-caliber Colt 1911 pistol with serial number 421003, three magazines, 23 live ammunitions, and one inside holster; (b) one live ammunition for M14 rifle; and (c) one live ammunition for .9-caliber pistol.[11] Clearly, this only indicates that these items were not exposed to their plain sight – the firearm and ammunitions were not open to eye and hand or in plain view. They were inside a closed cabinet, which Ruben had to open upon the request of the police officers.

The 1999 case of *People v. Doria*[12] illustrates further what constitutes plain view:

> It is clear that an object is in plain view if the object itself is plainly exposed to sight. The difficulty arises when the object is inside a closed container. *Where the object seized was inside a closed package, the object itself is not in plain view and therefore cannot be seized without a warrant.* However, if the package proclaims its contents, whether by its distinctive configuration, its transparency, or if its contents are obvious to an observer,

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7 593 Phil. 617 (2008) [Per J. Carpio-Morales, *En Banc*].
8 *Id.* at 628–629.
9 672 Phil. 191 (2011) [Per J. Peralta, Third Division].
10 *Id.* at 207. Emphasis supplied.
11 *Ponencia*, p. 2.
12 361 Phil. 595 (1999) [Per J. Puno, En Banc].

> then the contents are in plain view and may be seized. In other words, if the package is such that an experienced observer could infer from its appearance that it contains the prohibited article, then the article is deemed in plain view. *It must be immediately apparent to the police that the items that they observe may be evidence of a crime, contraband or otherwise subject to seizure.*
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> . . . .
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> [S]tanding by the door of appellant Gaddao's house, PO3 Manlangit had a view of the interior of said house. Two and a half meters away was the dining table and underneath it was a carton box. The box was partially open and revealed something wrapped in plastic.
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> In his direct examination, PO3 Manlangit said that he was sure that the contents of the box were marijuana because he himself checked and marked the said contents. On cross-examination, however, he admitted that he merely presumed the contents to be marijuana because it had the same plastic wrapping as the "buy-bust marijuana." A close scrutiny of the records reveals that the plastic wrapper was not colorless and transparent as to clearly manifest its contents to a viewer. *Each of the [10] bricks of marijuana in the box was individually wrapped in old newspaper and placed inside plastic bags—white, pink or blue in color. PO3 Manlangit himself admitted on cross-examination that the contents of the box could be items other than marijuana. He did not know exactly what the box contained that he had to ask appellant Gaddao about its contents. It was not immediately apparent to PO3 Manlangit that the content of the box was marijuana.* The marijuana was not in plain view and its seizure without the requisite search warrant was in violation of the law and the Constitution. It was fruit of the poisonous tree and should have been excluded and never considered by the trial court.[13] (Emphasis supplied, citations omitted)

The factual backdrop in *Doria* may not be on all fours with the present case, but this bolsters my position that the items seized by the police were not in their plain view. What was in their view was merely the kitchen cabinet of Ruben. A kitchen cabinet is nothing more than a container. Up until the time that he opened it upon the instructions of the authorities, they had no idea that this cabinet contained the firearm and assorted ammunitions that would eventually be the basis for his conviction. Indeed, while it may be argued that the seized items are of an incriminating character, it still does not change the fact that these items were not immediately apparent to the law enforcers because had they not opened the cabinet, they would not have discovered the same.

I would also like to add that in *People v. Musa*,[14] the Court held that the plain view doctrine is usually applied where a police officer is *not* searching for evidence against the accused, but nonetheless inadvertently comes across an incriminating object.[15] Thus, I could not subscribe to the view of the

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13 *Id.* at 634–640.

14 291 Phil. 623 (1993) [Per J. Romero, Third Division].

15 *Id.* at 640.

ponencia that the prosecution satisfied the second requisite of the plain view doctrine, *i.e.*, the discovery of evidence in plain view is inadvertent, as the law enforcers inadvertently uncovered the .45-caliber Colt 1911 pistol and other ammunitions in the course of the *implementation of the search warrant*.[16] In my view, this goes against the pronouncement in *Musa* because in the present case, the police officers were deliberately looking for evidence against Ruben for illegal possession of firearms. Thus, it cannot be gainsaid that the discovery or seizure of the other items were a product of a meticulous search, and not inadvertently.

In *United Laboratories Inc. v. Isip*,[17] the Court likewise underscored that the prosecution bears the burden of proving that all the essential requisites of the plain view doctrine are established. Thus:

> Objects, articles[,] or papers not described in the warrant but on plain view of the executing officer may be seized by him. *However, the seizure by the officer of objects/articles/papers not described in the warrant cannot be presumed as plain view. The State must adduce evidence, testimonial or documentary, to prove the confluence of the essential requirements for the doctrine to apply*, namely: (a) the executing law enforcement officer has a prior justification for an initial intrusion or otherwise properly in a position from which he can view a particular order; (b) the officer must discover incriminating evidence inadvertently; and (c) it must be immediately apparent to the police that the items they observe may be evidence of a crime, contraband, or otherwise subject to seizure.
>
> The doctrine is not an exception to the warrant. It merely serves to supplement the prior justification — whether it be a warrant for another object, hot pursuit, search as an incident to a lawful arrest or some other legitimate reason for being present, unconnected with a search directed against the accused. The doctrine may not be used to extend a general exploratory search from one object to another until something incriminating at last emerges. It is a recognition of the fact that when executing police officers comes across immediately incriminating evidence not covered by the warrant, they should not be required to close their eyes to it, regardless of whether it is evidence of the crime they are investigating or evidence of some other crime. It would be needless to require the police to obtain another warrant. Under the doctrine, there is no invasion of a legitimate expectation of privacy and there is no search within the meaning of the Constitution.[18] (Emphasis supplied, citations omitted)

With all due respect, I find that the *ponencia* materially failed to show how the prosecution proved the application of the plain view doctrine. While the *ponencia* discussed each requisite, no evidence, testimonial or documentary, was cited to support the conclusion that the plain view doctrine is applicable.

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16 *Ponencia*, p. 10.

17 500 Phil 342 (2005) [Per J. Callejo, Sr., Second Division]..

18 *Id.* at 361–362.

Nevertheless, even if the present case does not fall within the purview of the plain view doctrine, the seized firearm and various rounds of ammunitions are still admissible in evidence by virtue of the search warrant issued against Ruben.

The phrase "among other firearms" does not make Search Warrant No. 19-13 a general warrant

It is elementary that the requisites of a valid search warrant as laid down in Article III, Section 2 of the 1987 Constitution and in Rule 126, Section 4 of the Rules Court are as follows: (1) probable cause is present; (2) such probable cause must be determined personally by the judge; (3) the judge must examine, in writing and under oath or affirmation, the complainant and the witnesses he or she may produce; (4) the applicant and the witnesses testify on the facts personally known to them; and (5) the warrant specifically describes the place to be searched and the things to be seized. The absence of any of these requisites will cause the downright nullification of the search warrant.[19]

Here, it is undisputed that Search Warrant No. 19-13 was issued after judicial determination of probable cause. The *ponencia*, however, ruled that the phrase *"among other firearms"* in Search Warrant No. 19-13 defeats the objective to eliminate general search warrants because the language used is all-embracing as to include all conceivable firearms and ammunitions leaving the scope of the search to the discretion of the law enforcers.[20]

Again, I respectfully disagree.

I maintain that the phrase "among other firearms" in the search warrant does not make it a general warrant and, therefore, does not invalidate or render inadmissible the other seized articles. The following cases are instructive:

1. *Kho v. Makalintal*[21]

> Petitioners claim that [the] subject search warrants are general warrants proscribed by the Constitution. According to them, the things to be seized were not described and detailed out, *i.e.*, the firearms listed were not classified as to size or make, etc.
>
> Records on hand indicate that the search warrants under scrutiny specifically describe the items to be seized thus:

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19 *Diaz v. People*, 877 Phil. 523, 532 (2020) [Per J. Hernando, Second Division].

20 *Ponencia*, p. 8.

21 365 Phil. 511 (1999) [Per J. Purisima, *En Banc*].

> Search Warrant No. 90-11
> "Unlicensed radio communications equipment such as transmitters, transceivers, handsets, scanners, monitoring device and the like."
>
> Search Warrant No. 90-13
> "Unlicensed radio communications equipment such as transmitters, transceivers, handsets, radio communications equipment, scanners, monitoring devices and others."

The use of the phrase "and the like" is of no moment. The same did not make the search warrants in question general warrants. In *Oca v. Marquez*, the Court upheld the warrant although it described the things to be seized as "books of accounts and allied papers."

> Subject Search Warrant Nos. 90-12 and 90-15 refer to:
> "Unlicensed firearms of various calibers and ammunitions for the said firearms."
>
> Search Warrant No. 90-14 states:
> "Chop-chop vehicles and other spare parts."

The Court believes, and so holds, that the said warrants comply with Constitutional and statutory requirements. *The law does not require that the things to be seized must be described in precise and minute detail as to leave no room for doubt on the part of the searching authorities. Otherwise, it would be virtually impossible for the applicants to obtain a warrant as they would not know exactly what kind of things they are looking for.* Since the element of time is very crucial in criminal cases, the effort and time spent in researching on the details to be embodied in the warrant would render the purpose of the search nugatory.

> [T]he NBI agents could not have been in a position to know beforehand the exact caliber or make of all the firearms to be seized. Although the surveillance they conducted did disclose the presence of unlicensed firearms within the premises to be searched, they could not have known the particular type of weapons involved before seeing such weapons at close range, which was of course impossible at the time of the filing of the applications for the subject search warrants.[22] (Emphasis supplied)

2. *Columbia Pictures v. CA*[23]

> A search warrant may be said to particularly describe the things to be seized when the description therein is as specific as the circumstances will ordinarily allow; or when the description expresses a conclusion of fact -not of law - by which the warrant officer may be guided in making the search and seizure; or when the things described are limited to those which bear direct relation to the offense for which the warrant is being issued. *If the articles desired to be seized have any direct relation to an offense committed, the applicant must necessarily have some evidence, other than*

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22 *Id.* at 518–519.

23 330 Phil. 771 (1996) [Per J. Romero, Second Division]. Citations omitted.

those articles, to prove the said offense; and the articles, subject of search and seizure should come in handy merely to strengthen such evidence.[24]

3. *Worldwide Web Corporation v. People*[25]

A search warrant fulfills the requirement of particularity in the description of the things to be seized *when the things described are limited to those that bear a direct relation to the offense for which the warrant is being issued.*[26] (Emphasis supplied, citation omitted)

4. *Microsoft Corporation v. Maxicorp, Inc.*[27]

It is only required that a search warrant be specific as far as the circumstances will ordinarily allow. *The description of the property to be seized need not be technically accurate or precise. The nature of the description should vary according to whether the identity of the property or its character is a matter of concern.* Measured against this standard we find that paragraph (e) is not a general warrant. The articles to be seized were not only sufficiently identified physically, they were also specifically identified by stating their relation to the offense charged. Paragraph (e) specifically refers to those articles used or intended for use in the illegal and unauthorized copying of petitioners' software. This language meets the test of specificity.[28] (Emphasis supplied, citations omitted)

5. *HPS Software v. PLDT*[29]

[T]he subject search warrants are not general warrants because the items to be seized were sufficiently identified physically and were also specifically identified by stating their relation to the offenses charged which are Theft and Violation of [Presidential Decree] No. 401 through the conduct of illegal ISR activities.[30] (Emphasis supplied)

Relatedly, it should be underscored that Rule 126, Section 4 of the Rules on Criminal Procedure provides that a search warrant shall be issued in connection with one specific offense. Thus:

SEC. 4. *Requisites for issuing search warrant.* - A search warrant shall not issue except upon probable cause *in connection with one specific offense* to be determined personally by the judge after examination under oath or affirmation of the complainant and the witness he may produce, and particularly describing the place to be searched and the things to be seized which may be anywhere in the Philippines. (Emphasis supplied)

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24 *Id.* at 782–783.
25 713 Phil. 18 (2014) [Per C.J. Sereno, First Division].
26 *Id.* at 45.
27 481 Phil. 550 (2004) [Per J. Carpio, First Division].
28 *Id.* at 571.
29 700 Phil. 534 (2012) [Per J. Leonardo-De Castro, First Division]
30 *Id.* at 572.

In the present case, it should be noted that Search Warrant No. 19-13 was issued for the specific offense of illegal possession of firearms against Ruben. Therefore, on this ground alone, the phrase "among other firearms" in the subject search warrant does not render it a general one. The language used cannot be considered excessively broad, as it does not grant the authorities or the police officers unbridled discretion to conduct the search.

Requiring the police officers to describe with such certainty and precision, like the guns' caliber or make, would not only be impractical, but unrealistic. Otherwise, it would be impossible for our police officers to get a warrant for this offense, allowing the offender to get away unpunished. Limiting the confiscation to one specifically described firearm while allowing the offender to retain other firearms not described in detail would defeat the very purpose of the police operation.

In conclusion, it is my position that the plain view doctrine is not applicable. Nevertheless, all the seized firearms and ammunitions are admissible. They need not be described with specificity in the subject search warrant since they pertain to one specific offense, namely, illegal possession of firearms.

All told, I vote to **DISMISS** the Petition.

MARIA FILOMENA D. SINGH
Associate Justice