

[G.R. NO. 161048, August 31, 2005]

**BASILISA DUNGARAN, PETITIONER, VS. ARLENI KOSCHNICKE,
RESPONDENT.**

D E C I S I O N

CALLEJO, SR., J.:

This is a petition for review on *certiorari* of the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 73352, affirming with modification, the decision^[2] of the Regional Trial Court (RTC) of Antipolo City, Branch 74, in Civil Case No. 95-3781.

The Antecedents

Sometime in December 1993, Basilisa Dungaran purchased a jitney chassis bearing No. EVER-93-A-26689-C from Ever-Built Metal Manufacturing Corporation in San Pablo City. The transaction was evidenced by Sales Invoice No. 25343.^[3] On December 14, 1993, she purchased an Engine Block bearing No. 4D30-338666 from the JICOR Merchandizing for P37,000.00, as evidenced by Sales Invoice No. 3173^[4] which the vendee issued to her. The chassis and engine block were examined by the Land Transportation Office (LTO), after which Certificate Nos. 1065397 and 1068909 were issued in her favor.^[5] Basilisa and her brother, Salvador Dungaran, contracted the services of JMC Motors in San Pablo City for P100,000.00 to install the chassis and engine block in a jitney unit. The job was completed and the amount paid, as evidenced by Provisional Receipt No. 0038 in the name of Salvador Dungaran.^[6]

On February 17, 1994, Basilisa paid the required fees with the LTO and was issued Official Receipt No. 90765167.^[7] She was later issued LTO Certificate of Registration No. 22527607^[8] over the jitney. Basilisa had the vehicle insured against third-party liability, with herself as the assured.^[9] Basilisa thereafter got married to Felix Lim on July 19, 1995. Her husband drove and used the jitney to transport passengers.

On October 13, 1995, Arleni Dungaran Koschnicke, Salvador and Basilisa's older sister filed a Complaint, through the Public Attorney's Office, against Basilisa for replevin and damages in the Regional Trial Court of Antipolo City. Arleni alleged that Salvador purchased the engine from the B.S.B. JunRose Auto Parts Corporation in Sta. Cruz, Manila, and had the jitney assembled by the JMC Motors in San Pablo City; that the jitney was to be operated as a passenger jitney and the income therefrom was to be used by Basilisa, their brother Salvador, and their father; she allowed the jitney to be registered under Basilisa's name because she loved and trusted her, but despite demands, she refused to return the jitney to her.

Arleni prayed that the trial court render judgment after due proceedings, as follows:

WHEREFORE, premises considered, it is most respectfully prayed before this Honorable Court:

1. That the above-described Jitney be ordered delivered to the plaintiff;
2. Ordering the defendant to reimburse the plaintiff the sum of not less than TWELVE THOUSAND FIVE HUNDRED (P12,500.00) PESOS as litigation expenses;
3. Ordering the defendant to pay to the plaintiff the sum of NINETY THOUSAND (P90,000.00) as actual damages.

Plaintiff further prays for such other reliefs and remedies which the Honorable Court may deem it just and proper under the premises.^[10]

Appended to the complaint were the sworn statements^[11] of Salvador and Jose de Guia, Production Manager of the JMC Motors.

Arlení filed an application for replevin, which the trial court denied on October 24, 1995.^[12]

In her answer to the complaint, Basilisa claimed that she purchased the chassis and engine block with her money, and had the jitney assembled also at her expense. As evidenced by LTO Certificate of Registration No. 22527606, she was the lawful owner of the jitney; hence, Arlení had no cause of action against her. She, thus, prayed that the complaint be dismissed.^[13]

Upon Arlení's motion, the trial court issued a writ of preliminary attachment over the vehicle on April 18, 1997.^[14] However, on August 14, 1997, the trial court ordered the Sheriff to return the jitney to Basilisa.^[15]

Arlení testified that she had been a resident of Germany since 1970 and had married a German, an engineer by profession, who was employed by Lufthansa Airlines. She was financially capable of purchasing the engine and chassis, and the expenses for the assembly of the jitney. Her husband received a monthly salary of 5,400 Deutsch Marks; she also had a honeybee farm from where she derived a monthly income of 3,000 Deutsch Marks.^[16]

On April 2, 1993, Arlení arrived in the Philippines for a month's vacation and stayed in their house in Antipolo with Basilisa, who was still single and jobless, their brother Salvador, and their father Claudio. On April 30, 1993, she deposited the amount of US\$1,150.00 in Basilisa's savings account with the Philippine National Bank (PNB) Antipolo Branch, under Account No. FN-712675-1.^[17] Basilisa purchased an engine block^[18] with the money on April 16, 1993. She asked her brother Salvador to have the jitney assembled by the JMC Motors in San Pablo City, and gave him P10,000.00 as initial payment.^[19] Arlení had the jitney registered under the name of Basilisa because she loved and trusted her. She returned to Germany on May 2, 1993.^[20]

Salvador testified that, on April 17, 1993, he contracted the services of the JMC Motors in San Pablo City to assemble the jitney, including accessories, wiring and upholstery, for P208,000.00.^[21] On December 1, 1993, he made a down payment for the job, for which he was issued Provisional Receipt No. 0037^[22] under his

name. He made other payments on March 11, 1994, March 28, 1994 to November 15, 1994, for which he was issued receipts Nos. 0038, 0039 and 0035, respectively. [23] He was with Basilisa when the latter purchased the engine block for the jitney from the B.S.B. JunRose Auto Parts Corporation, with the money Arleni deposited in Basilisa's account with the PNB. He averred that he caused the registration of the vehicle in Basilisa's name because he and Arleni loved and trusted her. [24]

Jose de Guia testified that he was the production manager of JMC Motors in San Pablo City from 1992 to 1995. [25] He corroborated Salvador's testimony, and further declared that he started the assembly of the jitney in December 1993 and finished it in April 1994. [26] He was in the company of Salvador and Basilisa when the engine for the vehicle was purchased from the JunRose Auto Parts in Antipolo Street, Blumentritt, Manila. [27] He had the vehicle registered under Basilisa's name upon Arleni and Salvador's request. [28] Salvador and his driver, in the company of Basilisa, took delivery of the vehicle after the job was completed, but returned it later for repairs. [29] However, Basilisa took the vehicle; he then reported the matter to the barangay authorities on February 14, 1995, and had the matter placed in the barangay blotter. [30]

Basilisa testified that she alone purchased the chassis and engine block; through her brother, Salvador, she had the jitney assembled by the JMC Motors where the chassis and engine block were installed, all at her expense. She further testified that Arleni did not give her the US\$1,150.00 deposited in her account - the amount was, in fact, withdrawn on the said date. She had money of her own: she was employed for almost three months in 1986 in Brunei and earned P10,000.00 a month; [31] her German paramour had also been remitting money to her and her son since 1984, ranging from P5,000.00 to P7,000.00 a month. [32] She had a peso deposit of P100,817.00 as of March 26, 1992 in her account with the PNB Account No. 210-677526-8. [33] She had a store in Cainta, Rizal, which she used as an outlet for the sale of rice purchased from the National Food Authority. [34] Aside from the vehicle subject of the case, she owned a Honda tricycle from which she earned additional income; the tricycle was registered in her name in 1990, under Certificate of Registration No. 03993557. [35] She purchased a residential lot located in Cupang, Antipolo, Rizal, covered by Transfer Certificate of Title (TCT) No. 243157 [36] issued on June 24, 1993 which she declared for taxation purposes in her name; [37] she then caused the construction of three small houses over the lot, which she rented out for P400.00 each a month. [38] She was also engaged in the business of providing electrical services to 89 residential houses, from which she earned P7,000.00 a month. [39]

On December 27, 1999, the trial court rendered judgment in favor of Arleni. The *fallo* of the decision reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff as against the defendant, as follows:

1. Ordering the defendant to deliver to the plaintiff the subject passenger jeepney;

2. Ordering [the] defendant to pay the plaintiff the sum of P20,000.00 as actual damages;
3. Ordering the defendant to pay P10,000.00 as moral damages;
4. Ordering [the] defendant to reimburse the plaintiff the sum of P12,500.00 as litigation expenses plus costs of suit.

SO ORDERED.^[40]

The trial court held that the money used for the purchase of the engine block and chassis, as well as the assembly of the jitney when the engine and chassis were installed, belonged to the plaintiff.

The defendant appealed the decision to the CA, in which she alleged that:

1. THE COURT A *QUO* ERRED IN NOT DISMISSING THE COMPLAINT DESPITE THE FACT THAT PLAINTIFF-APPELLEE MISERABLY FAILED AND REFUSED TO INCLUDE HER HUSBAND AS PARTY-PLAINTIFF AND THE HUSBAND OF DEFENDANT-APPELLANT AS PARTY-DEFENDANT.
2. THE COURT A *QUO* ERRED IN RULING THAT THE PLAINTIFF-APPELLEE IS THE REAL AND TRUE OWNER OF THE PASSENGER JEEPNEY SUBJECT OF THIS CASE.
3. THE COURT A *QUO* ERRED IN ADMITTING THE TESTIMONIAL EVIDENCE OF THE PLAINTIFF-APPELLEE AND THAT OF HER WITNESSES DESPITE THE FACT THAT THE CLAIM ON WHICH THE SUIT IS FOUNDED IS UNENFORCEABLE UNDER THE PROVISIONS OF THE STATUTE OF FRAUDS.
4. THE COURT A *QUO* ERRED IN GIVING MORE WEIGHT TO THE TESTIMONY OF SALVADOR DUNGARAN AND JOSE DE GUIA AS ALLEGEDLY TWO UNBIASED AND DISINTERESTED WITNESSES AS THE VOICE OF TRUTH FOR THEY ARE ALLEGEDLY BEREFT OF MOTIVE OR PERSONAL INTEREST TO DISTORT THE TRUTH, AND DID NOT GIVE WEIGHT TO THE TESTIMONY OF DEFENDANT-APPELLANT, AS WELL AS HER UNREBUTTED DOCUMENTARY EVIDENCES.^[41]

On August 29, 2003, the CA rendered judgment affirming the appealed decision with modification. The *fallo* of the decision reads:

IN VIEW WHEREOF, the appeal is DENIED and the appealed Decision dated December 27, 1999 of the Regional Trial Court, Branch 74 of Antipolo City is AFFIRMED with modification. The award of P10,000.00 as moral damages to plaintiff-appellee is hereby deleted. Costs against defendant-appellant.

SO ORDERED.^[42]

Basilisa filed a motion for reconsideration of the appellate court's decision, appending thereto a copy of a Deed of Absolute Sale^[43] executed by Isabelita Antonio over the property covered by TCT No. 243157 for P115,000.00, to show that she was financially capable of buying the engine block and chassis of the jitney.