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SECOND DIVISION

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

BASILISA DUNGARAN, *petitioner, vs.* **ARLENI KOSCHNICKE**, *respondent.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; PETITION FOR REVIEW UNDER RULE 45 OF THE RULES OF COURT; LIMITED TO REVIEW OF QUESTIONS OF LAW; EXCEPTIONS.— [O]nly questions of law may be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court, as amended. However, the rule allows exceptions, such as in this case where (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the finding of absence of facts is contradicted by the presence of evidence on record; (8) the findings of the CA are contrary to those of the trial court; (9) the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the CA are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.

2. ID.; EVIDENCE; BURDEN OF PROOF; IN ALL CIVIL CASES, THE BURDEN IS ON THE PLAINTIFF TO PROVE THE MATERIAL ALLEGATIONS OF HIS COMPLAINT.— As in all civil cases, the burden is on the plaintiff to prove the material allegations of his complaint. He must rely on the strength of his evidence and not on the weakness of the evidence of the defendant.

APPEARANCES OF COUNSEL

Tiberio U. Prado for petitioner.
Ricardo C. Pilares, Jr. for respondent.

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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 ₱37,000.00, 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 ₱100,000.00 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]

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[1] Penned by Associate Justice Regalado E. Maambong, with Associate Justices Eubulo G. Verzola (now deceased) and Andres B. Reyes, Jr., concurring; *Rollo*, pp. 190-208.

[2] Penned by Judge Francisco A. Querubin; *Id.* at 182-188.

[3] Exhibit "1".

[4] Exhibit "2".

[5] Exhibits "3" and "4".

[6] Exhibit "D-1".

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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 (₱12,500.00) PESOS as litigation expenses;
>
> 3. Ordering the defendant to pay to the plaintiff the sum of NINETY THOUSAND (₱90,000.00) as actual damages.

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[7] Exhibit "8".

[8] Exhibit "7".

[9] Exhibit "9".

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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.

Arleni 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, Arleni had no cause of action against her. She, thus, prayed that the complaint be dismissed.[13]

Upon Arleni'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]

Arleni testified that she had been a resident of Germany since 1970 and had married a German, an engineer by profession, who was employed by Lufthanza 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]

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[10] Records, p. 3.

[11] *Id*. at 7 and 9.

[12] Records, p. 15.

[13] *Id*. at 40-48.

[14] *Id*. at 129.

[15] *Id*. at 194.

[16] TSN, 6 November 1996, pp. 4-6.

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On April 2, 1993, Arleni 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 ₱10,000.00 as initial payment.[19] Arleni 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 ₱208,000.00.[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]

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[17] Exhibits "A" and "A-1".

[18] TSN, 6 November 1996, p. 8.

[19] *Id*. at 7.

[20] TSN, 20 November 1996, p. 5.

[21] Exhibit "C".

[22] Exhibit "D".

[23] Exhibits "D-1", "D-2" and "D-3".

[24] TSN, 17 July 1997, p. 4.

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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 ₱10,000.00 a month;[31] her German paramour had also been remitting money to her and her son since 1984, ranging from ₱5,000.00 to ₱7,000.00 a month.[32] She had a peso deposit of ₱100,817.00 as of March 26, 1992 in her account with the PNB Account No. 210-677526-8.[33]

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[25] TSN, 1 September 1999, p. 5.

[26] *Id*. at 10.

[27] *Id*. at 15.

[28] *Id*. at 17-18.

[29] *Id*. at 18.

[30] *Id*. at 20; Exhibit "K".

[31] TSN, 3 February 1999, pp. 7-9.

[32] TSN, 3 February 1999, pp. 12-13.

[33] Exhibits "11" and "11-A".

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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 ₱400.00 each a month.[38] She was also engaged in the business of providing electrical services to 89 residential houses, from which she earned ₱7,000.00 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 ₱20,000,00 as actual damages;
>
> 3. Ordering the defendant to pay ₱10,000.00 as moral damages;
>
> 4. Ordering [the] defendant to reimburse the plaintiff the sum of ₱12,500.00 as litigation expenses plus costs of suit.
>
> SO ORDERED.[40]

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[34] Exhibits “15” to “15-I”.

[35] Exhibit “16”.

[36] Exhibit “20”.

[37] Exhibit “19”.

[38] TSN, 23 October 1997, p. 28.

[39] *Id*. at 28-29; Exhibits “18” to “18-M”.

[40] Records, p. 515.

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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

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[41] CA *Rollo*, p. 23.

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74 of Antipolo City is AFFIRMED with modification. The award of ₱10,000.00 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 ₱115,000.00, to show that she was financially capable of buying the engine block and chassis of the jitney. The CA denied the motion. Thus, Basilisa, now the petitioner, filed the instant petition for review on *certiorari* against the respondent, Arleni, insisting that:

I

THE DECISION OF THE COURT OF APPEALS SUSTAINING THE EARLIER DECISION OF THE REGIONAL TRIAL COURT THAT RESPONDENT IS THE TRUE AND REAL OWNER OF THE PASSENGER JEEPNEY THEREBY ORDERING THE PETITIONER TO DELIVER THE SAME TO THE RESPONDENT, *ETC.*, IS CONTRARY TO EVIDENCE, JURISPRUDENCE AND LAW.

II

THE COURT OF APPEALS COMMITTED A GRAVE AND REVERSIBLE ERROR IN DISMISSING THE PETITION FOR REVIEW AS WELL AS THE PETITIONER'S COUNTERCLAIM.[44]

The petitioner asserts that the respondent, as the plaintiff in the trial court, was burdened to prove her ownership of the vehicle, and that she failed to do so. The testimonial and documentary evidence adduced by the respondent, besides being inadmissible in evidence, is insufficient to overthrow her documentary evidence showing that she is the registered owner of the vehicle.

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[42] CA *Rollo*, pp. 136-137.

[43] *Id*. at 181-182.

[44] *Rollo*, p. 25.

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The sole issue in this case is who, as between the petitioner and the respondent, is the lawful owner of the jitney. The resolution of this issue is riveted to the matter of determining whose money was used to buy the jitney engine and chassis, and for its assembly.

Prefatorily, the rule is that, only questions of facts may be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court, as amended. However, the rule allows exceptions, such as in this case where (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the finding of absence of facts is contradicted by the presence of evidence on record; (8) the findings of the CA are contrary to those of the trial court; (9) the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the CA are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.[45]

As in all civil cases, the burden is on the plaintiff to prove the material allegations of his complaint. He must rely on the strength of his evidence and not on the weakness of the evidence of the defendant.

In the present case, the respondent (plaintiff in the trial court) failed to adduce preponderant evidence to prove her ownership of the subject jitney.

Salvador and Jose, the respondent's witnesses, declared that Engine Block bearing No. 4D30-338666 was purchased from B.S.B. JunRose Auto Parts Corporation in Antipolo Street, Blumentritt, Manila. The respondent appended to her complaint, as Annex "H" thereof, a copy of Delivery Receipt No. 29513

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[45] *Larena v. Mapili*, G.R. No. 146341, 7 August 2003, 408 SCRA 484.

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to prove her claim that she purchased the said engine. However, she failed to produce the original copy of the said receipt and to corroborate the testimony of Salvador and Jose. The respondent, likewise, failed to adduce any document to show that the chassis of the jitney was purchased from the said corporation. Moreover, she offered no explanation for her failure to produce the original copy of the receipt.

On the other hand, the petitioner purchased the engine from the JICOR Merchandizing at Grace Park, Caloocan City, on December 14, 1993, as evidenced by Sales Invoice No. 3173.[46] She purchased the chassis of the vehicle from the Ever-Built Metal Manufacturing Corporation located at San Roque, San Pablo City, as evidenced by Sales Invoice No. 25343.[47] Representatives of the LTO examined the chassis and engine, and ascertained the assembler/manufacturer/sales reports, after which it issued Confirmation Certificates on December 9 and December 15, 1993,[48] respectively. The LTO also issued its Motor Vehicle Inspection Report [49] relative to the documentation and ownership of the vehicle. Based on these documents, LTO issued Certificate of Registration No. 22527606[50] to and in the name documentation and ownership of the vehicle. Based on these documents, of the petitioner on February 17, 1994. The petitioner likewise secured an insurance policy against third-party liability over the vehicle.[51]

The respondent failed to adduce any documentary evidence to prove her claim that her husband was an engineer employed with Lufthanza Airlines with a monthly salary of 5,400 Deutsch Marks, and that she was engaged in honeybee farming, with a monthly income of 3,000 Deutsch Marks.

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[46] Exhibit “2”.

[47] Exhibit “1”.

[48] Exhibits “3” and “4”.

[49] Exhibit “6”.

[50] Exhibit “6”.

[51] Exhibit “9”.

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Even PNB Passbook No. 0124107[52] which the respondent adduced in evidence to prove that she had deposited US$1,150.00 on April 30, 1993 negates her testimony. The passbook shows that the amount was *withdrawn* from the said account, and *not deposited*.[53] Before the said withdrawal, the balance of the account was US$1,196.69 and after the April 30, 1993 withdrawal, only a balance of US$46.69 remained. The amount of US$1,150.00 was deposited on June 7, 1993, but was withdrawn on June 17, 1993.

As gleaned from the evidence of the petitioner, she was financially capable of buying the engine and chassis and paying the cost for the assembly of the jitney.

IN LIGHT OF ALL THE FOREGOING, the petition is *GRANTED*. The Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 73352, affirming the Decision of the Regional Trial Court of Antipolo City, Branch 74 in Civil Case No. 95-3781, are *REVERSED* and *SET ASIDE*. The complaint of the respondent is *DISMISSED*. No costs.

ORDERED.

Puno (Chairman), Austria-Martinez, Tinga, and *Chico-Nazario, JJ.*, concur.

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[52] Exhibit "A".

[53] Exhibit "A-1".