



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **02 March 2022** which reads as follows:*

**“UDK 16786 (Spouses Alberto Brozas and Luzviminda Brozas, Asuncion Balanon v. Spouses Aristeo Nilo Nacion and Lorna Nacion, Laurice Nacion).** — This is a Petition for Review on *Certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> dated June 28, 2019 and the Resolution<sup>3</sup> dated September 23, 2020 of the Court of Appeals (CA), Cebu City, in CA-G.R. CV No. 04885.

During the lifetime of Germana C. Pomarejos, she authorized her niece, Luzviminda Brozas (Luzviminda), to collect payments from persons indebted to her. Lorna Nacion (Lorna) is one of her debtors who had been paying to Luzviminda.

In the morning of February 3, 2002, Lorna sent her daughter, Laurice Nacion (Laurice), to pay Luzviminda ₱3,000.00 as payment for her outstanding obligation. However, Luzviminda requested Laurice to let Lorna go and see her because they agreed on a different amount for the payment. Laurice went home to tell her mother what Luzviminda said. However, her mother was not at home. Laurice went back to Luzviminda’s house and told Luzviminda that Lorna was not at home.

The Nacions allege that Laurice, for the third time, went to Luzviminda’s house after she was informed by Luzviminda’s errand boy to return thereto. Laurice rode a motorcycle. After arriving at Luzviminda’s two-storey house, Laurice went upstairs and left her motorcycle outside. While going upstairs, Laurice saw Luzviminda’s sister, Asuncion Balanon (Asuncion), pushing the motorcycle to the ground floor of Luzviminda’s house. Luzviminda instructed Laurice to let her mother Lorna see her for the payment of the remaining balance of the debt. In the meantime, she will be

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<sup>1</sup> *Rollo*, pp. 13-25.

<sup>2</sup> *Id.* at 46-56. Penned by Associate Justice Pamela Ann Abella Maxino, with the concurrence of Associate Justices Emily R. Aliño-Geluz and Dorothy P. Montejo-Gonzaga.

<sup>3</sup> *Id.* at 58-59. Penned by Associate Justice Pamela Ann Abella Maxino, with the concurrence of Associate Justices Emily R. Aliño-Geluz and Dorothy P. Montejo-Gonzaga.

detaining the motorcycle. This prompted the Nacions to file a complaint before the Regional Trial Court (RTC) for damages.

In their Answer with Counterclaim, the Spouses Alberto and Luzviminda Brozas (Spouses Brozas) and Asuncion admitted that Luzviminda requested Laurice to call her mother Lorna for the payment of another ₱10,000.00. It was their agreement that the installment to be paid on that date was ₱13,000.00. The Spouses Brozas and Asuncion denied detaining the motorcycle. Asuncion did not touch, more so pushed, the motorcycle. The said motorcycle was just abandoned in front of Luzviminda's house.

In a Decision<sup>4</sup> dated December 19, 2012, the RTC of Dolores, Eastern Samar, Branch 4 dismissed the complaint for insufficiency of evidence. It held that the totality of the facts and circumstances points to the conclusion that the Spouses Brozas and Asuncion did not detain the motorcycle. The Nacions then filed a Notice of Appeal which the RTC granted.

On appeal, the CA, in a Decision dated June 28, 2019, granted the appeal and reversed the RTC Decision. The CA found that the Nacions were able to establish their allegations through preponderance of evidence. The Spouses Brozas and Asuncion filed a Motion for Reconsideration which was denied in the assailed Resolution dated September 23, 2020.

In their petition before this Court, the Spouses Brozas and Asuncion maintain that the CA erred in reversing and setting aside the RTC Decision despite the fact that there was no error in the appreciation of evidence of the RTC, which had the opportunity to actually observe the demeanor of the witnesses during trial.<sup>5</sup>

In a Resolution<sup>6</sup> dated May 5, 2021, this Court resolved to require the respondents to file a Comment on the Petition.

In two separate Comments<sup>7</sup> with identical contents filed before this Court, the respondents argued that it is the burden of every party seeking review of any decision of the CA or other lower tribunal to persuade this Court not only of the existence of questions of law fairly and logically arising therefrom but also that the questions are substantial enough to merit consideration, or that there are special and important reasons warranting the review that he seeks.<sup>8</sup> Moreover, the Supreme Court's jurisdiction over a petition for review on *certiorari* is limited to reviewing only errors of law, not of fact, unless the factual findings complained of are devoid of support from

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<sup>4</sup> Id. at 29-44.

<sup>5</sup> Id. at 16.

<sup>6</sup> Id. at 62-63.

<sup>7</sup> Id. at 64-71.

<sup>8</sup> Id. at 64-65.

the evidence on record or the assailed judgment is based on a misapprehension of facts.<sup>9</sup> Factual issues require the calibration of evidence but such task cannot be done herein because the Court is not a trier of facts.<sup>10</sup>

The case hinges on the issue of whether the Nacions were able to establish their case through a preponderance of evidence. The RTC, which originally heard the case, ruled that the totality of evidence points to the fact that the Spouses Brozas and Asuncion did not detain the motorcycle. The CA, on the other hand, found in favor of the Nacions.

It is a basic rule in civil cases that the party having the burden of proof must establish his case by a preponderance of evidence,<sup>11</sup> which simply means evidence which is of greater weight, or more convincing than that which is offered in opposition to it.<sup>12</sup>

A perusal of the decisions of the lower courts would show that the CA had a better appreciation of the totality of evidence presented.

The evidence supports the Nacions' allegation that the motorcycle was detained. Laurice's testimony sufficiently established that Asuncion took the motorcycle and placed it in an empty room on the ground floor of Luzviminda's house as shown in her testimony below:

ATTY. BOLITO

Q – What happened next if any, Miss Witness?

A – I told them not to get this motorcycle because I do not know what [they] agreed upon with my mother.

Q – After pleading “do not take the motorcycle because I do not know [what you have] agreed upon [with my] mother, what happened next, if any?

A – Asuncion Balanon said “I will not give this if your mother will not pay.”<sup>13</sup>

The categorical and positive statements of Laurice prevail over the denials offered by Asuncion and Luzviminda. Moreover, their claim that Laurice voluntarily left the motorcycle after she was given the key is highly illogical and contrary to human experience. Even during her cross-examination, Laurice's testimony did not falter:

ATTY. MOSCARE

Q – You were in control of the key, why not take the motorcycle [by starting] the engine?

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<sup>9</sup> Id. at 65.

<sup>10</sup> Id. at 66.

<sup>11</sup> RULES OF COURT, Rule 133, Section 1.

<sup>12</sup> *Heirs of Cruz-Zamora v. Multiwood International, Inc.*, 596 Phil. 150-162 (2009).

<sup>13</sup> TSN, August 26, 2002, p. 15.

A – Sir, the motorcycle was already kept in the empty room at the ground floor.

Q – You did not resist, who took the motorcycle?

A – Asuncion Balanon.<sup>14</sup>

Moreover, the testimony of Cayetano Bula, who was in charge of credit collection where the motorcycle was bought, was also convincing. He testified that he saw the motorcycle inside Luzviminda's house on the ground floor where it was kept when he, together with the barangay captain, went to Luzviminda's house searching for the motorcycle after the same was reported by the Nacions. Moreover, when he confronted Luzviminda, she told him that she was not interested in the motorcycle but will hold on to it until after the payment of Lorna's debt. Based on the presumption under Section 3(j),<sup>15</sup> Rule 131 of the Rules of Court, Luzviminda and Asuncion would be presumed to have done the wrongful taking. No sufficient contradictory evidence was given by Luzviminda and Asuncion why they had the motorcycle in their possession.

Furthermore, the Certification from the Dolores Municipal Station that Luzviminda and Asuncion turned over a motorcycle, which was formally offered to prove that the Spouses Brozas and Asuncion did not seize the motorcycle, would have been sufficient evidence to contradict the disputable presumption had it not been for the fact that it was turned over only after the motorcycle was sought for by barangay authorities.

The greater weight of evidence points to the conclusion that the Spouses Brozas and Asuncion did, indeed, detain the motorcycle. Lastly, the CA correctly granted moral and exemplary damages as well as attorney's fees to the Nacions.

**WHEREFORE**, the Petition for Review on *Certiorari* is hereby **DENIED**. The Decision dated June 28, 2019 and the Resolution dated September 23, 2020 of the Court of Appeals, Cebu City, in CA-G.R. CV No. 04885 are **AFFIRMED**.

**SO ORDERED.**"

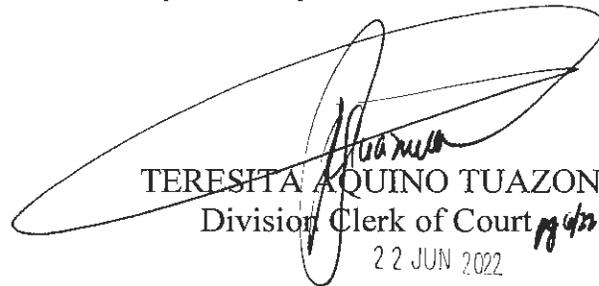
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<sup>14</sup> TSN, December 2, 2002, p. 8.

<sup>15</sup> **Section 3. Disputable presumptions.** — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

(j) That a person found in possession of a thing taken in the doing of a recent wrongful act is the taker and the doer of the whole act; otherwise, that things which a person possess, or exercises acts of ownership over, are owned by him;

By authority of the Court:



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22 JUN 2022

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