

“Should a son sue his Mother?”

School:

Lincoln Elementary School
Nutley

Grade 3

Teacher:

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The Case of “Should a son sue his Mother?”

1. Facts:

On the morning of Saturday, May 18, 2007 Ms. Ima Selurthings had a garage sale. It was only on Saturday from 9:00 AM until 4:30 PM. She had lost her husband several years ago and decided to sell some of the things in her house that reminded her of him. She sold children’s toys and trophies, old baseball cards, her old kitchen appliances, furniture, jewelry, and many other various items. On Wednesday May 22nd, her son, Billy Nodathingleft, returned from California. He was told that his mother had a garage sale which brought in \$10,082 and that he was not going to receive any money from the sale. He is now suing his mother for \$15,000 to cover the money she had made off of his items that were at the sale as well as for emotional damages.

2. Issue:

Is Billy Nodathingleft entitled to the money which his mother, Ima Selurthings, had made from selling his childhood belongings?

3. Witnesses:

For the Plaintiff

Billy Nodathingleft

Carly Davidson

For the Defense

Ima Selurthings

Ivan Selurthings

4. Witness Statements:

Testimony of Billy Nodathingleft

Three years ago my mother and I had a pretty big argument. She was going to marry Ivan Selurthings and my father had just died, so I wasn't happy about it. That is why I left and moved to California to start a new life. I never brought much of anything with me because I flew out there from New Jersey and could only bring the luggage that fit on the plane. This happened 3 years ago and I had always hoped to make amends with my mother but it just never happened. I was heading home now to collect my stuff as well as see if I could apologize to my mom and her new husband, and see if I could be a part of the family again. My mom is 68 years old now and I hoped we could put the past behind us. When I get there I was welcomed in and Mom and I had talked out our problems. About 4 hours later her new husband, Ivan Selurthings, came home from work and was very angry to see me. He told me that all of my stuff was sold off and I had no business being at their new house. Mom had not yet told me all of my things were gone so I became a little angry and asked how much they were sold for. I knew that some of my toys and collectibles were worth a lot of money. She told me they made \$10,082 on the sale and that about \$10,000 was from my stuff. After hearing this Ivan told me they used this money to put a down payment on their new house. I was so devastated, and missed my father now more than ever.

Testimony of Carly Davidson

My name is Carly Davidson. I am Billy's best friend since third grade and I moved out to California with him 3 years ago when he

had fought with his mother. I also still kept in touch with his mother over the years. Billy once told me that his old collectibles, like baseball cards, ticket stubs to some games, toys and old stickers could be worth over ten grand. When Ima told me she had a sale which made her ten grand richer, I was immediately concerned with Billy's things. I told her that Billy still wanted his stuff and she said she didn't care because she was starting a new life and needed the money for the house. She also said that Billy should have come to get his things by this time. When Billy told me he wanted to make amends with his mother, I warned him that it may be difficult but supported him just the same. I never told him about his stuff because I did not feel the two needed any thing more to fight about and also because I was afraid of what would happen.

Testimony of Ima Selurthings

My name is Ima Selurthings, formerly Ima Nodathingleft. After Billy left and after the things he said to me, I just died inside. I put everything into my new husband and new life. I decided to have a sale and get rid of anything that reminded me of my old life. Ivan had suggested it was the best way to put the past behind me. So we did make a lot of money at the sale and realized there was only one way to really put everything in the past. He said I should sell the house and we should buy one of our very own. So I agreed and here we are now. My son who has already said so many hurtful things is now trying to sue his own mother!

Testimony of Ivan Selurthings

My name is Ivan G Selurthings. When I first met Ima my whole world changed. When we told her son we were getting married he said some hurtful things. The last night they spoke, just before he caught the next plane to Cali, I clearly remember Billy telling her that he wanted nothing to do with her and he would never come back to this place so long as I was married to her. He also said there was nothing here that he wanted anymore! We let some time pass for Billy to calm down. After two years of no contact we decided it was time to make a few changes and for us to try to move on. Ima was becoming depressed about the whole issue and I felt as her husband I had to make sure she was happy. So we had the sale and bought our new house.

5. Instructions:

The plaintiff must prove by a preponderance of evidence that Billy Nodathingleft is entitled to the money made from the sale.

6. Concepts

- 1. Abandonment**
- 2. Damages**
- 3. Emotional Damages**
- 4. Property ownership**
- 5. Gift**
- 6. Conversion**

7. Law:

- 1. Damages 163(1) - damages for sentimental value or mental suffering are not recoverable.**
- 2. Abandoned and Lost Property- A finder has right to possession against all except the rightful owner; if the property was abandoned, the finder becomes the owner.**
- 3. Conversion and Violation of New Jersey's Consumer Fraud Act- In order to succeed on a claim for conversion a plaintiff must establish that he was "deprived of his property by the act of another assuming an unauthorized dominion and control over it.**
- 4. Parent and Child- A child's parent has no authority to sell and convey a child's interest in real or personal property.**
- 5. Conversion- An unauthorized taking of personal property belonging to another.**
- 6. Mental Suffering – Mental suffering which includes fright, feelings of distress, anxiety, depression, grief, and or psychosomatic physical symptoms.**
- 7. Ownership – the ownership of the items within a home falls upon the owner of the home unless there are documents to prove otherwise.**
- 8. Ownership (2)– Mere possession is not ownership**

- 9. Gift-** In order for an item to be considered a gift, the donor must give and be willing to give. The other party must accept the gift. The donor must relinquish the item as not belonging to him.
- 10. Personal Property –** property which is owned, used and maintained by an individual or members of his or her household and acquired in the normal course of living in or maintaining a dwelling.
- 11. Larceny Law–** The wrongful taking and carrying away of personal property which is in the possession of another with intent to convert it or permanently deprive the owner is punishable by law.
- 12. 2C:18-73 – Theft by unlawful taking or disposition –**
Movable property- A person is guilty of theft if he unlawfully takes, or exercise unlawful control over, movable property of another with purpose to deprive him thereof.