



## Paper 3 – Corporate and Other Laws

Attempt all questions.

### 1. Answer the following questions: (5×5=25)

- a) Skyshop Nepal Pvt. Ltd. dismissed its CEO, Sisir Chand, as against the service contract between them. He filed a case for compensation as against the wrongful dismissal. Shortly thereafter, Heritage Nepal ceased trading. The company paid of all its creditors and then transferred its remaining assets to another company Shop Nepal Pvt. Ltd. Sisir Chand obtained a default judgment against the Skyshop Nepal but by that name it had no assets and stood dissolved. Therefore, he charged against the transferee company, Shop Nepal. Decide whether Sisir Chand can recover compensation from the transferee company.

#### Answer

##### **Facts of the Case**

When a company is incorporated, it is treated as a separate legal person from its shareholders. This veil of corporate personality can be lifted and the natural person behind it can be made liable where the separate legal existence of company has been used to commit some fraud or misconduct. In other words, the separate legal existence of a company cannot be used as a means to achieve some illegal or fraudulent purpose. The courts will refuse to uphold the separate existence of the company where it is formed to defeat or circumvent law, to defraud creditors or to avoid legal obligations.

##### **Case Law**

*In Creasey vs. Breachwood Motors Ltd. 1993 BCLC 480*, it has been decided by the Court that if the takeover of the company's assets had been carried out with an intention to avoid legal duty and as against the interest of its creditors, the court can disregard the separate entity of the company.

##### **Conclusion**

In this case, therefore, the transferee company is liable to pay compensation because the remaining assets of Skyshop Nepal Pvt.Ltd. has been received by the transferee company. As being created unjust result to the interest of the plaintiff, Mr. Sisir Chand, the transferee company Shop Nepal Pvt. Ltd. cannot be treated as a separate legal person than its transferor company Skyshop Nepal Pvt. Ltd. It means that the two companies are not treated as separate entities but same and single. So, Mr. Sisir Chand can recover compensation from the transferee company to the extent of liability as per the agreement of transfer of assets.

*(Note: "Heritage Nepal" was written mistakenly in place of Skyshop Nepal Ltd. Students who have identified the mistake and answered accordingly will be awarded marks.)*

- b) A deed of mortgage was executed by the secretary and the working director on behalf of a company, Divya Agro Pvt. Ltd., while securing a loan from a bank. The mortgagee has acted in good faith and the money borrowed applied for the purpose of the company. When the bank brought an action against the company being failed to repay the loan it was claimed that the company should not be held liable as the articles required that all documents should be signed by the managing director, secretary, and the working director on behalf of the company. Examine the validity of the transaction and give answer to the following issues with the relevant principle.
- Is the transaction between the bank and company valid?
  - Can the bank entitle to recover the loan issued to the company?

# Question Paper Nmercantile Law June 23

**Jicheng Xie**



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**Rhodes' Journal of Banking ...** ,1888      *Commercial Law League Journal* ,1922      **The Law Journal** ,1866  
**Public Affairs Information Service Bulletin** ,1923      *Routledge Handbook on Transnational Commercial Law* Bruno Zeller,Camilla Baasch Andersen,2025-02-21 This handbook edited by Zeller and Andersen is an indispensable contribution to the field of transnational commercial law With an introduction by Sir Roy Goode this book presents perspectives on legal issues of international sales transactions as perceived by world leading experts exposing pragmatic and modern aspects of everything from drafting to uniform laws to dispute resolution The book divides itself between fundamental knowledge of transnational commercial law e g chapters on forum shopping CISG Cape Town Convention etc and current and topical developments e g chapters on blockchain smart contracts metaverse digital assets etc International or transnational trade during the past twenty years has become more and more important outstripping domestic trade as a hallmark of economic success Model laws developed by the United Nations and other international bodies are now being transplanted or ratified by countries so a translational element must always be considered as part of any choice of law Addressing a global audience as the instruments dealt with herein apply to many states in different regions this handbook aims not only at an undergraduate and graduate student audience but also will interest professional lawyers      Bulletin of the Public Affairs Information Service Public Affairs Information Service,1923      *Transplanting Commercial Law Reform* John Gillespie,2017-03-02 The first sustained analysis examining legal transplantation into East Asia this volume examines the prospects for transplanting a rule of law that will attract and sustain international trade and investment in this economically dynamic region The book develops both a general model that explains how legal transplantation shapes legal development in the region whilst developing theoretical insights into the political economic and legal discourses guiding commercial law reforms in Vietnam For the first time this book develops a research methodology specifically designed to investigate law reform in developing East Asia In so doing it challenges the relevance of conventional convergence and divergence explanations for legal transplantation that have been developed in European and North American contexts As the first finely grained analysis of legal development in Vietnam the book will be invaluable to academics and researchers working in this area It will also be of interest to those involved in commercial legal theory      **Online Dispute Resolution for Consumers in the European Union** Pablo Cortés,2010-09-13 A PDF version of this book is available for free in open access via [www.tandfebooks.com](http://www.tandfebooks.com) as well as the OAPEN Library platform [www.oapen.org](http://www.oapen.org) It has been made available under a Creative Commons Attribution Non Commercial No Derivatives 3.0 license and is part of the OAPEN UK research project E commerce offers immense challenges

to traditional dispute resolution methods as it entails parties often located in different parts of the world making contracts with each other at the click of a mouse. The use of traditional litigation for disputes arising in this forum is often inconvenient, impractical, time consuming and expensive due to the low value of the transactions and the physical distance between the parties. Thus modern legal systems face a crucial choice either to adopt traditional dispute resolution methods that have served the legal systems well for hundreds of years or to find new methods which are better suited to a world not anchored in territorial borders. Online Dispute Resolution (ODR) originally an offshoot of Alternative Dispute Resolution (ADR) takes advantage of the speed and convenience of the Internet becoming the best and often the only option for enhancing consumer redress and strengthening their trust in e-commerce. This book provides an in-depth account of the potential of ODR for European consumers offering a comprehensive and up-to-date analysis of the development of ODR. It considers the current expansion of ODR and evaluates the challenges posed in its growth. The book proposes the creation of legal standards to close the gap between the potential of ODR services and their actual use, arguing that ODR if it is to realise its full potential in the resolution of e-commerce disputes and in the enforcement of consumer rights must be grounded firmly on a European regulatory model.

The Bulletin of the Commercial Law League of America, 1917      **Commercial Law for Accountant Students** Meyer Barnard Cushner, 1913      *The Solicitors' Journal & Reporter*, 1863      **Making Commercial Law** Ross Cranston, 1997. This is a collection of essays written in honour of Roy Goode, the Norton Rose Professor of English Law at Oxford and highly esteemed commercial law scholar. The essayists are themselves a distinguished international group of the world's most distinguished commercial lawyers. The topics covered include international contracts and sales, credit and security and commercial arbitration. This is a truly international collection which will be of great interest to scholars of commercial law world-wide and to practitioners working in the areas of finance and international banking.

**Pitman's Journal of Commercial Education**, 1903

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