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FACULTY OF JURIDICAL SCIENCES

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FACULTY OF JURIDICAL SCIENCES

LECTURE-18

THE DOCTRINE OF INDOOR MANAGEMENT

(Continued)

Consequence of the Rule: Recent Decisions

The Indian Courts in certain recent judgments have further broadened the scope of the Doctrine of indoor management. The object being the same i.e. to protect the third party transacting with the Company in good faith and being unaware of the complex internal management of the Company.

In **Monark Enterprises v Kishan Tulpule and Ors**

[1992] Vol.74 CC 89 , the Company Board held :-

"That the validity of the impugned transaction was not affected even if no resolution for entering into it was actually passed by the board of the company as the company had entered into and adopted the transaction throughout and implemented it after receiving consideration thereof In YKM Holdings Private Limited v Prayag T-Pac Industries Limited and Others Decided On: 20.12.2000.

Even amalgamation of two companies is one limb of indoor management. Therefore, notice contemplated under Section 394A of the Act is required to be given only at the stage when application under Section 394, of the Act is made to the Court for sanctioning the scheme and not any time prior thereto.

Exceptions To The Rule

The rule of doctrine of indoor management is however subject to certain exceptions. In other

words, relief on the ground of 'indoor management' cann' t be claimed by an outsider dealing with the company in the following circumstances:

Ø Where the outsider has knowledge of Irregularity

Ø Suspicion of Irregularity

Ø Forgery

Ø Representation through Articles

Ø Acts outside apparent authority

1. **Knowledge of Irregularity:** - The first and the most obvious restriction is that the rule has no application where the party affected by an irregularity had actual notice of it. Knowledge of an irregularity may arise from the fact that the person contracting was himself a party to the inside procedure. As in Devi Ditta Mal v The Standard Bank of India, where a transfer of shares was approved by two directors, one of whom within the knowledge of the transferor

was disqualified by reason of being the transfer himself and the other was never validly appointed, the transfer was held to be ineffective.

Similarly in Howard v. Patent Ivory Manufacturing Co. where the directors could not defend the issue of debentures to themselves because they should have known that the extent to which they were lending money to the company required the assent of the general meeting which they had not obtained. Likewise, in Morris v Kansseen, a director could not defend an allotment of shares to him as he participated in the meeting, which made the allotment. His appointment as a director also fell through because none of the directors appointed him was validly in office.

But after the Hely-Hutchinson v Brayhead Ltd.,

according to which the mere fact that a person is a director does not mean that he shall be deemed to have knowledge of the irregularities practiced by other directors. A newly appointed director does not mean that he shall be deemed to have knowledge of the irregularities practiced by the other directors.

A newly appointed director entered into contracts of indemnity and guarantee with the company through a director whom the company had knowingly allowed to hold himself out as having the authority to enter into such transaction, although in fact he had no such authority. The company was held liable.

2. **Suspicion of Irregularity:** - The protection of the "Turquand Rule" is also not available where the circumstances surrounding the contract are suspicious and therefore invite inquiry. Suspicion

should arise, for example, from the fact that an officer is purporting to act in matter, which is apparently outside the scope of his authority. Where, for example, as in the case of Anand Bihari Lal v. Dinshaw & co[13]., the plaintiff accepted a transfer of a company' s property from its accountant, the transfer was held void. The plaintiff could not have supposed, in absence of a power of attorney, that the accountant had authority to effect transfer of the company' s property.

Similarly, in the case of Haughton & co v. Nothard, Lowe & Wills Ltd[14]., where a person holding directorship in two companies agreed to apply the money of one company in payment of the debt to other, the court said that it was something so unusual "that the plaintiff were put upon inquiry to ascertain whether the persons making the contract had any authority in

fact to make it." Any other rule would "place limited companies without any sufficient reasons for so doing, at the mercy of any servant or agent who should purport to contract on their behalf.

MCQs

1. **The protection of the "Turquand Rule" is also available where the circumstances surrounding the contract are suspicious and therefore invite inquiry.**

i. True
ii. False
iii. Can not say
iv. None of the above

2. **The Indian Courts in certain recent judgments have further broadened the scope of the Doctrine of indoor management.**

i. True
ii. False
iii. Can not say
iv. None of the above

3. **Even amalgamation of two companies is one limb of indoor management. Therefore, notice contemplated under Section 394A of the Act is required to be given only at the stage when application under Section 394, of the Act is made to the Court for sanctioning the scheme and not any time prior thereto.**

i. True
ii. False
iii. Can not say
iv. None of the above

4. **Knowledge of an irregularity may arise from the fact that the person contracting was himself a party to the inside procedure.**

i. True
ii. False
iii. Can not say
iv. None of the above

5. **The rule of doctrine of indoor management is however subject to certain exceptions. In other words, relief on the ground of 'indoor management' cann' t be claimed by an**

outsider dealing with the company

i. True
ii. False
iii. Can not say
iv. None of the above