RAMA UNIVERSITY

www.ramauniversity.ac.in

FACULTY OF JURIDICAL SCIENCES

Course : B.A.LL.B./BBALL.B IInd Semester

SUBJECT: COMPANY LAW
SUBJECT CODE: BAL 406/BBL 406

NAME OF FACULTY: Ms. Anjali Dixit
Assistant Professor

FACULTY OF JURIDICAL SCIENCES

LECTURE-19

Continued…

3. Forgery: - Forgery may in circumstances exclude the 'Turquand Rule'. The only clear illustration is found in the Ruben v Great Fingall Consolidates[15]; here in this case the illustration is found in the Ruben v Great Fingall Consolidates, here in this case the plaintiff was the transferee of a share certificate issued under the seal of the defendant's company.

The company's secretary, who had affixed the seal of the company and forged the signature of the two

directors, issued the certificate. The plaintiff contended that whether the signature were genuine or forged was apart of the internal management, and therefore, the company should be estopped from denying genuineness of the document. But, it was held, that the rule has never been extended to cover such a complete forgery.

Lord Loreburn said: "It is quite true that persons dealing with limited liability companies are not bound to enquire into their indoor management and will not be affected by irregularities of which they have no notice. But, this doctrine which is well established, applies to irregularities, which otherwise might affect a genuine transaction. It cannot apply to Forgery."

4. Representation through Articles: - The exception deals with the most controversial and highly confusing aspect of the "**Turquand Rule**" . Articles

of association generally contain what is called 'power of delegation. Lakshmi Ratan Lal Cotton Mills v J.K. Jute Mills Co. explains the meaning and effect of a "delegation clause".

Here one G was director of the company. The company had managing agents of which also G was a director. Articles authorised directors to borrow money and also empowered them to delegate this power to any or more of them. G borrowed a sum of money from the plaintiffs. The company refused to be bound by the loan on the ground that there was no resolution of the board delegating the powers to borrow to G. Yet the company was held bound by the loans. "Even supposing that there was no actual resolution authorizing G to enter into the transaction the plaintiff could assume that a power which could have been delegated under the articles must have been actually conferred. The actual delegation being a matter of internal management, the plaintiff was

not bound to enter into that."

Thus the effect of a "delegation clause" is "that a person who contracts with an individual director of a company, knowing that the board has power to delegate its authority to such an individual, may assume that the power of delegation has been exercised."

The question of knowledge of Articles came up in the case of Rama Corporation v Proved Tin and General Investment Co., here; one T was the active director of the defendant company. He, purporting to act on behalf of his company, entered into a contract with the plaintiff company under which he took a cheque from the plaintiffs. The company' s article contained a clause providing that "the directors may delegate any of their powers, other than the power to borrow and make calls to committees, consisting of such members of their body as they think fit". The board

had not in fact delegated any of their powers to T and the plaintiffs had not inspected the defendants articles and, therefore, did not know of the existence of power to delegate.

It was held that the defendant company was not bound by the agreement. Slade J' , was of the opinion that knowledge of articles was essential. "A person who at the time of entering into a contract with a company has no knowledge of the company' s articles of association, cannot rely on those articles as conferring ostensible or apparent authority on the agent of the company with whom he dealt." He could have relied on the power of delegation only if he knew that it existed and had acted on the belief that it must have been duly exercised.

Knowledge of articles is considered essential because in the opinion of Slade J; the rule of 'indoor

management' is based upon the principle of estoppel. Articles of association contain a representation that a particular officer can be invested with certain of the powers of the company. An outsider, with knowledge of articles, finds that an officer is openly exercising an authority of that kind. He, therefore, contracts with the officer. The company is estoppel from alleging that the officer was not in fact authorised.

This view that knowledge of the contents of articles is essential to create an estopped against the company has been subjected to great criticism. One point is that everybody is deemed to have constructive notice of the articles. But Slade J brushed aside this suggestion stating constructive notice to be a negative one. It operates against the outsider who has not inquired. It cannot be used against interests of the company. The principle point of criticism, however, is that even if the directors had the power

to delegate their authority. They would not yet be able to know whether the director had actually delegated their authority. Moreover, the company can make a representation of authority even apart from its articles. The company may have held out an officer as possessing an authority. A person believes upon that representation and contract with him.

The company shall naturally be estopped from denying that authority of that officer for dealing on its behalf, irrespective of what the articles provide. Articles would be relevant only if they had contained a restriction on the apparent authority of the officer contained.

5. Acts outside apparent authority: - Lastly, if he act of an officer of a company is one which would ordinarily be beyond the power of such an officer, the plaintiff cannot claim the protection of the "Turquand rule" simply because under the articles

power to do the act could have been delegated to him. In such a case the plaintiff cannot sue the company unless the power has, in fact, been delegated to the officer with whom he dealt. A clear illustration is Anand Behari Lal v Dinshaw here the plaintiff accepted a transfer of a company' s property from its accountant. Since such a transaction is apparently beyond the scope of an accountant' s authority' it was void. Not even a 'delegation clause' in the articles could have validated it, unless he was, in fact, authorized.

Conclusion

The case of Royal British Bank v Turquand, refined the basic Common law of Agency to articulate the Doctrine of Indoor Management. The rule was enunciated by the Court to mitigate the rigors of the Constructive Notice Doctrine. Its importance arises in situations in which the third party' s dealings are with some officer or agent other than the Board. The

rule protects the interest of the third party who transacts with the Company in good faith and to whom the Company is indebted. The rule enunciated in the decision is often referred to as "Turquand's rule" and "indoor management rule".

The gist of the rule is that persons dealing with limited liability companies are not bound to enquire into their indoor management and will not be affected by irregularities of which they had no notice The rule enunciated in Turquand has been applied in many cases subsequently and generally in order to protect the interests of the party transacting with the Directors of the Company.

Applying the rule, now it can not be argued that a person having dealings with a Company is deemed to have notice of who the true Directors are, and this being shown by public documents i.e. the registers of the directors required to be maintained by the

Company and the and the notices of changes. With the due course of time several exceptions have also emerged out of the rule like Forgery, negligence, third party having knowledge of irregularity etc.

If we analyze the cases it is revealed that the Turquand rule did not operate in a completely unrestricted manner.

Firstly, it is inherent in the rule that if the transaction in question could not in the circumstances have been validly entered into by the company, then the third party could not enforce it.

Secondly, the rule only protected 'outsiders', that is persons dealing 'externally' with the company; directors, obviously, were the very people who would be expected to know if internal procedures had been duly followed.

Thirdly, actual notice of the failure to comply fully with internal procedures precluded reliance upon the rule.

Fourthly, an outsider could not rely upon Turquand's Case where the nature of the transaction was suspicious; for example, where the company's borrowing powers were exercised for purposes which were wholly unconnected with the company's business and of no benefit to the company

MCQs

1. **The case of Royal British Bank v Turquand, refined the basic Common law of Agency to articulate the Doctrine of Indoor Management.**
   i. True
   ii. False
   iii. Can not say
   iv. None of the above
2. **The rule enunciated in Turquand has been applied in many cases subsequently and generally in order to protect the interests of the party transacting with the Directors of the Company.**

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

3. **The rule protects the interest of the third party who transacts with the Company in good faith and to whom the Company is indebted. The rule enunciated in the decision is often referred to as "Turquand's rule" and "indoor management rule".**

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

4. **Articles of association contain a representation that a particular officer can be invested with certain of the powers of the company.**

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

5. **Forgery may in circumstances exclude the 'Turquand Rule'**

   i. True

   ii. False

   iii. Can not say

   iv. None of the above