

LIFTING THE CORPORATE VEIL:
AN EXAMINATION OF THE CORPORATE DOCTRINE

By
MOHD GHAZALI M. TAIB

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ABBREVIATIONS

A.C	-	Appeal Cases.
All E.R	-	All England Reports.
C.L.R.	-	Commonwealth Law Reports.
K.B	-	Kings Bench Report.
M.L.J	-	Malayan Law Journal.
N.Z.L.R.	-	New Zealand Law Reports.
Q.B	-	Queens Bench Division.
W.L.R.	-	Weekly Law Reports.
Ch.D	-	Chancery Division.

CHAPTER I

A. Introduction

The company once formed in accordance with the provision of the Act acquires a corporate personality. This is provided in section 14, 15 and 16 of the Malaysian companies Act 1965. In fact in all these section the Act expressly provides for the incorporation of an association of two or more person. History has shown that, since it was formulated in the case of Solomon v Solomon¹ the concept of separate corporate personality has been affirmed by almost everyone. In that case, Solomon had for many years carried on business as a boot manufacturer. His business was solvent when it was converted into a company, i.e. a company limited by shares was formed, the subscribers to the memorandum of which were Solomon and his wife, daughter and four sons (for one share each), and the business was sold to the company at a price of £39,000. The term of sale were approved by all the shareholders. £9,000 was paid in cash. 20,000 fully paid shares of £1 each were allotted to Solomon so that his wife and

1. [1897]A.C 22.

children held one share each and he held 20,001 shares. Solomon left the rest of the price on loan to the company and for this sum of £10,000 he was given debentures secured by a charge of the company's assets. It seems that the directors were Solomon and his sons and that Solomon was appointed managing director. The company ran into difficulties and the company wound up. After satisfying the debentures there was not enough to pay the ordinary creditors.

The court of Appeal held that Solomon was the real proprietor of the business and he may liable to indemnify the company against its trading debts. However, the House of Lord affirmed that the business belonged to the company and not to Solomon. Lord MacNaghten said:-

" The company is at law a different person altogether from the subscribers ... and, though it may be that after incorporation the business is precisely the same as it was before, and the same person are managers, and the company is not in law the agent of the subscribers or trustee for them. Nor are the subscribers, as members liable in any shape or form, except to the extend