

Case study: bbc limited

Business



The shares of BBC Limited, a private company are held by Ann and Andy Anderson and Bee and Bob Brown.

The Anderson who together hold 90% of the company shares are concerned that the company is in need of further capital but because of family difference, the Anderson are not willing to inject additional funds so long as the Browns are shareholders in the company. They have therefore decided to pass a resolution which will enable the majority to acquire compulsorily at full value shares of the minority. Advise Bee and Bob Brown.

Bee and Bob Brown my advise to you is that the Anderson being the majority shareholder of BBC Ltd. Can remove you Bee and Bob Brown by ordinary resolution of the company in general meeting, and if you Bee and Bob was appointed by the articles you can be removed by a special resolution passed to alter the articles.

The Andersen's decisions being majority shareholder is binding on you the minority shareholder whether you like it or not it is they who control the company ultimately. However Bee and Bob you can take representative action against the Andersen's for read committed against you Bee and Bob as in the case Statesman.

Ltd. v Greater London where they stultify the purpose for which the company was formed and deprive you the minority shareholder of your existing prospects of obtaining votes. Being a member of BBC Ltd. You can bring representative action against the Company to protect your personal rights which you Bob and Bee enjoys.

There have been a breach of duty owed to you Bob and Bee the minority shareholder cannot be ratified by a majority of shareholders. Question 2 Discuss the rule In Foss V Heartbeat The rule In Foss V Heartbeat illustrates the principle of majority control and Malory protection.

If a wrong is done to the company then the only proper plaintiff to bring an action to redress the wrong is the company itself and not a shareholder or anyone else. Where the minority's complaint is that some act has been done wrongly, which would nevertheless be lawful if there were an ordinary resolution in general meeting to authorize it, then the court will not interfere at the instance of the minority. The rule places the majority member in a very strong position over the minority as in the case *Bombard V Bombard*.

The rule prevents the company from spending money on litigation to no ultimate purpose if an independent majority does not wish to pursue a claim. The rule may be used by majority shareholders to perpetrate fraud on the minority members especially if the majorities are also directors of the company. The rule is an inevitable consequence of a corporation is a separate legal entity. Therefore, if harm is caused to a company then only the company itself can take legal action. No one else, irrespective of their losses, will have the necessary power to take legal proceedings.

Question 3 Dave is minority shareholder in BBC Company Ltd.

Andy, Bee and Carol are also major controlling shareholders and in addition, they hold the position of chairman, managing director respectively. Dave is aggrieved that: 1. The company has just sold 5 acres of land to Bevy's cousin at half the price the company paid for it. The company has recently

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engaged Andy uncle as its marketing director at an annual salary of \$5 million. His service contract includes a provision that in the event of his death, his widow shall continue to receive his annual salary by way of pension payment for the rest of her life.

Andy uncle was in very poor health at the time of his appointment.

Andy, Bee and Carol do not admit that anything improper has taken place. Advise Dave on the legality of Andy, Bee and Carol's action and whether he can bring an action against them. Dave base on the actions of Andy, Bee and Carol you can bring an action against them as in the case Daniels V Daniels. The major shareholders Andy, Bee and Carol owed fiduciary duty to the company and must act in good faith and in the best interest of the company and not in their own interest.

The directors have been exercised in a manner that is unfairly prejudicial to the company and also breach of their fiduciary duties as in the case Keller V Baxter. Andy, Bee and Carol action are base on personal interest.

The court can make an order to rectify the matters as in section 994 of the 2004 Company Act. The court can order for the company to regulate the company affairs by amending its articles against Andy uncle who was appointed as marketing director at an annual salary of 5 million and he was in very poor health at the time of his appointment.

The court can regulate the company affairs by amending BBC Ltd. Articles so that Andy uncle widow does not receive his annual salary by way of pension payment for the rest of her life after he dies. The court can also order for

compensation to the company for the 5 acres of land that Bevy's cousin buy at half price the company paid for it. Dave you can bring action against them in the court.

Question 4 The articles of association of BBC Ltd. Public company provides inter alia ' At a general meeting of the company, subject to any right or resolutions for the time being attached to any class or classes of shares, on a show of hand, every member in person shall have one vote' Marvin, a shareholder who was present at a meeting of the company voted but the directors refused to register his vote in connection with passing of a special resolution. Advise Marvin who wants to compel the directors to register his vote. Marvin base on information given above you take Representative action against the company to protect your personal rights as in the case Ponder V Lusting.

Being a member allows you to bring representative action against the company. The directors of BBC Ltd.

Owe fiduciary duty to you personally. Suing under representative action to prevent the company from acting contrary to its articles which states that: ' At a general meeting of the company, subject to any right or resolutions for the time being attached to any class or classes of shares, on a show of hand, every member in person shall have one vote'. You were present at the meeting and voted but they the directors refused to register your vote so you can bring them to court.