

Salomon v A Salomon & Co Ltd

[1897] AC 22, 66 LJ Ch 35, 4 Mans 89, 45 WR 193, 1 LDAB 240, [1895-9] All ER Rep 33, 41 Sol Jo 63, 75 LT 426, 13 TLR 46

Court: HL

Judgment Date: 16/11/1896

Catchwords & Digest

COMPANIES - INTRODUCTION - IN GENERAL - UNDER STATUTE -- EXISTENCE APART FROM MEMBERS -- THOUGH VIRTUALLY ALL SHARES OWNED BY ONE MEMBER

Where a trader, who was solvent, converted his business into a limited liability company, and all the statutory requirements for the constitution of the company were fulfilled, the court was not entitled to go behind the register and memorandum, and upon a speculative analysis of motives and the exorbitance of the price paid, to decide that the company was not validly constituted on account of the non-fulfilment of conditions which were not found in Companies Acts.

The mere facts that the trader is virtually sole owner of the concern, the other shareholders having only a nominal interest and being members of his own family, that he has received debentures secured on the business as part of the purchase-money, do not constitute the company his agent or trustee, so as to entitle the company to an indemnity, or authorise the court to rescind the agreement for the sale of the business to the company or to deprive the founder of his security so as to postpone his claim on the assets to that of the unsecured creditors.

When the memorandum is duly signed and registered, though there be only seven shares taken, the subscribers are a body corporate, 'capable forthwith' to use the words of the enactment, 'of exercising all the functions of an incorporate company.' I cannot understand how a body corporate thus made capable by statute can lose its individuality by issuing the bulk of its capital to one person, whether he be a subscriber to the memorandum or not. The company is at law a different person altogether from the subscribers to the memorandum (Lord Macnaghten).

Case History

Annotations	Case Name	Citations	Court	Date	CaseSearch
--	Salomon v A Salomon & Co Ltd	[1897] AC 22, 66 LJ Ch 35, 4 Mans 89, 45 WR 193, 1 LDAB 240, [1895-9] All ER Rep 33, 41 Sol Jo 63, 75 LT 426, 13 TLR 46	HL	16/11/1896	CaseSearch Entry
Reversing	Broderip v Salomon	[1895] 2 Ch 323, 64 LJ Ch 689, 2 Mans 449, 12 R 395, 43 WR 612, 39 Sol Jo 522, 72 LT 755, 11 TLR 439	CA	circa 1895	CaseSearch Entry

Cases referring to this case

Annotations: All Cases **Court:** ALL COURTS

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Treatment	Case Name	Citations	Court	Date	CaseSearch
Applied	VTB Capital plc v Nutritek International Corp	[2013] UKSC 5, [2013] 2 WLR 398, [2013] All ER (D) 47 (Feb)	SC	06/02/2013	CaseSearch Entry
Applied	Prest v Prest	[2012] EWCA Civ 1395, [2013] 1 All ER 795, [2013] 2 WLR 557, [2012] 3 FCR 588, [2012] All ER (D) 293 (Oct)	CA	26/10/2012	CaseSearch Entry
Distinguished	VTB Capital plc v Nutritek International Corp	[2012] EWCA Civ 808, [2012] 2 Lloyd's Rep 313, [2012] 2 BCLC 437, [2012] All ER (D) 147 (Jun)	CA	20/06/2012	CaseSearch Entry
Considered	R v Seager; R v Blatch	[2009] EWCA Crim 1303, [2010] 1 WLR 815, [2010] 1 Cr App Rep (S) 378, [2009] Crim LR 816, (2009) Times, 16 July, [2009] All ER (D) 283 (Jun)	CA	26/06/2009	CaseSearch Entry
Applied	Public Prosecutor v Lew Syn Pau	[2006] SGHC 146, [2007] 2 LRC 653	Sing HC	11/08/2006	CaseSearch Entry
Considered	Greene King plc v Harlow District Council	[2003] EWHC 2852 (Admin), [2004] 2 All ER 102, [2004] 1 WLR 2338, 168 JP 70, [2003] All ER (D) 398 (Nov)	Admin Ct	27/11/2003	CaseSearch Entry
Applied	Alfred McAlpine Construction Ltd v Forum Architects (seventh defendant)	[2002] EWHC 1152 (TCC), [2002] All ER (D) 32 (Jun)	Tech & Constr Ct	11/06/2002	CaseSearch Entry
Considered	Department for the Environment Food and Rural Affairs v Feakins	[2002] All ER (D) 300 (Mar)	QBD	20/03/2002	CaseSearch Entry
Applied	Bairstow v Queens Moat Houses plc	[2001] EWCA Civ 712, [2001] 2 BCLC 531, [2002] BCC 91, [2001] All ER (D) 211 (May)	CA	17/05/2001	CaseSearch Entry
Applied	Adams v Cape Industries plc	[1990] Ch 433, [1991] 1 All ER 929, [1990] 2 WLR 657, [1990] BCLC 479, [1990] BCC 786, [1990] 11 LS Gaz R 36	CA	27/07/1989	CaseSearch Entry
Applied	Williams & Humbert Ltd v W & H Trade Marks (Jersey) Ltd, Rumasa SA v Multinvest (UK) Ltd	[1986] AC 368, [1986] 1 All ER 129, [1986] 2 WLR 24, 130 Sol Jo 37, [1986] LS Gaz R 37, [1986] NLJ Rep 15	HL	12/12/1985	CaseSearch Entry
Considered	British Thomson-Hous-	[1924] 2 Ch 33, 93 LJ	Ch D	circa 1924	CaseSearch

	ton Co Ltd v Sterling Accessories Ltd, Same v Crowther & Osborn Ltd	Ch 335, 41 RPC 311, [1924] All ER Rep 294, 68 Sol Jo 595, 131 LT 535, 40 TLR 544			Entry
Considered	Hirth, Re, ex p Trustee	[1899] 1 QB 612, 68 LJQB 287, 6 Mans 10, 47 WR 243, 43 Sol Jo 209, 80 LT 63, 15 TLR 153, [1895-9] All ER Rep Ext 1479	CA	circa 1899	CaseSearch Entry