

## Company directors held liable for breach of contract

**I**n a decision delivered on 1st April 2021 the Commercial Division of the High Court found directors of a company liable for breach of contract entered into by the company. While recognising and upholding the principle of corporate personality which maintains that a company is a separate legal entity independent of its individual shareholders and directors, the High Court ruled that it should not be easy for individuals to avoid liability by simply hiding behind the shadow of incorporation. This decision is in keeping with the principle that corporate personality should enhance but not undermine commercial transactions.

The decision in *Balton (U) Limited vs. Boona Bageigahare Nyekundire Group Limited and 2 Others*, (Civil Suit No, 676 of 2018), arose from a commercial dealing by which the plaintiff supplied goods to the 1st defendant company under two separate contracts. The goods were received and ultimately utilised but no payment was made. The company

hardly existed in real life and for all intents and purposes, it most prized possession was its certificate of incorporation.

Faced with the question whether the directors of the company could be held jointly liable with the company for breach of contract, Justice Richard Wejuli Wabwire concluded that the veil of incorporation cannot be used for some illegal and improper purpose. He observed that in such a case, Court may disregard the principle that a company is an independent entity and lift the veil of corporate entity so that if it is proved that a person used a company he controls as a cloak for an improper transaction, he may be personally liable to a third party.

Cristal Advocates welcomes this decision for it upholds the sanctity of corporate personality which was meant to facilitate business transactions but safeguards it from abuse by those who desire to use it to defeat the very essence of commercial relationships.

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