



Sevilleja v Marex Financial Ltd [2020] UKSC 31

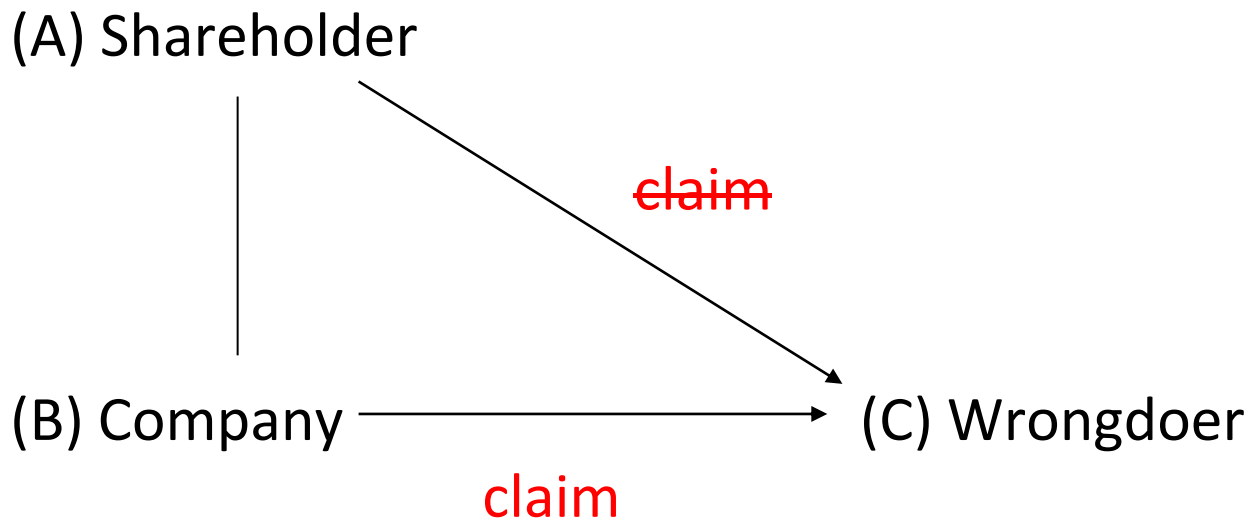
James MacDougald

Ten Old Square



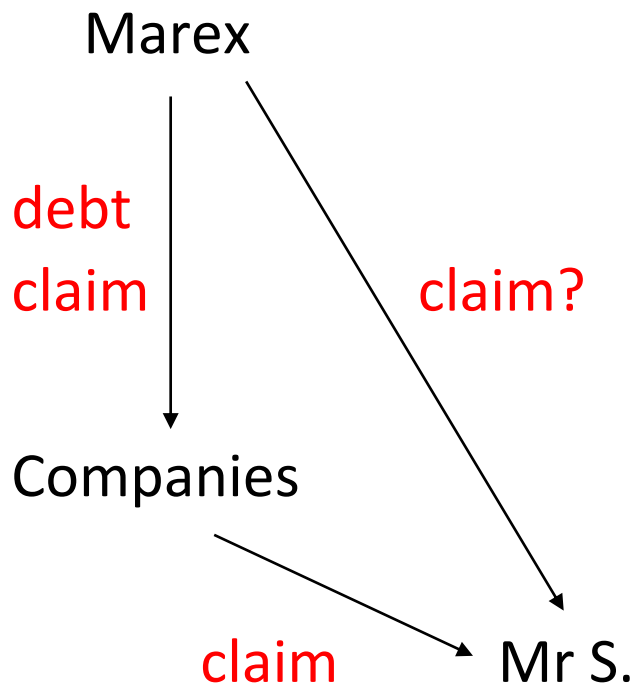
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The rule against recovery for reflective loss





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- Mr S. was director and owner of 2 BVI companies
- Marex obtained judgment debts of c. \$5.5m against companies
- In breach of his duty to the companies, Mr S. emptied their accounts and put them into insolvent liquidation
- Marex sued Mr S. in tort for (1) procuring a violation of its rights and (2) intentionally causing it loss by unlawful means



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The majority decision:

- If shareholder and company both have claims against same wrongdoer, shareholder cannot recover for fall in value of shares: *Prudential v Newman*
- Rule of company law – treats shareholder's loss as non-existent
- Complements rule in *Foss v Harbottle*
- No exceptions (e.g. *Giles v Rhind*)
- No wider application to creditors, etc.

The minority decision:

- No justification for the rule – *Prudential* was decided on its facts
- Shareholder's loss is different from company's loss as it depends on market value of shares
- Claims can be case-managed to avoid double recovery