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ARTICLES

The Adjudication of Proofs of Debt in Liquidation: Duties and Obligations – *Nikita Angelakis*

The High Court has held that when adjudicating proofs of debt, a liquidator acts quasi-judicially “according to the standards no less than the standards of a court or judge”. Previous articles in this series examined whether the liquidator’s power to adjudicate is an exercise of judicial power, by looking at the effect of an adjudication, and the historical course by which the power was conferred on the liquidator. It was concluded that a liquidator makes an administrative decision. This article examines whether the characterisation has an impact on decision-making obligations of a liquidator, including whether orthodox judicial review is available in respect of a liquidator’s adjudications, and the extent of a liquidator’s obligation to accord procedural fairness. It will be argued that the High Court set the bar too high for the liquidator, and all the liquidator must do is act “reasonably” when carrying out of their adjudications. 150

Third-Party Release in Schemes of Arrangement: Debating the Preferable Jurisdictional Test – *Charles Zhen Qu*

This article assesses two judge-made tests, namely, the necessity test and the sufficient nexus test, on the court’s jurisdiction to sanction creditors’ schemes of arrangement (‘the scheme’) involving a release of third-party liabilities. The scheme is a court-controlled statutory procedure enabling a company to restructure its relationship with shareholders or creditors. The success of a scheme often requires rightsholders to release their claims against both the company and third parties. The legislation is silent on the court’s jurisdiction to sanction the type of schemes just mentioned. To close this gap, courts have developed tests mentioned above. The courts, in a number of recent cases, expressed a preference to the nexus test with insufficient explanation on their reasonings. This article evaluates the tests according to their doctrinal pedigrees, replicability, and ability to maximise the flexibility of the scheme. It concludes that the sufficient nexus test is preferable by all three standards. 171

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