Landmark Judgement

Case Study: Harbottle v. Foss (1843)

The Foss v. Harbottle ruling established a basic principle in corporate law: the firm itself is the rightful complainant for an injustice done to a company. This idea has been extremely

beneficial to trade and the world economy, together with the "Salomon" concept of corporate independent legal identity.
The significant Foss v. Harbottle case is summarized and critically analyzed for readers in this case study.

Title of the case: Foss v Harbottle

Citation: [1843] 67 ER 189, (1843) 2 Hare 461

Court: Court of Chancery

Quorum: Wigram VC, Jenkins LJ

Parties to the dispute:

Petitioner: Richard Foss and Edward Starkie Turton

Defendants: Thomas Harbottle & Other's
Jenkins LJ and Wigram VC make up the quorum.

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Parties involved in the conflict:

Richard Foss and Edward Starkie Turton are the petitioners.

Thomas Harbottle and others are the defendants.

Minorities have frequently been on the opposing side, typically subject to discrimination-related derivative lawsuits and unequal remedy. Numerous scholars have expressed concerns about overlaps in derivative claims and unequal remedies for prejudice, as well as the possibility that the Rule of Rules was repealed with the implementation of the present formal derivative actions and an increase in shareholder litigation. Even now, its fundamental principles remain crucial.

A business named the Victoria Park business was established in September 1835 to buy 180 acres (0.73 km2) of property close to Manchester (later became Victoria Park, Manchester, when the Act of Parliament changed it into incorporation). However, the directors of the

company, along with others, were engaging in the misappropriation of the company's property, which could lead to the misappropriation of the company's property, in contrast to the actual work that was purportedly enclosing and planting the same in an ornamental and park-like manner, building houses thereon with attached gardens and fields, and then selling, renting, or otherwise disposing of them.

Two minor shareholders, Richard Foss and Edward Starkie Turton, exemplified the issue. According to their report, the firm's five directors—Thomas Harbottle, **Joseph Adshead, Henry Byrom, John Westhead, and Richard Bealey**—as well as the lawyers and architects—Joseph Denison, Thomas Bunting, and Richard Lane—as well as the assignees of **Byrom, Adshead, and Westhead—H. E. Lloyd, Rotton, T. Peet, J. Biggs, and S. Brooks**—misapplied and falsely mortgaged the company's assets. It expressly requires that a responsible recipient be identified and that the wrongdoers be held accountable for every transaction.

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The ground underneath served as the foundation for their case. The first point of contention was the dishonest methods used to embezzle business funds. The company's lack of qualified directors who could serve on the board was the second reason, and the absence of an office or clerk was the third. Due to these circumstances, the owners were forced to take legal action against the directors instead of having the authority to take the property away from them.

II. Problems

The issues were whether or not the corporation's members may file a lawsuit on the company's behalf and whether or not the guilty people need to be held accountable for their misdeeds.

III. Arguments Made and the Issues Brought Up

The petitioner

The plaintiffs contended that until the corporation was established by **Parliament, it could not be considered a regular business. Additionally,** the act of incorporation was passed to assist the company, but the directors pursued their personal interests. Additionally, they

contended that directors ought to have acted as the company's trustees and need to be held accountable for embezzling its assets. As a result, this statute allowed the directors to sue anyone who harmed the firm, but it did not authorize the board of directors to be sued by the company's employees or outside parties.

The defendant

The defendants contended that the plaintiffs lacked the authority to file a lawsuit against them on the company's behalf.

IV. Evaluation

In this instance, **Wigram VC rejected the shareholders' claim, arguing that since the company and its shareholders are regarded as separate legal entities,** neither individual shareholders nor other outsiders may pursue legal action against the wrong done to the corporation. The Companies Act's Section 21(1)(a) further states that a company may file a lawsuit and be sued on its own behalf, that a member may not file a lawsuit on the company's behalf, and that if a corporation has the power to sue a party by touch, it should do so.

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The owners of the firm are unable to file a lawsuit since the corporation, not its members, is the one who has been harmed; therefore, it is the company's responsibility to make a claim or take punitive action against the members who have stolen their property.

In this situation, Wigram VC pursued the rulings made on unincorporated businesses in previous cases and urged minorities to demonstrate that they had exhausted all internal forum remedies. He asserted that the courts would not get involved in situations where the majority of owners are willing to approve irregular behavior, but this law was thought to be unfavorable.

As a result, the court essentially outlined the two main principles. First and foremost was the Proper Plaintiff Rule, which stated that only the company may sue directors or other outsiders in order to enforce its rights if the corporation or company suffers any harm as a result of their dishonest or incompetent actions.

The corporation may sue and be sued on its own behalf, but neither its members nor any outsider may do so due to the Separate Legal Entity idea, which views the company as a distinct legal entity from all of its members.

This is the only explanation for why only a firm can file a lawsuit or start legal processes

against any member in order to reimburse the group for its losses. Only with permission from the board of directors or an ordinary resolution passed at the general meeting may a company officer file a lawsuit against the wrongdoer on his behalf.
The second rule was the Majority Principal Rule, which said that the court would not get involved if a clear majority of delegates in the general meeting supported or authorized the alleged mistake.

Minority owners, on the other hand, felt that the application of these rigid principles was harsh and unfair because, although they were granted a significant right, they were also barred from pursuing legal remedies and were forced to comply with the wrongdoings of the majority because they controlled the company and minority members had little influence.

To lessen this severity, four exceptions to the general rule have also been established, wherein lawsuits would be accepted. The first and main exception is when the alleged behavior was unlawful and in violation of established laws and regulations.
The second exemption applies to situations when the alleged crime may only have been legitimately committed or sectioned by such special majority members in violation of the articles' provisions.

When the complainant's personal and individual rights are allegedly violated while serving as a director of the corporation, the third exception is applicable. Not to mention, the fourth exemption addresses situations where a majority of the company's owners have engaged in minority misbehavior. Thus, regardless of the majority vote, both of these exceptions pertain to the defense of essential minority rights.

V. Critical Evaluation

Extra vires

As long as the business operates in accordance with its mandate, the Foss v. Harbottle precedent is in effect. Acts that exceed a company's authority are known as ultra vires events. Both acts went beyond the authority specifically granted by the Companies Act as well as the authority mentioned in the Memorandum of Association and the Articles of Association.

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If an act violates the articles of association and memorandum of association, the shareholder may file a lawsuit against the corporation. These acts are void and cannot be made lawful with the consent of the majority of members.

Deception of Minorities

Even a single shareholder has the authority to impeach a company's representatives when the majority of them use their power to commit fraud or oppress the minority. Even a single shareholder has the authority to impeach a company's representatives when they use their power to deceive or mistreat the minority.

Even a single shareholder has the authority to impeach a company's representatives when the majority of them use their power to oppress or deceive the minority. Any part of the company's obligations should be considered a fraud on the minority.

Miscreants in Charge

A controlling shareholder or managing director has a fiduciary duty to the company. Neither the company's assets nor the minority shareholders' rights are claimed by the majority.

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Acts Needing a Special Majority

A simple majority of the company's owners cannot make all decisions. For these votes, a special majority—that is, three-fourths of the members in attendance—must approve them. For instance, if an association is added with an essay or an association memorandum that passes only an ordinary resolution or a special resolution in the way mandated by statute, and a majority claims to do any such act, a member or members may bring proceedings to restrain the majority.

Rights of Individual Membership

Each shareholder asserts some personal rights against the firm and other shareholders. Many of these rights are imposed on shareholders by the acts themselves, but they may also come from the articles of association. The rule of the majority expressly does not guarantee these rights, which are those of people or individuals and are sometimes acknowledged as the rights of the party leadership.

The shareholder's personal rights, including the ability to vote and run for chairman, can be enforced against the company. The right to individual membership guarantees that individual shareholders can demand strict adherence to the laws, statutes, and rules of the memorandum and articles that the majority of shareholders are unable to waive.

Mismanagement and Oppression

Minority shareholders may purchase a suit under the provisions of sections 241 to 246 of the Companies Act of 2013 or sections 397 and 398 of the Companies Act of 1956. Therefore, it is a shareholder's constitutional right that transcends the boundaries of majority rule. One hundred members or one-fifth of the members listed on the company registration may submit the application [8].

VI. Final Thoughts

A business is a legal entity that has a different legal body than its members, or its owners. The Board of Directors and Member-Owners make decisions on the company's behalf. The group also decides whether to file litigation. According to the Companies Act of 1956, shareholders who own the majority of the company's shares are in charge of it. The landmark case of Foss v. Harbottle accepts this majority theory. The minority was bound by the votes of the majority of shareholders. Since then, this notion has been superseded, and the Companies Act of 2013 has given minority owners greater authority.

The Companies Act of 1956 contains safeguards to defend the interests of minority owners, however the minority was unable to do so because to a lack of time, recourse, or competence. As a result, prejudice against minority shareholders has occurred on multiple occasions. In the conflict between majority and minority shareholders, the Companies Act of 2013 has made it possible to protect minority shareholders' rights, which might be considered a game-changer.

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