



LEGAL BRIEFING

Taking It Personally

(1) Nasser Abadi (2) Atlas Construction Ltd v Abdullah Al-Anizi (2006)

Court of Appeal, Cage LJ, Bodey J, [2006] EWCA Civ 1522

The Facts

This was an appeal by Abdullah Al-Anzi (“the Doctor”) from a decision of the Central London County Court in December 2005, whereby the trial judge ordered that the Doctor was personally liable for a sum in respect of building and architectural work carried out by the respondents, Nasser Abadi (“Abadi”) and Atlas Construction Limited (“Atlas”).

The Doctor, a medical doctor and successful Saudi businessman, operated a number of corporate vehicles, including two companies, Stamford Hospital Limited (“SHL”) and PHP (UK) Limited (“PHP”). This modus operandi was not criticised at first instance, however the judge highlighted that it was an important feature of the case.

Abadi and Atlas carried out building and architectural works at the Doctor’s request on various properties between 1999 and 2004. Abadi and Atlas sought to recover sums from the Doctor personally in respect of work procured in relation to executive offices for the Doctor’s use at a hospital run by one of the Doctor’s companies.

The Doctor radically changed his case at trial. Initially he submitted that Abadi and Atlas had contracted with Stamford, but then changed his case to submit that they contracted with PHP. Although Abadi and Atlas’s case was not assisted by the fact that the correspondence they produced in relation to this matter was addressed to various of the Doctor’s corporate entities, the trial judge nevertheless held that there had been no agreement between Abadi, Atlas and PHP and that the Doctor was personally liable for the work carried out on the executive offices.

The Issue

Whether the trial judge was entitled to find that the Doctor’s credibility had been impugned and therefore hold the Doctor personally liable for the sums in question.

The Decision

The trial judge was able to make such a finding. The judge’s finding in relation to credibility was a finding of fact and therefore the Court of Appeal was reluctant to interfere with it. The court placed particular emphasis on the findings of fact made by the trial judge in relation to the Doctor’s assertions that he owned the hospital and acted as such.

Comment

Many participants in the construction industry operate a variety of corporate entities. Contracting parties must remember which corporate hat they are wearing when dealing with other parties to a project and the outside world.

This is particularly important in the case of the “one man band” company, where other contracting parties may be confused as to which corporate entity is party to the contract in question or may be under the impression that there is no corporate veil in place. Directors or representatives of companies who are acting in such capacity should clearly and unambiguously hold themselves out as such in order to minimise the risk of personal liability. This includes correcting other contracting parties if a mistake is made in that respect as well as making sure that all correspondence is on the correct company’s letterhead. If a company is in administration, that should also be made clear in all correspondence.

Rebecca Saunders
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