

1954

Corporations

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Recommended Citation

Maurice S. Culp, *Corporations*, 5 W. Rsrv. L. Rev. 255 (1954)

Available at: <https://scholarlycommons.law.case.edu/caselrev/vol5/iss3/13>

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prove to be the reasonable cost of his labor and materials, plus his fee, but may recover his actual costs, plus his fee.

ROBERT C. BENSING

CORPORATIONS

In *Delvon v. Webster*,¹ a derivative suit by shareholders, the court of appeals held that the plaintiff's petition which averred that the defendant-directors in acquiring the stock of another corporation paid excessive prices for it with a view to personal gain, was sufficient in law. The court reasoned that the petition, although lacking details essential to the cause of action, should be construed liberally with regard to sufficiency because of the defendants' dominant position over the corporate records. The court further stated that it was not necessary for the plaintiffs to aver the well recognized obligation of the directors to act fairly toward the stockholders of the corporation.

In *Czech Catholic Union v. Satla Realty Co.*,² the court of appeals considered the fiduciary obligations of the board of directors of a corporation engaged in voluntary liquidation. The court was also called upon to determine the type of obligation owed by a corporation formed for the purpose of carrying out the voluntary liquidation of the dissolved corporation. Under Section 1701.87 of the Ohio Revised Code (Ohio General Code Section 8623-80) a dissolved corporation is continued for the sole purpose of winding up its affairs and business. This relationship is considered a trust: the stockholders and creditors being the beneficiaries and the directors being the trustees. The court also applied the trust concept to assets of the dissolved corporation transferred to a new corporation formed for the purpose of acquiring those assets where it appeared very clear that the transferee accepted the transfer of this property as a liquidating corporation. The trans-

¹ 65 Ohio L. Abs. 237, 114 N.E.2d 267 (App. 1952).

² 65 Ohio L. Abs. 307, 113 N.E.2d 740 (App. 1953). This case also required the construction of Ohio Revised Code Sections 1701.90, 1701.91 and 1701.92 (Ohio General Code Sections 8623-82, 8623-83 and 8623-84).

On the subject of dissolution attention should be called to the case of *Shrage v. Portsmouth Steel Corp.*, 207 F.2d 497 (6th Cir. 1953). Under Ohio Revised Code Section 1701.94(A)(4) (Ohio General Code Section 8623-86) a petition for judicial dissolution may be filed by a majority of the voting power. While the petition in this case contained some allegations which were not directed toward a dissolution, the court held that these allegations were mere conclusions and considered the petition as one for judicial dissolution. The court in affirming the district court's dismissal held that the Ohio statutes were controlling and provided the exclusive means for dissolving an Ohio corporation. The current suit therefore could not be maintained since it was not filed by a majority of the stockholders.