

Corporate Contract Law: Unifying Theme on Theories Relating to Promoter's Contracts, De Facto Corporations, Corporation by Estoppel, Articles of Incorporation, By-Laws, and Ultra Vires Acts.

Cesar L. Villanueva

38 ATENEO L.J. 1 (1994)

SUBJECT(S): CORPORATE LAW

KEYWORD(S): CONTRACT LAW

This Article provides an insightful discussion of several concepts in Corporation law and seeks to study doctrines which have emerged from the merging of Contract Law with Corporate Law and its resulting consequences. The Article first discusses what the tri-level existence of a corporation is and how jurisprudence has defined it. It also examines the merging of corporation law and contract law principles and how this has resulted in conflict between the policies set forth by each of the disciplines. The first is those contracts entered into where the corporation either has not been legally constituted or has been defectively constituted, and second, the contracts involving duly constituted corporations, but which were entered into by officers who either were not duly authorized, or who exceeded the scope of their authority.

The Article also delves into the intricacies of the pre-incorporation stage of Promoter's Contracts and what is involved here, namely, subscription agreements by analyzing pertinent laws and prevailing jurisprudence on the matter. Furthermore, it discusses contracts with defectively formed or non-existent corporations such as de facto corporations, corporations by estoppels doctrine, and cases outside the de facto corporation and corporation by estoppels doctrine. Moreover, the Article goes one step further by explaining the *ultra vires* doctrine and how the concept is reflected in prevailing jurisprudence. Lastly, the Article ends with the Author's final observations. First, the principles of Corporate Law can be harmonized with those of other disciplines in order to sustain the validity of contracts and transactions entered into by corporations with the public. Emphasis is placed on the legitimate contractual and business expectations of the parties that the corporations would be bound thereby, without the need of costly and protracted verifications. Second, Courts will not allow parties to skirt contractual obligations which they clearly assumed when the contracts were drawn. Third, it is left to the State to enforce its own cause against the erring

corporation, usually by having the corporation's charter forfeited through quo warranto proceedings.