

## Company Directors as Constructive Trustees: Some Aspects of the Corporation Code of the Philippines

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It is from the moment the Securities and Exchange Commission issues a certificate of incorporation under its official seal that a corporation gains separate existence. From that moment, its acts, by virtue of legal fiction, become distinct from that of its shareholders. There are, nonetheless, certain instances where the acts of the shareholders are imputed not to the corporation, but directly to them. These instances are what belong to those classes of acts commonly known in the realm of law as coming into the scope of the doctrine of "Piercing the Veil of Corporate Fiction."

In this Article, the Author discusses one of those acts, namely, when members of the board of directors of a certain corporation become trustees for the latter and as such become personally liable for their acts. These provisions on the Corporation Code regarding constructive trusts are based on the laws on equity, recognizing as they do instances when the fiduciary obtains an advantage or benefit as a breach of loyalty that he owes to his principal. Thus, it has been held that when a director consciously votes for an unlawful act of the corporation, aware at that time of the nature of such an act, renders himself liable for any damage caused to the company.

After a thorough discussion on the repercussions of the aforementioned acts, the Author insists that ultimately, a director can only be made liable as a constructive trustee only upon clear and convincing proof of abuse of position. He further states that the determination of such an abuse would naturally vary depending on the circumstances of each case.