

Held – the contract belonged to the company, the directors could not misuse their voting power to remove the company's interest

Statutory Remedies

- Under the CA 2006, there are a series of statutory remedies available to minority shareholders. Most important ones –
 - Action for unfairly prejudicial conduct – s994
 - Derivative claim – s260
 - Just and equitable winding up – IA 1986, S122

Action for Unfairly Prejudicial Conduct

- Section 994(1) CA 2006
- **Elder v Elder & Watson Ltd [1952]** – Defining unfairly prejudice – Cooper LJ – 'the conduct complained of should at the lowest involve a visible departure from the standards of fair dealing, and a violation of the conditions of the conditions of fair play on which every shareholder who entrusts his money to a company is entitled to rely'
- **Re London School of Electronics Ltd [1985]** - conduct was unfairly prejudicial to the interests of the claimant as a minority shareholder because the majority shareholders had acted in their own interests
- Recent example – Coroin Ltd, Re: **McKillen v Misland** (Cyprus) Investments Ltd [2012]

The claimant alleged that the conduct of his fellow directors in relation to property dealings amounted to unfair prejudice under s994
Richards J – 'prejudice will encompass damage to the financial position of a member. The prejudice may be damage to the value of his shares but may also extend to other financial damage which in the circumstances of the case is bound up with his position as a member'

Derivative Claim

- A derivative claim is an action brought by an individual shareholder on behalf of the company
- Under the common law, this was an exception to the rule in Foss v Harbottle
- The scope for such claims increased with CA 2006
- Derivative Claims – **CA 2006 S260(3) and (4)**
- Factors must be considered by the court when deciding whether to allow a derivative action to proceed – Factors are in **CA 2006 s263(3)**

Just and Equitable Winding Up

- As a last resort, a member can petition for the company to be wound up
- Circumstances in which a company may be wound up by the court – **IA 1986 S122(1) (g)**
- A successful petition will mean that the company may be forced to cease trading – therefore the court will only make such an order in exceptional circumstances