

EXAMPLE ON HOW TO ANSWER CASE STUDY?

Sample case :

Farid was a director of Lotos Mall. He instructed his manager to sell some items at the higher price than they advertised. Thus, the company had been sued for misdescription offences. Farid has been blamed for the offence. However, Farid claimed that the company that was to be blame for the offence, not him. Was the offence committed by Lotos Mall or by Farid?

1. Issue :

- a. Whether the company can be blamed solely for the offences or not
- b. Whether farid can be held responsible for that offences of misdescription of price or the Lotos Mall?

2. Formulation : In Farid situation, Farid should be held responsible for the offence. It is because he had given instruction his manager to sell some of the items at a higher price. When a company commit wrong action, the company cannot think or act by himself to commit such wrong action. Thus we have to look behind the veil of the company to determine the person who shall be responsible for the wrong doing.

3. Legal Principle and supporting case :

Section 20 CA provides that a company incorporated under this Act is a body corporate and shall :

- (a) have legal personality separate from that of its members; and
- (b) continue in existence until it is removed from the register.

Further, **Section 21** states that the companies will have unlimited capacity and will be capable of exercising all the functions of a body corporate and have the full capacity to carry on or undertake any business or activity including:

- (a) to sue and be sued;
- (b) to acquire, own, hold, develop or dispose of any property;
- (c) to do any act which it may do or to enter into transactions.

A company shall have the full rights, powers and privileges for the above purposes.

Supporting case :

In the case of **SALOMON v SALOMON & CO. LTD**

Salomon, a sole trader as a leather and boot merchant sold his business to Salomon & Co. Ltd, a company he formed with his wife and children. Payment for the purchase was partially effected debentures issued by the company to Salomon. The company later went into liquidation and its assets were not enough to satisfy its creditors. Mr. Salomon however claim priority over the other debtors as he was a secured creditor.

Held: Mr. Salomon the creditor is a person separate and distinct from Salomon & Co. Ltd even though Mr. Salomon was the majority shareholder of the company.

LEE v. LEE'S AIR FARMING (1961) AC 12

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Mike Jess



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Table of Contents Issa Case Study Answers

1. Understanding the eBook Issa Case Study Answers
 - The Rise of Digital Reading Issa Case Study Answers
 - Advantages of eBooks Over Traditional Books
2. Identifying Issa Case Study Answers
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Issa Case Study Answers
 - User-Friendly Interface
4. Exploring eBook Recommendations from Issa Case Study Answers
 - Personalized Recommendations
 - Issa Case Study Answers User Reviews and Ratings
 - Issa Case Study Answers and Bestseller Lists

5. Accessing Issa Case Study Answers Free and Paid eBooks
 - Issa Case Study Answers Public Domain eBooks
 - Issa Case Study Answers eBook Subscription Services
 - Issa Case Study Answers Budget-Friendly Options
6. Navigating Issa Case Study Answers eBook Formats
 - ePub, PDF, MOBI, and More
 - Issa Case Study Answers Compatibility with Devices
 - Issa Case Study Answers Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Issa Case Study Answers
 - Highlighting and Note-Taking Issa Case Study Answers
 - Interactive Elements Issa Case Study Answers
8. Staying Engaged with Issa Case Study Answers
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Issa Case Study Answers
9. Balancing eBooks and Physical Books Issa Case Study Answers
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Issa Case Study Answers
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Issa Case Study Answers
 - Setting Reading Goals Issa Case Study Answers
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Issa Case Study Answers
 - Fact-Checking eBook Content of Issa Case Study Answers
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
 - Exploring Educational eBooks
14. Embracing eBook Trends
- Integration of Multimedia Elements
 - Interactive and Gamified eBooks

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