Piercing the Corporate Veil Doctrine in Comparative View
หลักการไม่คำนึงถึงสภาพผิดบุคคลของบริษัท กรณีอีกพายุเรียบเทียบ

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ABSTRACT

The foundation of corporate law leads to separation and segregation of corporations from shareholders. The maxim of limited liability hails shareholders out from puddle of corporate liability unless in extraordinary circumstances, advancing modern capital investment on corporate business until present day. Nevertheless, this expedient mechanism can be abusively applied and end up spoiling third parties’ interest. Therefore, this paper will comparatively provide and analyze the framework of ‘piercing the corporate veil doctrine’ from the perspectives of Japan, U.S. and Thailand as practical solutions for this crux.

Keywords: piercing the corporate veil, disregard the corporate entity, limited liability of shareholders, corporate liability

บทคัดย่อ

การกอต้นขึ้นของกฎหมำบริษัทแสดงให้บริษัทมีฐานะและตัวตนแยกออกจากต่างหากจากผู้ถือหุ้น สำหรับการของการจำกัดความรับผิดดังนั้นถึงก็ส่งผลให้ผู้ถือหุ้นหลุดพ้นจากความรับผิดของบริษัท เว้นแต่ในสถานการณ์ที่พิเศษอย่างยิ่ง หลักการเช่นนี้ทำให้การลงทุนในรูปแบบของบริษัทแห่งหลายมักขึ้นจริงระดับถึงปัญจบัน อ้างไม่ถูกต้อง มีการนำหลักการดังกล่าวไปใช้ในทางที่ผิดอยู่บ่อยครั้ง ทำให้บุคคลภายนอกเสียผลประโยชน์และได้รับความเสียหาย ดังนั้น บทความฉบับ

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Introduction

The firm establishment of legal principles identified a corporation as a separate and distinct legal entity apart from its shareholders. A corporation is obliged to be liable as a corporate entity, while liability of shareholders exist only when the business venture is got into “at risk” position by their shareholders’ conducts.¹ The notable term “limited liability” is widely recognized as a mechanism of liability segregation. Limited Liability is initially purposed to enhance advancement of commerce and industry because shareholders, encouraged by this promotion, are able to invest their capital on companies with no worrisome concern about their private properties to corporate risks.²

In the nineteenth century, this kind of business-investment-friendly principle was named as the most significant legal innovation.³ It is also plausible for the incentive value of limited shareholder liability to be “outweighed by the competing factor of basic fairness to parties dealing with the corporation.”⁴ However, this acumen doctrine has high tendency to become a double-edged sword if it is abusively applied to deceptive or fraudulent conducts in order to circumvent personal legal liability. Therefore, courts occupy discretion to enforce “piercing the corporate veil”⁵ as a suppressive measure to impose personal civil liability on the shareholders for the obligations of the corporation. A comparative examination on the “piercing the corporate veil doctrine” that appears in the law of Japan and U.S. will be asserted in this paper. The discussion about trend of this doctrine in Thai law, together with problematic issues regarding the codification of piercing the corporate veil doctrine in Thai Law will also be finally included.

²Id.
³Id. at 372.
⁴Id. and See Labadie Coal Co. v. Black.
⁵Id.