



UK Court ruled debenture is void for non-registration despite there being a Companies House registration certificate



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In the recent case of *Re VE Global UK Ltd (In Administration)* [2024] EWHC 749 (Ch), the High Court explored whether a certificate of registration issued by Companies House can be considered as conclusive evidence of due registration of security. The ruling and the considerations made in this case highlight the importance of ensuring that the relevant security document that is being presented for registration is drafted sufficiently and the process for registration is followed meticulously.

The case centred around a debenture dated December 20, 2021, where a chargor had purported to grant security in favour of two investors. This debenture was not registered at Companies House. In order to further grant that security for the benefit of an additional third investor, an amendment agreement to the debenture was subsequently entered into on January 18, 2022. This amendment agreement was submitted to Companies House for registration without annexing the original debenture.

Companies House issued a certificate confirming the registration of a charge dated January 18, 2022 as created by the chargor in favour of the three investors. Under section 859I(6) of the Companies Act 2006 a certificate of registration is conclusive evidence that the required documents were delivered within the prescribed deadline. However, crucially, the certificate referred to the amendment agreement date, not the original debenture date.

The High Court ruled that the debenture was void against administrators for non-registration under section 859H of the Companies Act 2006.

In his judgment, Baister J referenced *R v Registrar of Companies, ex parte Esal (Commodities) Ltd* [1986] 1 QB 1114. In the *Esal* case, the relevant security document was delivered late and as such should not have been eligible for registration; however, the registrar accidentally and inadvertently registered the

charge in any event. Despite these facts, the court ruled that the certificate of registration was considered conclusive evidence of registration of a charge. In this case however, the certificate of registration referred to a charge dated as of the amendment agreement date, not the original debenture date. Baister J noted that the amendment agreement did not create the charge but merely extended the terms of the document that did, and therefore concluded that the certificate purported to register a charge that did not exist.

Baister J also referenced *Re Bitumina Industries Ltd (in administration)* [2022] EWHC 2578 (Ch). In *Bitumina Industries*, the certificate of registration was held to have covered the relevant charge as the original security document and registration particulars were not "entirely different". In this case however, Baister J held that the original debenture and amendment agreement were not similar enough, with the terms of each agreement serving different purposes.

This ruling underscores the importance of meticulousness in registering security interests with Companies House. It serves as a cautionary tale for chargors and chargees to ensure alignment between registration certificates and the underlying security documents, thus averting potential legal pitfalls down the road. *Re VE Global UK Ltd* ultimately provides useful clarity on the reliance on registration certificates and highlights the need for precision in documenting and registering company security.