Holder in Due Course

The **Holder in Due Course** (HDC) doctrine is a rule in commercial law that protects a purchaser of debt, where the purchaser is assigned the right to receive the debt payments. The doctrine insulates the purchaser of debt, or other obligation to pay, against charges that either party to the original transaction might have had against the other.

Example

Suppose A promised to pay money to B in exchange for services. B then transferred the right to payment to C. C is then insulated from any consequence arising from a conflict between A and B. Suppose A sues B for non-performance of service. C is insulated from any remedy A receives against B. A is still obligated to pay the original obligation to C.

Requirements

In the context of negotiable instruments, a Holder in Due Course must have given value in good faith without notice of any previous dishonor in taking the bill, which appears to be complete and regular. Using the previous example, to qualify as someone who has given value in good faith without notice, C should have provided consideration to B in exchange for the transfer of the right to payment. He also must not have been aware of any defect in the right to payment. Then, if C fits the requirements of a HDC, he will take the bill free from any defect in title.,[1] such as any dispute between A and B.

Rights of a HDC are superior to other contract rights

The rights of a holder in due course of a negotiable instrument are qualitatively, as matters of law, superior to those provided by ordinary species of contracts: The rights to payment are not subject to set-off, and do not rely on the validity of the underlying contract giving rise to the debt (for example if a cheque was drawn for payment for goods delivered but defective, the drawer is still liable on the cheque). No notice need be given to any party liable on the instrument for transfer of the rights under the instrument by negotiation. However, payment by the party liable to the person previously entitled to enforce the instrument "counts" as payment on the note until adequate notice has been received by the liable party that a different party is to receive payments from then on. [U.C.C. §3-602(b)] Transfer free of equities—the holder in due course can hold better title than the party he obtains it from (as in the instance of negotiation of the instrument from a mere holder to a holder in due course) Negotiation often enables the transferee to become the party to the contract through a contract assignment (provided for explicitly or by operation of law) and to enforce the contract in the transferee-assignee's own name. Negotiation can be effected by indorsement and delivery (order instruments), or by delivery alone (bearer instruments). In addition, the rights and obligations accruing to the transferee can be affected by the rule of derivative title, which does not allow a property owner to transfer rights in a piece of property greater than his own.

Limitations

The rule can be considered inequitable to consumers. As a response to this, the UNITED STATES Federal Trade Commission promulgated Rule 433, formally known as the "Trade Regulation Rule Concerning Preservation of Consumers' Claims and Defenses", which "effectively abolished the [holder in due course] doctrine in consumer credit transactions".[2] In 2012, the FTC reaffirmed the regulation.[3]

References

1. http://legal-dictionary.thefreedictionary.com/Holder+in+Due+Course
2. Commercial Paper: Holder in Due Course & Defenses.
3. FTC Opinion Letter Affirms Consumers' Rights under the Holder Rule. FTC.