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to him in full settlement of his fee.²⁰ To a common law court, the problem would involve the doctrine of consideration, and its resolution would turn on whether or not the amount due was in dispute. On finding that a dispute did exist the common law court would take the view that the creditor's acceptance of the amount tendered was supported by consideration and therefore an accord and satisfaction had occurred. Our court, not without precedent in our law, however, handled the problem in the same way.

Actually, with us facts of the kind in question raise a problem of remission. A gratuitous remission is perfectly valid under our code. To find a remission of the remainder when part payment is made there should be found an intention to remit or the creditor should be held estopped by his acceptance of the amount paid to deny the existence of such intention. The facts show that the attorney's fee was to be based on the value of certain stock. No dispute at all had developed before the client sent the check in question, the amount of which was figured on an arbitrary value fixed by himself. The attorney kept the check but claimed with strong support in the facts that the value used by the client was not the true value of the stock. By the letter he wrote to his client upon receiving the check, the attorney definitely negated any intention to remit. There was thus no actual intention to remit; and it is by no means clear that we should permit a debtor to claim an estoppel against a creditor who accepts a payment admittedly due, for it will be remembered that the law requires a debtor to perform his own obligations in good faith.

CORPORATIONS

*Dale E. Bennett**

CORPORATIONS—RECEIVERSHIPS TO PROTECT MINORITY INTERESTS

Louisiana's general receivership statute provides for the judicial appointment of receivers at the instance of minority shareholders whose interests are "in imminent danger" from gross mismanagement, persistent ultra vires action or wasting of the corporate assets.¹ The corporate receivership, however, is an expensive and rather drastic remedy, and it may not be resorted

20. *Henriques v. Vaccaro*, 220 La. 216, 56 So. 2d 236 (1951).

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1. La. R.S. 1950, 12:752(2), (11).

to if simpler and more direct methods of relief are available. In *Peiser v. Grand Isle, Incorporated*,² the Supreme Court upheld the trial judge's refusal to appoint a receiver on the application of minority shareholders with two per cent of the outstanding corporate stock. The petition for a receivership made various charges of prior mismanagement, co-mingling of corporate funds with personal funds of the majority shareholder, and irregularities as to the notice and holding of shareholders' meetings. Evidence in support of these charges was held inadmissible—the "receivership, as a remedy, looking rather to the prevention of future injuries than to the redress of past grievances."³ The only substantial claim of present mismanagement was the failure of the corporation to demand immediate repayment of sums owed to the corporation by the succession of the deceased majority shareholder. This presented no imminent danger demanding a receivership, since the indebtedness had been judicially acknowledged by the administrator and the conservative net worth of the succession's stock was more than three times the amount due. If an immediate suit had been necessary, the normal method of asserting such causes of action would be by a minority shareholder's bill—rather than through the expensive procedure of a receivership.

The incident which incited the minority shareholder's demand for a receivership was a contemplated extrajudicial liquidation of the corporation so that the corporate assets might be liquidated and administered through the succession of the ninety-eight per cent shareholder. This procedure would have had the effect of eliminating the petitioner as a member of the corporate venture—a result which he opposed. However, the primary purpose was to secure certain tax advantages, and the contemplated liquidation was in strict conformity with the Louisiana corporation laws. In this regard the Supreme Court appropriately concluded that "a receivership to accomplish the same purpose, without a showing to the contrary, would but prolong the procedure and add expense."⁴ In a last analysis, the remedy of a corporate receivership is an expensive remedy and will not be granted where other available remedies adequately serve to protect the petitioner's rights.

2. 60 So. 2d 1 (La. 1952).

3. *Id.* at 3.

4. *Id.* at 4.