

Property available for payment of debts

42. Restrictions on dispositions of property

- (1) Where a person is adjudged bankrupt, any disposition of property made by that person in the period to which this section applies is void except to the extent that it is or was made with the consent of the court, or is or was subsequently ratified by the court.
- (2) Subsection (1) applies to a payment (whether in cash or otherwise) as it applies to a disposition of property and, accordingly, where any payment is void by virtue of that subsection, the person paid shall hold the sum paid for the bankrupt as part of his estate.
- (3) This section applies to the period beginning with the day of the presentation of the petition for the bankruptcy order and ending with the vesting of the bankrupt's estate in a trustee.
- (4) This section does not give a remedy against any person—
 - (a) in respect of any property or payment which he received before the commencement of the bankruptcy in good faith, for value and without notice that the petition had been presented; or
 - (b) in respect of any interest in property which derives from an interest in property referred to in paragraph (a).
- (5) Where after the commencement of the bankruptcy the bankrupt has incurred a debt to any person by reason of the making of a payment which is void under this section, that debt is deemed for the purposes of this Ordinance to have been incurred before the commencement of the bankruptcy unless—
 - (a) that person had notice of the bankruptcy before the debt was incurred; or
 - (b) it is not reasonably practicable for the amount of the payment to be recovered from the person to whom it was made.
- (6) A disposition of property is void under this section notwithstanding that the property is not or, as the case may be, would not be comprised in the bankrupt's estate; but nothing in this section affects any disposition made by a person of property held by him on trust for any other person.

(Replaced 76 of 1996 s. 30)