KWA GEOK CHOO DISTINGUISHED VISITORS LECTURE SERIES

‘SALES’ ON RETENTION OF TITLE: IS THE ENGLISH LAW ANALYSIS BROKEN?

NUS Law had the honour of having Professor Louise Gullifer as our Kwa Geo Choo Distinguished Visitor for Academic Year 16/17 Semester 1. She spoke on the ‘Sales’ on Retention of Title: Is the English Law Analysis Broken? captivating the audience with her wit and analysis. The Lecture was chaired by Associate Professor Gary Bell. An engaging and thought provoking Question and Answer session was one of the highlights of the Lecture, which ended on a high note with a reception.

ABSTRACT OF THE LECTURE

In recent years, the English law position on retention of title clauses in sale agreements appeared to have shaken down to a functionally satisfactory balance of interests, although arrived at by a conceptually rather complex route. Thus, a trade supplier can obtain effective proprietary protection against non-payment of the price while the goods supplied remain in existence, but loses it once the goods have been converted into products and proceeds: these assets are then available to collateralise finance provided from other sources. Two cases in the last two years (the Court of Appeal decision in Caterpillar (NI) Limited v John Holt & Company (Liverpool) Limited [2013] EWCA (Civ) 1232 and the Supreme Court decision in PST Energy 7 Shipping LLC v OW Bunker Malta Ltd [2016] UKSC 23) have yet again raised questions about the correct interpretation of such clauses, the analysis of the proprietary interests in the goods resulting from the use of such clauses and the interaction between contracts containing such clauses and the Sale of Goods Act 1979. This lecture will critically examine these decisions and their wider ramifications. It will question whether the current approach of English law to trade finance is fit for purpose, and will examine the options for reform with reference to comparative systems of law.

ABOUT THE SPEAKER

Louise Gullifer is Professor of Commercial Law at Oxford University and Fellow and Tutor in Law at Harris Manchester College, Oxford, where she has been the senior law tutor since 1999. She has been teaching at Oxford since 1991, and before that she practiced as a barrister: she is an honorary member of 3 Verulam Buildings and is a Bencher of Gray’s Inn. She teaches commercial and corporate finance law subjects at undergraduate and graduate level, and also teaches Roman law to first year students. Her research interests focus broadly on commercial law and corporate finance and she writes extensively in areas such as security and title financing, corporate finance, corporate insolvency, personal property and set-off. Among other works, she is co-author of The Law of Security and Title Financing (2nd edn, Oxford University Press) and has prepared the last two editions of Goode on Legal Problems of Credit and Security. Together with Professor Orkun Akseli, she has edited a Secured Transactions Law Reform: Principles, Policies and Practice. This book, which will be published in 2016, is a comparative study of secured transaction law reform in a number of jurisdictions. Professor Gullifer is executive director of the Secured Transaction Law Reform Project and is the Oxford Law Faculty Academic Lead for the Cape Town Convention Academic Project.