

STEWARTS

Busting Trusts

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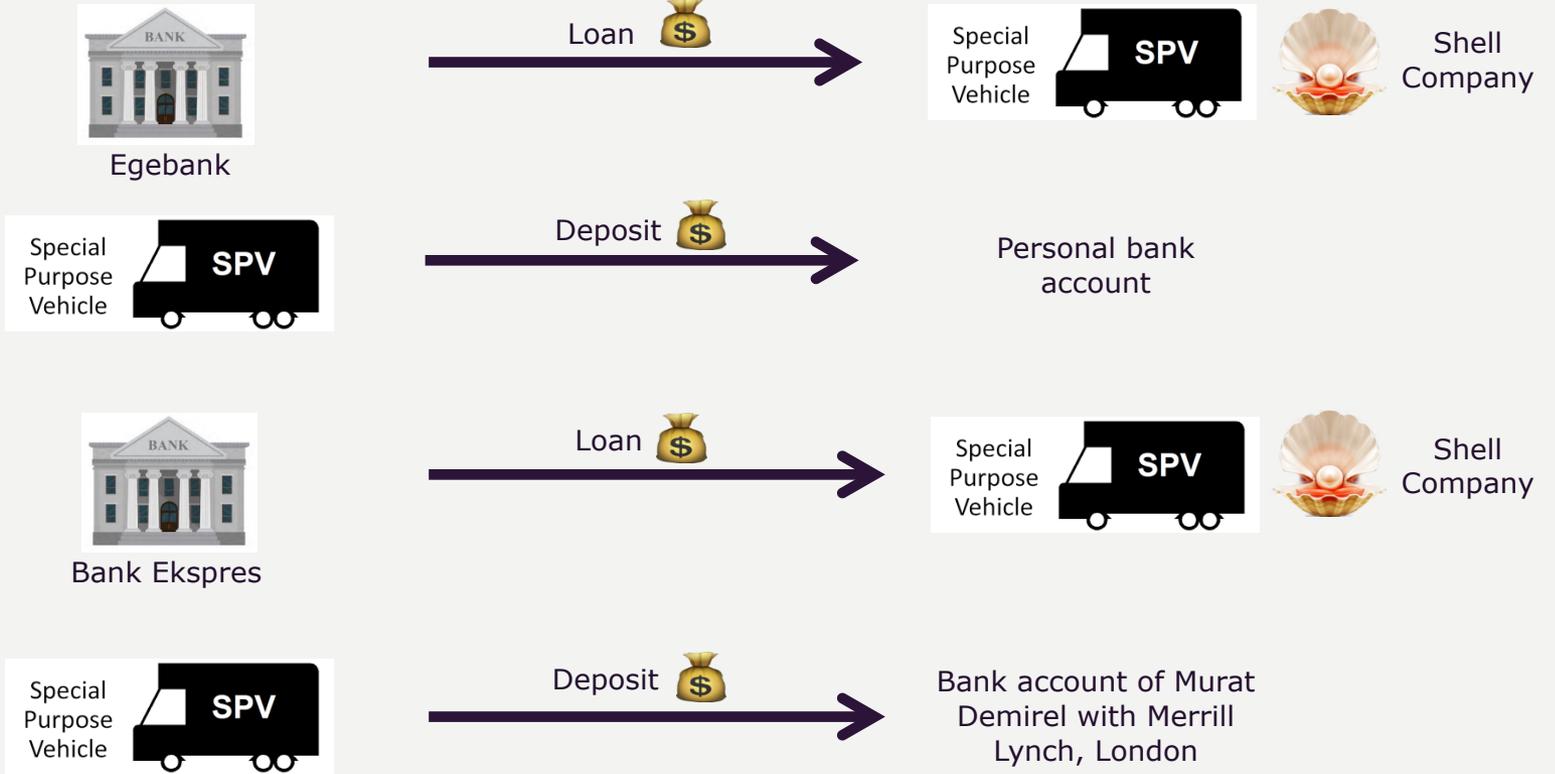
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"This Trust may be revoked, amended, varied or altered in any manner whatsoever from time to time and at any time by the Settlor by deed and delivered to the Trustees provided always that no such revocation, amendment, variation or alteration shall take effect until actual receipt of such instrument by the Trustees or with the written consent of the Trustees thereto if such revocation, amendment, variation or alternation would increase or extend the obligations, liabilities or responsibilities of the Trustees."

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"The question, therefore, is whether a power of revocation should be available to a single creditor by way of equitable execution, so as to engage that single creditor to procure its execution and to recover all the settled assets to satisfy his judgment debt. We have concluded, in agreement with the Chief Justice, that if such an advance in the law is to be made, it must be made by legislation."

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Lord Mance: *"in that event, where the settlor has reserved unto himself a power of revocation, he has not fully alienated his assets"*.

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In *Masri v Consolidated Contractors International (UK) Ltd (No. 2)*² the Court of Appeal held that the appointment of a receiver is not limited to choses in action which were presently available for legal execution. For example, it would be possible to appoint an equitable receiver over future debts that were undoubtedly located abroad.

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According to Lord Collins: "In the opinion of their Lordships the decisions in Masri (No 2) and its predecessors lead to the conclusion that in the present case the jurisdiction should be exercised. The powers of revocation are such that in equity, in the circumstances of a case such as this, Mr Demirel can be regarded as having rights tantamount to ownership. The interests of justice require that an order be made in order to make effective the judgment of the Cayman court recognising and enforcing the Turkish judgment."