



Quiz

Banking Guarantees – the Ankar Principle

1. What is the Ankar Principle?
 - a. Lenders cannot alter loan agreements involving guarantors
 - b. Where lenders alter loan agreements guarantees are discharged by default
 - c. Where the underlying liability guaranteed is altered or varied without consent, the guarantor is discharged from the guarantee unless the change is unsubstantial and not prejudicial or the guarantee expressly permitted the variation.
 - d. All of the above
2. Does the Ankar Principle apply to all guarantees?
 - a. The Ankar principle applies to all guarantees of performance but it may or may not apply to all-monies guarantees
 - b. The Ankar Principle applies to all guarantees and indemnities
 - c. The Ankar principle applies to all guarantees equally
 - d. The Ankar principle only applies to indemnities

3. What claims did Mrs Manasseh bring against ANZ *Australia and New Zealand Banking Group Ltd v Manasseh* [2016] WASCA 41?
 - a. The guarantee was discharged given she did not consent to the final loan agreement
 - b. The guarantee was discharged as the differences between the original and final loan agreements were not unsubstantial or were not shown to be unprejudicial
 - c. ANZ had engaged in misleading and deceptive conduct given a term of the loan agreement represented a termination date for the guarantor's obligations
 - d. All of the above
4. What factors did the Court of Appeal take into account with respect to the construction of the guarantee and Ankar principle issues?
 - a. That Mrs Manasseh was an unsophisticated person
 - b. The extension of time for repayment, the increase in the loan, the alteration of the terms and the change in the purpose of the loan agreement.
 - c. That the guarantee and indemnity were in the same document
 - d. That the loan and guarantee documents were standard form
5. On what basis did Mr Clifford contend that the courts should have decided differently in relation to the misleading and deceptive conduct claim?
 - a. Pursuant to the decision of *Forrest v Australian Securities and Investments Commission* [2012] HCA 39, courts should look to what ordinary, practical businessman consider is misleading rather than asking strictly legal questions
 - b. The activities were in fact in trade or commerce
 - c. The limitation period was validly extended
 - d. There was no course of dealing between the parties

Answers:

1. c 2. a 3. d 4. b 5. a