

## **SECTION T - SALE & TRANSFER OF ASSETS**

*If it was necessary to sell or transfer assets (including a business) of an insolvent corporate borrower what, if any, are the major difficulties or problems associated with that process (for example restrictions on transfer or sale of land; providing for the transfer or welfare for employees on a sale or transfer of a going concern business)?*

If the court orders a corporate to be placed under receivership, the borrower is not entitled to sell or transfer its assets to any other person. The sale of the assets can be effected only by the order of the Receiver through an auction sale unless approval of the creditors committee has been obtained, except when the assets are perishable or would deteriorate if kept for any length of time, or the expense would be disproportionate to the value of the asset(s) [s.123].

The Receiver will handle such sales with the co-operation of the creditor(s) who is usually the Plaintiff. Problems occur with such process in that it takes time to organize the auction sale. If the first sale is unsuccessful, subsequent sales will be undertaken.

The transfer of assets or any acts concerning the debtor's assets, done or permitted to be done by the debtor during the three years prior and subsequent to the application to adjudge him bankrupt, may be canceled by order of the court upon the filing of a motion by the receiver, except where the transferee or the beneficiary can prove to the satisfaction of the court that such transfer or act was made in good faith and for consideration.

Upon filing of a motion by the receiver, the court is empowered to make transfers of assets or any act done or permitted to be done by the debtor during the three months prior and subsequent to an application to adjudge him bankrupt, and with the intention to give undue preference to a creditor.