

Website entry relative to Chapter 5, Question 2 pp.79

The Decision in *Siebe Gorman & Co Ltd v Barclays Bank Ltd*. [1979] 2 Lloyd's Rep 142 was overruled by the House of Lords in *National Westminster Bank plc v. Spectrum Plus Ltd* [2005] UKHL 41. In addition, the House of Lords also held that *Re New Bullas Trading Ltd*. [1993] BCC 251 was fundamentally flawed. The result of this is that it would appear to mark the end of the line for attempts to create fixed charges over book debts (receivables) and other types of circulating assets including chattels.

The decision is also interesting in that the National Westminster Bank plc had attempted a second string defence of their claim to be a creditor secured on a fixed charge over book debts. In the (entirely predictable) event of the House of Lords overruling the decision in *Seibe Gorman*, the bank asked for the decision to be prospective rather than retrospective. The House of Lords examined the arguments for and against its legal right to make a prospective decision before deciding that it might indeed be a possibility. In the instant case, however, the House of Lords rejected the application and the decision is, as usual, retrospective in its effect.