



Global Creditors Can Successfully Fight Fraudulent Conveyance in Dubai

As the importance of the United Arab Emirates as a regional economic center continues to grow, many international creditors have pursued a debtor's assets in forums such as those in Dubai. But what recourse is available when a debtor transfers away their assets to avoid their obligations? Our team explains below.

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The United Arab Emirates (UAE) is an important economic center of the region and has become the jurisdiction where many international creditors pursue their debtor's assets. There are two paths to address a particularly recalcitrant debtor who has transferred their assets to avoid their obligations.

Path #1: Initiate bankruptcy proceedings

The UAE's bankruptcy law allows a creditor to ask a bankruptcy court to invalidate and reverse unlawful transfers of a non-paying debtor's assets, similar to many common law jurisdictions.

Creditors can commence bankruptcy proceedings if (i) the debt exceeds AED 100,000 (about US \$27,000) and (ii) the debtor has not made a payment within 30 days of a demand letter. The court can then void certain transactions made within two years of the start of the proceedings.

The UAE court also has discretion to reverse a transaction that harms the creditor and where the third party was aware (or should have been aware) the debtor had not paid their debt. The court may also be inclined to make orders over assets transferred to another emirate or outside the country. The director or officer of a company undergoing bankruptcy can also attract criminal liability if they dissipated assets with the intention to defraud the company's creditors or acted contrary to the interests of the creditors.

Path #2: Pursue an ineffective disposition claim

Debtors are prohibited from disposing of their assets if its overall value is lower or equal to the value of the debts owed. Otherwise, this disposition can be considered "ineffective" and voided by a court, allowing a creditor to seize those assets.

A claim for ineffective disposition can be brought within six years from either the date of the transaction or the date the creditor became aware of the transaction. In some circumstances, this will be a more attractive option than commencing bankruptcy proceedings. However, like the UAE's insolvency regime, these claims are not often pursued by creditors and there remains uncertainty in how courts handle the process.

Many debtors try to transfer their assets away to prevent paying back their creditors. There are powerful legal remedies available to creditors that can reverse transactions and make available to creditors the assets they have been searching for.

About Kobre & Kim

Kobre & Kim is a global Am Law 200 law firm that focuses on cross-border disputes and investigations, often involving fraud and misconduct. The firm:

- Focuses on helping clients realize value from their claims, developing investigative, enforcement and asset tracing/recovery plans in the pre-dispute stage, to maximize future monetization.

- Often works with other law firms as special counsel in cases beyond their geographic reach, including in Dubai, to enforce high-value judgments and arbitration awards around the world with our integrated team of former U.S. government lawyers, Hong Kong solicitors, UK solicitors and barristers (including King's Counsel) and offshore lawyers.

- Maintains our independence as advocates ready to litigate against virtually any institution by avoiding repeat client relationships, and the conflicts of interest that come with them.