

# [Liability of Agents in an Agency Relationship](#)

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The liability of an agent in an agency relationship is best discussed under the following outline:

- Liability if the principal is disclosed
- Liability if the principal is not disclosed
- Liability of the principal doesn't exist.
- Liability in the case of a corporate organisation
- Liability in the case of a foreign principal.

## **Liability of Agents if the Prinipal is Disclosed**

In the case of ***Akalonu vs Omokaro***[\[1\]](#), the court held that where the principal is disclosed in a transaction with third parties, the principal is the only person who can sue or be sued in relation to the transaction. However, this would not apply where:

- In the case of ***Snig Nig Ltd vs Omoruku***, it was held that where an agent executes a deed on behalf of the principal but in his own name, the agent would be liable.
- If an agent signs his name on a bill of exchange without describing that he is acting on his principal's behalf.
- If the agent contracts on behalf of a non-existent principal.
- An agent that undertakes to be personally liable when contracting for his principal. In the case of ***Hall vs Ashurst***, a solicitor acting in a bankruptcy case agreed to be personally liable for some expenses, the court held that the liability rests with him.
- Liability arises against an agent that warrants on an authority which he actually doesn't possess[\[2\]](#).

## **Liability of Agents if the Principal is Undisclosed**

If an agent acts on behalf of a principal but he doesn't disclose this, such agent would be liable for the contract with the third party; ***Humble vs Hunter (1848) QB 310***. However, in the case of *Morel Brothers vs Westmoreland* (1904) AC 11, it was held that if the third party subsequently discovers the identity of the principal before an action is taken or judgement is given, such third party can sue the principal.

Also, on equitable grounds, where an undisclosed principal has gained a benefit in a contract entered on his behalf by his agent, he is responsible for liabilities that arise from the contract.

## **Liability of Agents where the Principal is Non-Existent.**

If an agent enters into a contract for a principal that doesn't exist, such agent would be personally liable for the contract. In the case of ***Kelner vs Baxter***[\[3\]](#), the defendant went into contract on behalf of a company that was yet to be incorporated. It was held that since the company wasn't incorporated, it never existed. Hence the agent was held to be liable.

## **Liabilities of Agents in the case of a Corporate Entity**

In the case of ***Okolo & Ors vs UBN***[\[4\]](#). The court held that where a director enters into a contract on behalf of an incorporated company, such company would bear liability.

## **Liability in the case of a Foreign Principal**

In the case of ***Asafe vs Alraine & Ors Ltd***[\[5\]](#), the court held that when an agent enters into a transaction on behalf of a foreign principal, such agent would be liable for the contract.

[\[1\]](#) (2003) FWLR pt 175

[\[2\]](#) Collen vs Wright (1857) 7 E & B 301

[\[3\]](#) (1886) LR 2 CP 174

[\[4\]](#) (2004) NSCQR 108

[\[5\]](#) 10 NSCQR 556