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Department of Management Science
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Name of the Student : Jayavarapu Naga pallavi

Regd. No. : 19K61E0022

Year / Semester : 2nd Mba / 3rd semester

Subject : Legal Aspects of Business

Subject Code : 18MS03T2

Topic : Principal liabilities for acts of an agent

Date of Examination : 29.09.2020

Mid Report & Presentation Evaluation of Marks:

Criteria for Evaluation	Max Marks	Marks Awarded
Report Evaluation (10 Marks)		
Introduction to the Topic	02	
Critical Perspective of the Topic	02	
Continuity of the Topic	02	
Content of the Topic	02	
Structure of the Report	02	
Total Marks for Report (A)	10	
Presentation Evaluation (10 Marks)		
Communication Ability	02	
Presentation Methodology	02	
Outline of the PPT	02	
Body Language	02	
Answering Ability	02	
Total Marks for Presentation (B)	10	
Total (A+B)	20	

Signature of the faculty

PRINCIPAL LIABILITY FOR THE ACTS OF AN AGENT

Def of Agent and Principal:

An agent is a person employed to do any act for another or to represent another in dealings with third persons.

The person for whom such acts are done or who is represented is called the principal.

The contract which creates relationship of principal & agent is called an agency.

Essentials and legal rules:

1. There should be an agreement between the principal and the agent :Agreement may be: Express or implied
2. The agent must act in the representative capacity.
3. The principal must be competent to contract.
4. The agent need not be competent to contract. Why? But in the interest of the principal?
5. The consideration is not necessary.

General rules of Agency:

1. Whatever a person can lawfully do himself, he may also do the same through an agent
2. He who acts through another, does by himself

—Who may employ an agent?

Any person who is of the age of majority according to the law to which he is subject, and who is of sound mind, may employ an agent.

—Who may be an agent?

As between the principal and third persons any person may become an agent

Distinguish agent & Servant:

Agent:

He has the authority to create commercial relationship between the principal & the third party

He may work for several principal at a time.

He usually get commission

Servant:

He ordinarily has no such authority

He ordinarily work for only one master at a time.

He usually get salary or wages.

Test of Agency:

—The question as to whether a particular persons is an agent can be verified by finding out if his **acts bind the principal or not**

Creation of Agency:

1. Agency by express agreement
2. Agency by implied agreement
3. Agency by ratification

A. Agency by express agreement:

Appointment in writing or by words of mouth

Usual form of a written agreement : Power of attorney – General power of attorney or Special PA

B. Agency by implied agreement:

Due to the conduct of the parties or the course of dealing between the parties or the situation of a particular case.

Agencies by an implied agreement includes:

1. Agency by estoppel
2. Agency by holding out
3. Agency by necessity

▣Agency by estoppels :

Where a person by his words or conduct has willfully led another to believe that certain set of circumstances or facts exist, and the other person has acted on that belief, he is estopped from denying the truth of such statements although such a state of things did not in fact exist.

▣Agency by holding out:

More than estoppel – positive or affirmative conduct of the principal is required

Agency by necessity:

Due to extraordinary circumstances, person may be compelled to act without requiring the authority .

Conditions:

- There must be real emergency to act on behalf of the Principal.
- Agent not in a position to obtain instructions
- Acting honestly and in the interest of the Principal
- Adopting reasonable and practicable course of action

▣Cases:

1. Where the agent exceeds his authority bonafide in an emergency
2. Where the carrier of goods acting as a bailee, does anything to protect or preserve the goods.
3. Where husband improperly leaves his wife without providing proper means for her sustenance.

C. Agency by ratification:

A person does some acts on behalf of another person without his knowledge or authority

Another person subsequently accepts the acts Then: Agency by ratification

Also known as ex-post facto agency (agency arising after the event)

Conditions for valid ratification:

1. The agent must act on behalf of the principal
2. The principal must be competent to contract and in existence at the time of contract by the agent
3. There should be an act capable of ratification
4. The principal must have full knowledge of the material facts.
5. Whole transaction must be ratified
6. Within a reasonable time.
7. Ratification must not injure a third party.

Kinds of Agents:

I. From the point of view of the extent of their authority : 1. General Agent- Is one employed to do all the acts

connected with a particular business or employment

Eg: manager of a firm.

2. Special Agent – employed to do some particular act or represent his principal in some particular transaction.

Eg: agent employed to sell a motor car.

3. Universal Agent – Whose authority is unlimited. He enjoys extensive powers to transact every kind of business on behalf of principal.

II. From the point of view of the nature of work performed by them:

I. Mercantile agent-

An agent dealing in the buying and selling of the goods

An agent who has the authority either to sell the goods, or to consign the goods for the purpose of sale, or to buy the goods or to raise the money on the security of the goods on behalf of his principal

II. Non- mercantile agents :

Does not usually deal in the buying or selling of the goods. They include Insurance agents ,Counsels or advocates, wife,etc.

Duties of an agent:

1. Duty to follow the instructions of the principal – if not..
2. Duty to carry out the work with care and skill
3. Duty to render accounts to the principal
4. Duty to communicate with principal – if no time
5. Duty not to deal on his own account
6. Duty not to make secret profits from agency
7. Duty to pay the amount received for the principal
8. Duty not to use the information, received in the course of agency, against the principal
9. Duty to protect the interest of the principal in case of his death or insanity
10. Duty not to delegate authority

Rights of an agent:

1. Rights to retain money due from the principal
2. Right to receive remuneration

3. Right of lien – The agent has the right to retain goods, papers and other property-only particular lien
 4. Right to be indemnified against consequences of lawful acts.
 5. Right to compensation
 6. Right to be indemnified against consequences of acts done in good faith
 7. Right of stoppage of goods in transit.
- (a) Principal becomes insolvent
- (b) Agent has bought goods out of his own money

Rights of a Principal:

- Recover damages from agent if he disregards directions of Principal
- Obtain accounts from Agent
- Recover moneys collected by Agent on behalf of Principal
- Obtain details of secret profit made by agent and recover it from him
- Forfeit remuneration of Agent if he misconducts the business

Conclusion:

The principal is liable on an agent's contract only if the agent was unauthorized by the principal to make the contract. Apparent authority arises where the principal gives the third party reason to believe that the agent had authority.