

due to the agent, or where the principal has failed to relieve the agent of liability, loss or expenditure.

- o So, the agent must have obtained possession of the property as agent and may retain possession of it, but not dispose of it or sell it.
 - ☒ General liens: bankers, solicitors and mercantile agents have a general lien (i.e. they can retain any property of the principal, not just property relating to the debt owed).
 - ☒ Special liens: right only to retain property of the principal which relates to the debt owed.

Liability of the Agent

The role of an agent is to put the Principal into contractual relations with the third party. Whether he does so and to what extent depends on the precise circumstances in which he acts.

If all goes well, agent normally drops out of relationship. Agent has no legal liability if everything goes smoothly. But there can be exceptions:

Agent for the named principal

Agent is not a party to the contract and is not liable on it.

- *Kimber Coal Co v Stone & Rolfe Ltd*

Case concerns chartering of a ship. Ship chartered to take cargo from Fife to Denmark. Kimber Coal was broker for ship. Ship was delayed, concerns compensation for delay. Argument turned on who should pay – easier to sue Kimber Coal as they were in Scotland, however, as they were acting as agents for a named principal, they disappeared from the scene legally speaking.

There are exceptions to this rule (e.g. solicitors liable for undertakings)

- *Stirling Park & Co v Digby Brown*

Clients owed money. Sheriff officers were dispatched to recover debts. Sheriff Officers (Digby Brown) were not paid. Client must have become insolvent, Digby Brown not paid by their own clients and resisted paying Stirling Park. DB says they were agents, and agents were not liable for debt. SP should sue the principal. Practice in this situation is that the solicitor acting as agent is also liable to meet expenses of 3rd party.

Agent for unnamed principle

Agent discloses that there is a principal but does not name him. Assumed position is the same as when you have got a named principal.

- *Ferrier and Dodds?*

Agent should be liable where they themselves don't know the name of the principal.

Principal Undisclosed