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ASSIGNMENT

TRESPASS TO CHATTEL

 Definition of chattel

 A chattel is any property other than land and immovable property, a chattel is any moveable property. A chattel is any moveable thing which is capable of being owned , possessed, or controlled other than a human being , land and immovable property.

 TRESPASS TO CHATTEL

Trespass to chattels is any direct and unlawful interference with a chattel in the possession of another person. It is the international or negligent interference with the possession of the chattel of another person . Essentially trespass to chattel is

(1) any wrong against a chattel , goods or personality

(2) in the possession or control of another person

 The tort of trespass to chattel is designed to protect possession, that is the right of immediate possession of a chattel, as distinct from ownership. It protects the right of a person to the control, possession retention or custody of a chattel against interference by another person without lawful justification.To maintain an action for trespass, the plaintiff must show that he had possession at the time of the trespass or is entitled to immediate possession of the chattel.in this tort , injury or wrong is done to the chattel while it is in the possession of the person claiming damages for the injury. The chattel is usually not taken from his possession as we have in conversion or definite. Thus,in Leame v Bray This was an accident between two horse drawn carriages.The defendant negligently drove his carriage and collided with the carriage of the plaintiff. The court held that the accident was a trespass to chattel and the defendant was liable in damages to the plaintiff for the damage done to the coach of the plaintiff. In addition,in Kirk v Gregory The movement of a deceased persons rings , from one room in his house to another was held to be a trespass to chattel and nominal damages was awarded against the defendant.

 ELEMENTS OF TRESPASS TO CHATTEL

**WHAT A PLAINTIFF MUST PROVE TO SUCCEED** .

The elements a plaintiff need to prove to succeed in a claim for trespass to chattel are that the act of trespass was

(1) intentional or

(2) Negligent.

THE PERSONS WHO MAY SUE FOR TRESPASS TO CHATTEL

Anyone who has possession or caretaker ship of a chattel may sue any other person who meddles with the chattel. Accordingly , some persons who do not have legal rights are deemed by law to have possession, so that they will be able to protect chattels left under their care. Thus the persons who may sue for trespass to chattel ,provided they have possession at the material time of the interference include:

Owners , bailees, lenders , assignees , Trustees,finders,custodians , caretakers,Adverse possessors,Executors,Administrators of estates etc

**THE DEFENCES FOR TRESPASS TO CHATTEL**

IN an action for trespass to chattel,the defences a defendant may plead include

(1) inevitable accident

(2)subsisting lien.

(3)Honest conversion,or acting honestly.

(4)subsisting bailment

(5)limitation of time ,as a result of the expiration of time specified for legal action .

 **REMEDIES FOR TRESPASS TO CHATTEL**

 The remedies available to a person whose chattel has been meddled with ,short of conversion or detinue are

(1) payment of the market price of the chattel

(2) payment of damages

(3) Replacement of the chattel

(4) Repair of the damage.

 **CONVERSION**

 conversion is any interference, possession,or disposition of the property of another person,as if it ones own without legal justification. Conversion is often defined as other interference of a person’s right to property without the owner’s consent and without lawful justification

 Conversation is the deprivation of another’s right to use or possess personal property . Essentially,conversion is any inconsistent dealing with a chattel to which another person is entitled to immediate possession whereby the person is denied the use possession or title to it .in conversion,negligence or intention is not relevant ,and once the dealing with the chattel of another person is in such a circumstance that the owner is deprived of its use and possession,the tort is committed .in CITY MOTOR PROPERTIES LTD V SOUTHERN AERIEL SERVICE: An owner of a chattel was held liable in conversion for dispossessing the plaintiff bailee of it , during the subsistence of the bailment , which was not unilaterally determinable at will by the plaintiff owner. Thus in ADAMSON V JARVIS

An auctioneer was held entitled to be indemnified by a client who had instructed him to sell goods,to which as it was later discovered the client had no title

 **EXAMPLES OF CONVERSION**

Examples of conversion include;

(1) consumption : By eating or using it up .

(2) purchase: At common law , conversion is committed by a person who bought and took delivery of goods from a Seller who has no title to the chattel nor right to sell them .

(3) Alteration : By changing its form howsoever

(4) Receiving: involuntary receipt of goods is not conversion.Receiving a chattel from a third party who is not the owner is a conversion.

(5)By wrongful Disposition: such as by sale , transfer of title or other wrongful disposition.

**INNOCENT RECEIPT OR DELIVERY IS NOT CONVERSION**

 Generally , innocent delivery, or innocent receipts are not torts , nor criminal offenses . Thus , innocent delivery is not conversion. Therefore, where an innocent holder of goods , Such as , a carrier or warehouseman , receives goods in good faith from a person he believes to have lawful possession of them , and he delivers them , on the person’s instructions to a third party in good faith , there would be no conversion. In case of OA BANK NIG LTD V NIGERIAN SWEETS &CONFECTIONERY CO .LTD : The 1st respondent was granted an import license by the federal ministry of trade to import granulated sugar .

The 1st respondent sued for damages for the wrongful conversion of the import license. On Appel by the bank , the court of appeal:That the defendants were liable for conversion of the import license papers .

**THE RULES REGARDING FINDING LOST PROPERTY**

 The rules of law applicable to finding a lost property were authoritatively settled by English court of Appeal in the case of Parker v British Airways .The plaintiff was waiting in the defendant airways lounge when he found a bracelet on the floor.He found a bracelet on the floor.He handed it to the employees of the defendant, together with his name and afresh ,a request that it should be returned to him if it was unclaimed.it was not claimed by anybody and the defendants failed to return it to the finder and sold it . The English court of Appeal held : that the proceeds of sale belonged to the plaintiff who found it. In summary the rules applicable to finding lost property are as follows;

 (1) Any servant or agent who finds a lost property in the course his employment, does so on behalf of his employer, who by law acquires the right of a finder .

(2) A finder of a chattel acquires no right over it , unless it has been abandoned, or lost and he takes it into care and control. He acquires a right to keep it against all persons, except the true owner; or a person who can assert a prior right to keep the chattel , which was subsisting at the time when the finder took the chattel into his care and control .

(3) An occupier of land , or a building has superior rights to those of a finder , over property or goods in , or attached to the land , or building.

(4) An occupier of premises does not have superior rights to those of a finder in respect of goods found on or in the premises, except before the finding, the occupier has manifested an intention to exercise control over the premises, and things on it .

 **DEFENCES FOR CONVERSION OF A CHATTEL**

In an action for conversation of a chattel , the defendant may plead :

(1) Temporary retention;to enable steps to be taken to check the title of the claimant.A defendant may temporarily, refuse to give up goods , while steps are taken to verify the title of the plaintiff who is claiming title before the chattel is handed over to the plaintiff if he is found to be the owner , or has right to immediate possession.

(2) subsisting lien

(3) subsisting bailment

(4) jus tertii , that is the title or better right of a third party .

 **THE REMEDIES FOR CONVERSION**

(1) order for delivery, return or specific restitution of the goods

(2) Recovery of special and general damages. Special damage is recoverable by a plaintiff for any specific loss proved .

(3) General damages

(4) An order for payment of any consequential damages.

(5) Alternative order for payment of the current market value of the chattel .

**DETINUE**

The tort of detinue is the wrongful detention of the chattel of another person ,the immediate possession of which the person entitled.Detinue is the wrongful detention or retention of a chattel whereby the person entitled to it is denied the possession or use of it . As a general rule, to successfully sue in detinue, a plaintiff must have possession before the detention, or have right to immediate possession of the chattel .

 **THE DIFFERENCE BETWEEN CONVERSION AND DETINUE**

 (1) The refusal to surrender or return a chattel on demand is the essence of detinue or detention. There must have

been a demand for return of the chattel .

(2) Detinue is the proper remedy where the plaintiff wants a return of the specific goods in question, and not merely an assessed market value . However, where specific return of the chattel or a replacement will not be possible, an award of the current market value of the chattel is usually made in o the plaintiff.

**THE DEFENCES FOR DETINUE**

In an action for detinue , a defendant may plead that :

(1) That the plaintiff has insufficient title as compared to himself

(2) Reasonable defence of a person or property, such as when one beats or injures a dog that was attacking him or another person.

(3) Temporary retention of the chattel to enable steps to be taken to check the title of the plaintiff

(4) subsisting bailment

(5) Inevitable accident

 **THE REMEDIES FOR DETINUE**

(1) Damages

(2) Recapture or self help to recover the goods .

(3) claim for the current market value of the chattel

(4) claim for replacement of the chattel

(5) claim for return of the specific chattel.

**REFERENCES**

ESE MALEMI LAW OF TORTS (Princeton publishing co 2008) DJET LAWYERS .