LAW OF TORT. (Q1).

The tort of trespass to Chattel in is made of: Trespass to chattels conversion and Detinue. Discuss the above and support with case law. Students may consider the following: define and explain each tort, state the elements of Trespass to Chattel, conversion and detinue explain the concepts of innocent delivery or receipt, lost property rule and give examples of conversion. Give examples of persons qualified to sue for trespass to chattel. Discuss the remedies and defense to trespass to chattel, conversion and detinue. Differences between conversion and detinue.

First of all, TRESPASS TO CHATTEL is any direct and unlawful interference with a chattel in the possession of another person. It is the intentional or negligent interference with the possession of the chattel of another person. In other words, trespass to chattel is any direct interference with a personal property in the possession of another person without lawful justification. The ELEMENTS of trespass to chattel: what a plaintiff must prove to succeed are: Intentional or Negligent.

Trespass to chattel is designed to protect the; right of retaining one’s chattel, protection of the physical condition of the chattel and protection of the chattel against unlawful interference or meddling.

Persons who may sue for trespass to chattel, provided they have possession at the material time of the interference include: owners, bailees, lenders, trustees, caretakers, custodians, executors, administrators of estates and so forth.

CONVERSION on the other hand is any interference, possession, or disposition of the property of another person, as if it is one’s own without legal justification. In other words, conversion is dealing with another person’s property as if it’s one’s own. Examples of conversion are: taking, using, alteration, consumption, detention, wrongful delivery and so on.

On the differences between trespass to chattel and conversion, we may take a look at some decided court cases such as **Kirk v Gregory** the movement of a deceased person’s 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.

Also, in **Haydon v Smith** it was held to be a trespass for the defendant to cut and carry away the plaintiffs tree.

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 a claim for the specific return, delivery, or surrender of a chattel to the plaintiff who is entitled to it.

THE REMEDIES AND DEFENCES TO TRESPASS TO CHATTEL, CONVERSION AND DETINUE

The 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 damages
2. Replacement of the chattel
3. Payment of the market price of the chattel
4. Repair of the damage

DEFENCES FOR TRESPASS TO CHATTEL

In action for trespass to chattel, the defenses a defendant may plead include:

1. Inevitable accident
2. Subsisting lien or bailment
3. Limitation of time, as a result of the expiration of time specified for legal action and so forth.

The Remedies For Conversion

1. Order for delivery, return or specific restitution of the goods
2. Recovery of special and general damages.
3. General damages etc.

The Defenses for conversion:

1. Subsisting lien
2. Subsisting bailment
3. Limitation of time and so on.

REMEDIES FOR DETINUE.

1. Claim for return of the specific chattel
2. Claim for replacement of the chattel
3. Claim for the current value of the chattel and so forth

DEFENCES FOR DETINUE

1. A defendant has mere possession of the goods
2. That the plaintiff has insufficient title as compared to himself and so on.

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.