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**COURSE TITLE: LAW OF TORTS**

**ASSIGNMENT**

**TRESPASS TO CHATTEL**

Trespass to chattel is any direct or unlawful interference with a chattel in the possession of another person. It is the intentional or negligent interference with the possession of a chattel by another person. It refers to the use of property without the permission or the consent of the owner. It can also be seen as a tort whereby the infringing party has intentionally interfered with another person’s lawful possession of a chattel: this interference being either physical contact with the chattel in a quantifiable way or any dispossession of the chattel. A chattel is any property other than land and immovable property. It is any moveable thing which is capable of being owned, possessed or controlled other than human being, land and immoveable property. The purpose of the tort of trespass to chattel is to protect all the chattels, goods or personal property of a person who has title or possession by prohibiting all interference without legal jurisdiction. It protects the rights to ownership of a chattel from all wrongful interference.

Trespass to chattel is actionable per se; the plaintiff does not need to prove damage or harm. In the case of Davies v Lagos City Council, the dependant council had granted the plaintiff a hackney carriage license to operate a taxi cab in the Lagos area. The plaintiff was well aware that the permit was for his exclusive use and was not transferable, but he nonetheless caused it to be transferred to a third party, who operated a taxi- cab on the strength of it. On leaning of this, certain officials of the council. The plaintiffs taxi and detained it at the L.C.C. pound. In action for trespass brought by the plaintiff. The court held, that the council was entitled to revoke the plaintiff permit for non-compliance with the regulations governing the use of hackney carriage licence. But it was not entitled to seize the vehicle or otherwise take possession of it. The council was therefore liable to trespass.

**Elements of Trespass to Chattel**

For an action for trespass to chattel to succeed, it has to be proven that the act was done:

1. Intentionally
2. Negligently.

**Examples of trespass to chattels are:**

* Taking the chattel away
* Throwing a person’s property away such as in annoyance
* Mere using without permission
* Throwing something at the chattel
* Driving another person’s car without permission
* Causing any form of damage to the chattel.

**Defenses to trespass to chattel**

* 1. Inevitable crime
  2. Jus tertii, the title or better right of the third party
  3. Subsisting lien
  4. Subsisting bailment
  5. Limitation of time, as a result of expiration of time specified for legal action
  6. Honest conversion or acting honestly

**Remedies for trespass to chattel**

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

**CONVERSION**

Conversion is an intentional seizure or exercise of control over a chattel which seriously internees with the plaintiffs possession or right to possession of such chattel. It is any interference, possession or disposition of the property of another person, as if it is one’s own without legal justification. it is the denial of another person title and possession of the chattel which is legally his. It can also be seen as an act of willful interference, without lawful justification, with any chattel in a manner inconsistent with the right of another, whereby that other is deprived of the use and possession of it. This is supported by the case of Hollins v Fowler where a cotton broker on behalf of his client bought cotton from a fraudster who had no title to the cotton. The broker then sold it to the client and received his commission. The court held that the broker was liable in conversion for selling the cotton.

**Element of conversion**

* It must be intentional Chem-Age Indus v Glover and Taylor v Forte Hotel Int’l
* It is not necessary for the plaintiff to be with the property at the time of the conversion.

**Examples of conversion**

* Conversion by taking
* Conversion by destruction
* Conversion by using
* Conversion by receiving
* Conversion by wrongful sale

**Defences to conversion**

* Honest conversion
* Jus tertii, the title of the third party
* Subsisting lien
* Subsisting bailment
* Temporary retention
* Limitation of time

**Remedies for conversion**

* Order for delivery, return of specific goods
* Alternative order for payment of current market value of Chattel
* Recovery of special and general damages, a plaintiff may recover special range for any. Specific loss proved.
* General damages, a plaintiff whose working equipment is converted by another person can sue for damage resulting from loss of profit from the period of conversion of working tools.

**DETINUE**

This 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. As seen in the case of Kosile v Folarin where the defendant motor dealer seized and detained the car that he sold to the plaintiff in credit terms, upon delay by the plaintiff to fully pay up. The plaintiff sued for detinue claiming damages. And the supreme court held that the seizure and detention of the vehicle by the defendant was wrong and the plaintiff was entitled to return of the vehicle or it’s value and for loss or the use of the vehicle until the date of judgment at rate of N20 per day. The court went further placed emphasis on the requirements for an action of detinue to work there must have been a demand by the plaintiff to the defendant to return the chattel, if the defendant persist in keeping the chattel then he is termed liable for detinue.

**Elements of detinue**

* Wrongful detention
* The immediate possession of which the person is entitled.

**Defences for detinue**

In order to succeed in a defense for detinue, the defendant must be able to prove that:

* + He has mere possession of goods
  + The plaintiff had insufficient title as compare to himself
  + The defendant may plead jus tertii, that the third party has a better title, provided that the defendant is an agent or has authority of a third party or is claiming under the third party.

**Remedies for detinue**

The remedies for a charge for detinue are inclusive of the following:

* Claim for return of specific chattel
* Claim for replacement of the chattel
* Claim for current market value of the chattel
* Recapture or self help recover goods
* Replevin: that is release on bond pending determination of ownership
* Damages.

**Concept of Innocent delivery or lost receipt:**

Innocent delivery differs from conversion. For instance, where an innocent holder of goods, such as, a carrier or warehouse man receives goods in good faith from a person who is believed to have lawful possession of them and he delivers them in accordance with the person’s instructions to a third party in good faith, there would be no conversion. This principle also applies to an innocent receipt of goods. The receiver however must not voluntarily damage or destroy the goods unless it constitute a nuisance.

**Rules regarding finding lost property:**

In the case of Parker v British Airways, the English Court of Appeal, stated as follows

* 1. A finder of a chattel acquires no rights over it, unless it has been abandoned or lost and he takes it into his 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.
  2. Any servant or agent finds a lost property in the course of his employment does so on behalf of his employer, who by law acquires the right of the finder.
  3. An occupier of a land or building has superior rights as to those of a finder, over property or goods in, or attached to the land, or building. Based on this rule, rings found in a mud of a pool as seen in the case of South Staffordshire Water Co. v Sharman. So also the case of Elwes v Briggs Gas Co where a pre-historic boat discovers six feet below surface. It was held as belonging to the land owner
  4. However the occupier does not have superior rights over that of a finder in regards to the goods found on or in the premises, except where before the finding, the occupier has expresseded an intention to exercise control over the premises and things on it. In the Parker V British Airways, the plaintiff found a bracelet on the floor while waiting in the defendant airways lounge at Heathrow Airport, London in England. He handed it over to the defendant employees, together with his name and address in case no one claimed it. It was not claimed by anybody and the defendant failed to return it to the finder and sold it. The English Court of Appeal held: the process of sale belonged to the plaintiff who found it.

**Person’s qualified to sue for trespass to chattel include**:

* Owners
* Finders
* Trustees
* Assignees
* Lenders
* Brailees
* Custodians
* Executors
* Adverse possessors, cause mere possession gives right to sue to retain possession
* Caretakers
* Administrators of estates.

**Difference between Conversion and Detinue**

* Conversion is the wrongful removal of the chattel from the rightful owner while detinue is basically the failure to return the property to the rightful owner.
* In detinue, the chattel is legally given to the defendant but he refuses to return it while in conversion the defendant obtains the chattel without permission hereby causing damage to the plaintiff.

**REFERENCE: Ese Malemi,produced by(PrincetonPublishing Co.) pg .209-219**

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