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**MATRIC NO: 18/LAW01/147**

**COLLEGE: LAW**

**COURSE: LAW OF TORT**

**1)(i) 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 possession of the chattel of another person. In other words, trespass to chattel is my direct interference with a personal property in possession of another person without lawful justification. The interference must be direct and wrongful. Also, mere touching of a chattel without any harm to it in an appropriate circumstances be actionable and entitled the plaintiff to get nominal damages. In Davie v Lagos City Council, The defendant city Council have the plaintiff a hackney permit t operate a taxi cab which he later gave to a third party so the defendant seized his taxi cab. In action of trespass to property the Lagos High Court held that the defendant should have revoked his permit for non – compliance to the regulations but were not to seize his taxi cab so they were liable for trespass of chattel by seizing the plaintiff’s can.**

**ii) Conversion is 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. Conversion is a dealing that denies a person of the title, possession, or use of his chattel. In Hollins v Fowler, A cotton broker on behalf of his client bought a 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 cot**

**iii) 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. In Kosile v Folarin, 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. The Supreme Court: held inter alia 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 judgement at rate of N20 per day. In this case the Supreme Court emphasized 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 his liable for Detinue.**

**2)i) Trespass to Chattel: It is the direct and unlawful interference with a chattel in the possession of another person. It is the intentional or negligent interference with the chattel of another person without any lawful justification. Tort of Trespass to Chattel protects all chattel goods, or personal properties of a person who has title or possession by prohibiting all interference without legal justification. It protect the chattels, goods and personal properties of the owner who has title or possession of immediate right to the chattel against damage , destruction, interference, detinue, conversion and whatsoever by any person without lawful justification.**

**Elements of Trespass to Chattel**

1. **Intentional**
2. **Negligent. This a the rules for an action of Trespass to Chattel as trespass to chattel is not a strict liability.**

**ii) Conversion: It 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 the dealing with one’s property as if it is your own. It is the dealing with another person chattel in a manner that is inconsistent with the rights of the person. Conversion is any intentional interference with another person’s chattel which unlawful deprives the person of title, possession or use of it. Conversion involves wrongful taking, detention and disposition of the property of another person. Therefore, it is the denial of the person who owns the chattel the title and possession of the chattel which he owns.**

**Elements of conversion**

1. **Intentional**
2. **Plaintiff need not be in possession of the chattel at the time of interference.**

**iii) Detinue: This is wrongful detention of the chattel of another person, denying him the immediate possession which the person is entitled. Detinue is a claim for the specific return, delivery or surrender of a chattel to the plaintiff who is entitled to it. It is the wrongful detention or retention of Chattel whereby the person entitled to it is denied possession or use of it. Just as in stated in the case of kosile v Folarin, Supreme Court held that requirement for an action of detinue is that the plaintiff must have requested or demanded for his property to be returned or delivered to him only then is the defendant liable for detinue.**

**Elements of detinue**

1. **Wrongful detention**
2. **The immediate possession of which the person is entitled.**
3. **Concept of Innocent delivery or lost receipt:**

**Innocent delivery is not conversion. Therefore, where an innocent holder of goods, such as, a carrier or warehouse man receives goods in good faith from a person he believes to have lawful possession of them , he delivers them on the person’s instructions to a third party in good faith, there would be no conversion. Similarly in that of Innocent receipt of goods is not conversion. However the receiver must not wilfully damage or destroy goods unless it constitute a nuisance.**

1. **Rules regarding finding lost property:**

 **In the case of Parker v British Airways, as 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 person’s 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 in the case of South Staffordshire Water Co. v Sharman and a pre-historic boat discovers six feet below surface were held as belonging to the land owner in the case of Elwes v Briggs Gas Co.**
	4. **However the occupier those not have superior rights over that of a finder in respect of goods found on or in the premises, except before the findin, the occupier has manifested an intention to exercise control over the premises and things on it. In the Parker V British Airways, where the plaintiff found a bracket 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.**

**Examples of conversion**

* + 1. **Taking**
		2. **Using**
		3. **Alteration**
		4. **Damaging or destroying it**
		5. **Wrongful sale**
		6. **Wrongful refusal to return the chattel.**

 **Person’s qualifies to sue for trespass to chattel are:**

1. **Owners**
2. **Brailees**
3. **Lenders**
4. **Assignees**
5. **Trustees**
6. **Finders**
7. **Custodians**
8. **Caretakers**
9. **Adverse possessors, cause mere possession gives right to sue to retain possession**
10. **Executors**
11. **Administrators of estates and so forth.**

**Defences 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**

 **Defences to conversion**

* 1. **Honest conversion**
	2. **Jus tertii, the title of the third party**
	3. **Subsisting lien**
	4. **Subsisting bailment**
	5. **Temporary retention**
	6. **Limitation of time**

 **Remedies for conversion**

1. **Order for delivery, return of specific goods**
2. **Alternative order for payment of current market value of Chattel**
3. **Recovery of special and general damages, a plaintiff may recover special range for any. Specific loss proved.**
4. **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.**

**Defences for detinue**

* 1. **He has mere possession of goods**
	2. **The plaintiff had insufficient title as compare to himself**
	3. **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**

1. **Claim for return of specific chattel**
2. **Claim for replacement of the chattel**
3. **Claim for current market value of the chattel**
4. **Recapture or self help recover goods**
5. **Replevin , that is release on bond pending determination of ownership**
6. **Damages.**

**Difference between Conversion and Derinue**

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. While conversion there must not be a claim or refusal of return**
2. **Detinue is the proper remedy where the plaintiff wants a return of specific good in questions, and not merely an assessed market value. However where specific return or replacement of the chattel won’t be possible, an award of the current market value of the chattel is usually made to the plaintiff.**

**Reference: Ese Malemi, produced by(Princeton Publishing Co.) pg .209**