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Matric number: 18/law01/202

Course: law of torts I

Introduction

This work is set to provide a detailed yet simple understanding of the tort of trespass to chattels, its components which are conversion and detinue, the concepts of innocent delivery or receipt, lost property rule, persons qualified to sue for trespass of chattel, its remedies and the various defences and then the differences between conversion and detinue.

Firstly, this work would give the definition of a chattel. What is a chattel? According to the Merriam-Webster dictionary, a chattel is an item of tangible movable or immovable property except real estate and things (such as buildings) connected with real property. That being said, what then does the tort of trespass to chattels mean? It is said to be when the defendant intentionally intermeddles with a chattel which belongs to the defendant and causes significant dispossession or deprivation of use or damage as to condition, quality or value of the chattel without legal justification. In simpler terms, a trespass to chattel is any wrong against a chattel, goods or personal property in the possession or control of another person. The tort of trespass to chattels is made up of three types of torts which are trespass to chattels per se, without a conversion or a detinue of the chattel in question, conversion and detinue.

Trespass to chattel protects the interests in personal property such as the right to retain ones chattel, protection of the physical condition of the chattel and protection of the chattel against unlawful interference or meddling.

In general, a person will be held liable for a trespass to chattels in any of the following situations:

1. The person dispossesses the other of the chattel.
2. The chattel is impaired as to its condition, quality, or value.
3. The possessor is deprived of the use of the chattel for a substantial time.
4. Bodily harm is caused to the possessor, or harm is caused to some person or thing in which the possessor has a legally protected interest.

Note that the trespass is unjustifiable interference with the possession of land as seen in the case of EZE v OBIEFUNA where the Supreme Court held that trespass to land consists of the slightest disturbance of the possession of land by a person who cannot show a better right of possession. Tort is committed against possession and not ownership and the injury must be direct and not consequential. The tort is actionable per se that is, without proof of actual damage. ERIVO v OBI the court held that the defendant was not liable as it was an inevitable accident and not done intentionally or negligently.

A typical example of trespass to chattel is let's say you're watching a movie with your uncle, Austin at his place. After the movie ends, you get up to go home. As you're leaving, you see a laptop sitting on a center table and pick it up, thinking it's yours. In fact, the laptop belongs to Austin. His laptop happens to be the exact same model as yours. Even if you genuinely thought the laptop was yours, you're still liable for a trespass to chattels because you intended to take the laptop. Mistake of ownership is not a defense to a trespass to chattels. However, in order to successfully sue you, Austin will have to show that you've done some harm to the laptop or to Bob by taking it. Without showing actual damages, Austin won't be able to recover any compensation. Most examples are always intentional or negligent as stated earlier and they include taking the chattel away, throwing another individuals property away in the fit of rage, destruction of another person’s goods, throwing something at the chattel, or even using another individuals personal belonging without their permission or authorization to mention a few and the list goes on and on.

What is the main difference between trespass to chattel, conversion and detinue?

The distinguishing factor between trespass to chattel is that the object remains in control of the owner or person with rightful possession which defers from conversion and detinue where the owner or person with rightful possession is deprived of possession. Lenders, finders, trustees, executors, caretakers, custodians,administrators etc are persons who may sue for trespass to chattel. Some defenses for the trespass to chattel that the defendant may plead include Jus tertii, subsisting lien, subsisting bailment, limitation of time inevitable accident and so on.

Remedies for the trespass of chattel are payment of damages, replacement of chattel, payment of market price of chattel and repair of the damage.

**The tort of conversion**

Trespass as a tort can be committed against property and goods. However, in contrast, the tort of conversion can only be applied to goods. Conversion involves a voluntary act, causing interference against another person’s goods. Furthermore, conversion can also be committed even when a person has no intention to commit the tort.

Conversion – unlike trespass does not require a direct link to be established for a person to commit the tort, as an indirect link is considered sufficient for a finding of a breach under certain circumstances. The final element of conversion is if the person who is committing the tort, purports to deal with the goods that belong to another party for their benefit which may involve the selling, giving away, or lending of goods in which the tortfeasor has no legal title over. Some examples of conversion include taking, using, alteration, consumption, receiving, detention, damaging etc. NORTH CENTRAL WAGON & FINANCE COMPANY Co. LTD v GRAHAM; the court held that the plaintiff finance company was entitled to terminate he hire purchase agreement and sue the selling hire purchaser in the tort of conversion for recovery of the car.

AADAMSON v JARVIS; an auctioneer was held entitled to be indemnified by a client who had instructed him to sell goods to which was later discovered had no title.

YOUL v HARBOTTLE; the defendant carrier of goods by mistake delivered the plaintiffs goods to a wrong person. He was held liable in conversion for the loss of the goods.

WHO MAY SUE FOR CONVERSION?

The Tort of Conversion, as other Trespass to Chattel, is mostly obstruction with ownership Those who may sued in the Tort of Conversion include:

1. Owners- An owner under lock and key, or who has the right to prompt belonging may sue someone else for Conversion.

2. Bailees- A bailee of schattel may sue someone else for Conversion of a Chattel or products Bailed with him. Notwithstanding, a Bailor freely has title to prompt ownership of a Chattel stored with a Bailee and can keep up activity against a Bailee for Conversion. In the Winkfield case, the Court of Appeal held, the Winkfield, ran into another ship , a mailship which sank. The Post -Master general though not the owner of the mails in the ship that sank was held entitled to suc the of the Winkfield, as a bailee in possession for the value of the mails that were lost in the sunk ship COLLINS MR in English Court of Appeal held: that the owners the Winkfield were liable and that " As between a bailee and a stranger , possession gives title” Different people who may have right to quick belonging and in this way, might have the option to sue someone else for Conversion of a Chattel incorporate:

3. Holders of and pledge

4. Finders

DEFENCES FOR CONVERSION OF A CHATTEL

In an activity for Conversion of a Chattel, the litigant may argue:

1. Just tertii, that is the title or better right of a third party

2. Subsisting bailment

3. Subsisting lien

4. 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 the title before the chattel is handed over to the plaintiff if he is found to be the owner, or has right to immediate possession.

5. Limitation of time.

WHO MAY PLEAD JUS TERTH? Jus tertii is the right of a third party. It is the title or better right of a third party to the chattel, goods, or property in dispute. As a general rule, a defendant cannot plead that a plaintiff is not entitled to possession as against him, because a third party is the true owner of the chattel. A defendant can only plead jus tertii that is the better right of the true owner or third party only when he is acting with the authority of the true owner.

THE REMEDIES FOR CONVERSION- In a case for the Conversion of a Chattel a few cures are accessible to a Plaintiff Court in its judgment may arrange any, or a mix of any of the accompanying reliefs: 1. Order for delivery, return or specific restitution of the goods; or 2. Alternative order for payment of the current market value of the chattel. 3. An order for payment of any consequential damages. However, allowance may be made for any improvement in the goods, such as, where a person honestly in good faith buys and improves a stolen car and is sued by the true owner, the damages be reduced to reflect the improvements. 4. Recovery of special and general damages. Special damage is recoverable by plaintiff for any specific loss proved. 5. General Damages: Furthermore, where for instance, a plaintiff whose working equipment or tools are converted by another person, a plaintiff may sue for the loss of profit, or existing contract or wages for the period of the conversion of the work tools or equipment.

**Innocent receipt or delivery is not conversion.**

Innocent delivery or receipts are not torts thus not conversion. Therefore, when an innocent holder of goods such as a carrier receives goods in good faith from a person he believes to have lawful possession of them and delivers them, on the persons instructions to a third party, there would be no conversion.

OWEMA BANK MIG. LTD v NIGERIAN SWEETS AND CONFECTIONERY CO.LTD; the court of appeal held that the defendants were liable for conversion of the import license papers.

UNIPETROL v PRIMA TANKERS LTD; the court of appeal held that the respondents were liable of conversion.

**The tort of detinue**

Similar to conversion, detinue is also a tort that can only be committed against a good, rather than property. When someone commits a tort of detinue, they are considered to be wrongfully withholding goods from a person that has an immediate right of possession. The other element of detinue is that the person committing the wrongful act is also denying the innocent party rightful possession of their property, and with full knowledge of the person’s rights to their goods. The final element of detinue is if the tortfeasor fails to deliver the goods as required by law. One can sue for detinue when the plaintiff must have title that is ownership or right to possession of the chattel or when the defendant who is in actual possession of the chattel fails to deliver the chattel.

KOSILE v FOLARIN; the supreme court emphasized the requirement that in an action for detinue, there must have been a demand by the plaintiff on the defendant to return the chattel and if the defendant persists, he is liable for detinue.

WAEC v KOROYE; the plaintiff successfully claimed detinue for his certificate and was awarded damages. See also STEYR v GADZAMA.

Defences for detinue are innocent delivery, subsisting bailment, inevitable accident etc. remedies are as follows;

1. Claim for return of specific chattel
2. Replacement of the chattel
3. Claim for market value of chattel
4. Self help
5. Damages.

**Lost property rule**

The rule of law applicable to finding lost property were authoritatively settled by the English Court of Appeal in the case of PARKER v BRITISH AIRWAYS; the plaintiff was waiting for the defendant airways lounge at heathrow airport when he found a bracelet on the floor. He handed it to the employees of the defendant, together with his name and address, and a request that it should be returned to him if it was unclaimed by anybody. The defendants failed to return it to the finder and sold it. The court held that the proceeds of the sale belonged to the plaintiff who found it.

Reference

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