A chattel is any property other than land and immovable property. It basically means any goods, articles and property that is not land neither is it an immovable property. It is basically a moveable thing that has the capacity of being owned or controlled by a person.

Trespass to chattel is any direct and unlawful interference with a chattel in the possession of another person[[1]](#footnote-1) meaning the merely touching the chattel without causing any damage entitles the plaintiff the right for nominal damages. This tort is designed to protect and to maintain an action for trespass the plaintiff must show that he had ownership of the chattel. In ERIVO V OBI, for the action for trespass to chattel to be actionable, one must prove that the action of the defendant must have been done either intentionally or negligently. Elements of trespass to chattel include;

* + Intent to trespass
  + Lack of owner's consent
  + Interference of chattels

Conversion is an interference, possession or disposition of the property of another person as if its one`s own without any legal justification.[[2]](#footnote-2) Conversion is the action of wrongfully dealing with goods in a manner inconsistent with the owner's rights.[[3]](#footnote-3) A conversion is an act of wilful 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[[4]](#footnote-4) it is basically the dealing of another`s property as your own unlawfully. Elements of conversion includes;

* + The plaintiff owns or has the right to possess the personal property in question at the time of the interference;
  + The defendant intentionally interfered with the plaintiff's personal property (sometimes also described as exercising "dominion and control" over it);
  + The interference deprived the plaintiff of possession or use of the personal property in question; and
  + The interference caused damages to the plaintiff.[[5]](#footnote-5)

Detinue is the wrongful detention or retention of a chattel whereby entitled to it is denied the possession of it.[[6]](#footnote-6) It can also be defined as the unlawful detention of a personal chattel from another.[[7]](#footnote-7) In other words, detinue is the act of withholding a chattel from its rightful owner. There are four elements required to establish detinue:

* + Make a Demand
  + Refuse a Demand
  + Unreasonable Refusal
  + Consequential Damage[[8]](#footnote-8)

Innocent delivery occurs when a holder of the goods who is authorized to be in possession if the goods at that moment such a delivery man receives goods in good faith from a party who he believes to own the goods legal and he delivers them. This is not conversion neither is innocent receipt of goods. UNIPETROL V PRIMA TANKERS LTD.; It is elementary law that in a claim for conversion, the claimant is entitled to the return of the article seize, missing or in the possession of the other party or reimbursement for its value.

Property is generally deemed to have been lost if it is found in a place where the true owner likely did not intend to set it down, and where it is not likely to be found by the true owner. At common law, the finder of a lost item could claim the right to possess the item against any person except the true owner or any previous possessors[[9]](#footnote-9)

The lost property rule was settled by the English Court Appeal in PARKER V BRITISH AIRWAYS. The rules are;

1. A finder has no right over the chattel except it was abandoned r lost and he takes it into his care and control.
2. The employer acquires the right of a finder if his employee finds the chattel during the course of his employment.
3. An occupier of land or a builder has superior rights to that of a finder. In SOUTH STAFFORDSHIRE WATER CO V SHARMAN; the rings found in a pool of mud belonged to the land owner. This also happens in the case of ELWES V BRIGGS GAS CO. Where a pre-hostriric boat discovered 6-feeet below the surface.
4. However the occupier of the and des not have superior rights to those of a finder in respect of goods found except in situations where te occupier has before the finder expressed an intention to exercise control over th premises an all things on it.

The rules established is often not easy to apply though.

Examples of conversion include,

1. Wrongful sale
2. Wrongful delivery of one`s property to another who doesn’t have title to possess the goods legally is conversion
3. Detention;

ARMORY V DELAMIRIE; a finder of a property has a good title and has the right to protect the goods against all persons except the owner. However, a temporary reasonable refusal by the finder of a property to hand it over to a claimant is nit actionable except where the refusal is adverse to the owner`s better title.

1. Damaging/ destroying the goods however, mere damaging of the goods is not enough to prove conversion as mere damage proves trespass to chattel.
2. Alteration of the goods in any way whatsoever
3. Taking the defendants goods without legal justification
4. Using the plaintiff’s goods as if its one`s own
5. Consumption of the goods or sing the goods.
6. Receiving the goods from a third party who is not the owner of the goods.
7. Wrongfully refusing to return a chattel
8. Wrongful sale and disposition of the goods not yours such as transfer of title. CHUKWUKA V C.F.A.O. MOTORS LTD.

People who has a chattel may sue any person who meddles with the chattel. Any person who also has legal possession of the goods such as caretakers and a personal representative of a deceased. Therefore, the list of people who can sue for trespass includes;

* Owners of the chattel
* Lenders
* Trustees
* Custodians
* Executors
* Administrators of estates
* Caretakers
* Finders
* Assignees
* Bailees
* Etc.

DEFENSES AND REMEDIES FOR TRESPASS TO CHATTEL

Defences for Trespass to Chattel

* Jus Tertii- a third party has a better title and the defendant has the autority of thethird party.
* Inevitable accident
* Subsisting lien
* Subsisting bailment
* Honest conversion
* Limitation of time

Remedies for Trespass to Chattel

* Repair of damages
* Payment of damages
* Payment of the market price of the chattel
* Replacement of the chattel

DEFENSES AND REMEDIES FOR CONVERSION

Defences for Conversion

* Jus tertii
* Subsisting bailment
* Subsisting lien
* Limitation of time
* Temporary retention

Remedies for Conversion

* General damages
* Recovery of special and general damage
* Order for payment of any consequential damages
* Order for delivery, return or specific restitution of the goods
* Alternative order for payment of the current market value of the chattel.

DEFENSES AND REMEDIES FOR DETINUE

Defence for Detinue

* Mere possession of the goods
* The plaintiff has insufficient title as regards to the defendant
* Jus tertii

Remedies for Detinue

* Claim for replacement of the chattel
* Claim for return of the chattel
* Recapture or self help too recover the goods
* Damages
* Claim for the current market value of the chattel.

DIFFERENCES BETWEEN CONVERSION AND DETINUE

There must be a demand for the return for the chattel in detinue as the refusal to submit the chattel is the main essence of detinue but in conversion, the defendants acts like the chattel of another is his.

All in all, trespass of chattel, conversion and detinue is under the tort of trespass of chattel and the tort of trespass of chattel is a protective law rather than preventive.

1. Ese Malemi. Law of Torts. [↑](#footnote-ref-1)
2. Ese Malemi Law of Torts [↑](#footnote-ref-2)
3. Definitions from Oxford Languages [↑](#footnote-ref-3)
4. SIR JOHN SALMOND`s Law of Torts [↑](#footnote-ref-4)
5. http://www.dmlp.org/legal-guide/elements-conversion [↑](#footnote-ref-5)
6. Ese Malemi. Law of Torts. [↑](#footnote-ref-6)
7. https://www.merriam-webster.com/dictionary/detinue [↑](#footnote-ref-7)
8. https://gibbswrightlawyers.com.au/publications/detinue [↑](#footnote-ref-8)
9. https://Lost,\_mislaid,\_and\_abandoned\_property [↑](#footnote-ref-9)