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INTRODUCTION

 Like many other areas of law of torts, trespass to chattel is a fault based compensation system specifically aimed at protecting owners of chattel from undue interference with their chattels. The reason for the existence of this area of law of torts is to provide some of form of remedy to chattel owners when their chattels are interfered with. This area of law of torts aims at protecting the interest of the plaintiff in retaining possession of the chattel, physical condition of the chattel, as well as protection against intermeddling. Trespass to chattel is actionable per se meaning proof of damage isn’t necessary mere using the goods in an unauthorised manner could entail trespass to chattel. Several actions could amount to trespass to chattel such as destroying, using, moving, even touching goods in an unauthorised manner as long as there is wrongful interference with the goods in question.

 Trespass to chattel can be defined as any interference whatsoever no matter how little or minute with chattel in possession of the plaintiff. As long as the interfering action is unauthorised, one can be held accountable. As seen in the Nigerian case of **davies v lagos city council.** Trespass to chattel does not have to be intentional meaning that a negligent act which interferes with the chattel of the plaintiff could also amount to trespass to chattel. This area of law of torts comprises of trespass to chattel, detinue, and conversion. The writer intends to discuss each of these sub divisions of trespass to chattel below.

 Trespass to chattel as discussed above refers to any form of interference in a wrongful or unauthorised manner with the chattel of the plaintiff. This comprises of both intentional and negligent actions and, it is actionable per se. This particular aspect of law simply aims at protecting people in possession of chattels by providing remedies when their interests are interfered with. The elements of trespass to chattel are:

I) Lack of plaintiff’s consent to the trespass.

II) Interference with the plaintiff’s chattel

III) Intention to interfere with the plaintiff’s chattel.

Trespass to chattel remedies are:

I) Actual damages. In a trespass to chattel action, the injured party can only claim actual damages. That is, damages commensurate or equal to the loss he has suffered as a result of the defendant’s actions.

 Conversion in relation to law of torts, specifically trespass to chattel, refers to the intentional exercise of control over the plaintiff’s chattel and interfering with the chattel in the process. Much like trespass to chattel, conversion protects possession not ownership however for an action in conversion to succeed, the action must be intentional. Meaning, that mistakes or accidents would not suffice because, exercising control over another person’s chattel is an intentional act. As seen in the case of **bushel v miller**. Conversion could take different forms some of which include: conversion by using, conversion by taking, conversion by destruction, conversion by wrongful transfer of title, etc. The elements of conversion are:

I) Conversion or right to the goods by the plaintiff.

II) Intentional interference with the plaintiff’s property by the defendant.

III) The defendant’s actions have to deprive the plaintiff of use of the goods.

IV) The plaintiff has suffered damages as a result of the interference.

Remedies for conversion:

I) Damages. In an action for conversion, the injured party can claim damages for the loss he has suffered.

 Detinue covers situations where the plaintiff actually has the right to possession of the goods in question but, the defendant who is in actual possession, refuses or fails to deliver them even after the defendant has requested for the goods. In plain sight, detinue isn’t very different from conversion however, taking a closer look at these two concepts reveals the differences between them. The elements of detinue are:

I) Demand by plaintiff for his goods to be returned.

II) Refusal by the defendant to return the goods unjustly.

III) Damage to the goods as a result.

Iv) Intention by the defendant not to return the plaintiff’s goods.

Remedies for detinue are:

I) Delivery of Goods. An order for delivery up of goods is available to the plaintiff.

II) Compensatory Damages. Compensatory Damages may be awarded if there has been a loss.

DIFFERENCES BETWEEN DETINUE AND CONVERSION BY DETENTION.

Differences between these two include the following:

i) Detinue covers situations whereby the plaintiff actually has the right to possession of the goods in question but fails or refuses to deliver them even after the plaintiff has requested for them while, conversion by detention simply refers to a situation where the defendant is in possession of the defendant’s chattel without due authority and refuses to surrender the goods even after the plaintiff has requested for them.

ii) Refusal to surrender goods on demand by the plaintiff is the essence of detinue while this only entails one of the several forms of conversion.

iii) In conversion, damages are not generally assessed on the value of the goods at the date of conversion, whereas, in detinue, they are assessed on the value of the goods at the date of the trial. Thus in situations whereby the value of the goods has increased between the date of the refusal and the trial then, the plaintiff should sue in detinue however, where there has been a decrease in value within this period, he should sue in conversion.

iv) In conversion by detention, the defendant can’t be held liable where prior to their demand by the plaintiff, the goods have been lost or destroyed either by accident or by the negligence of the defendant but, the defendant would be held liable in detinue in such circumstances unless he is able to prove that goods were not destroyed as a result of his negligence.

V) Generally, liability in detinue is stricter than in conversion by detention.

 PERSONS WHO CAN SUE IN TRESPASS TO CHATTEL

 In trespass to chattel, possession not property is protected so, it is very important to enumerate the classes of people who can sue in trespass to chattel.

I) Owners. The owner of a particular chattel who is also in possession of the chattel has the freedom to do with these goods as he likes so, in a situation whereby his ownership is being wrongfully interfered with by a third party then, he would have the right to sue in trespass to chattel.

II) Bailees. A bailee of goods who has rightful possession over the goods in question can sue any person who interferes with his possession. In situations where the bailment is at will, the bailor may also sue since he is deemed to have an immediate possession over the goods.

III) Holders of liens. The holder of a lien has a right to immediate possession of goods which are subject to the lien so, it is within his capacity to bring an action against aby person who interferes with this right.

IV) Finders. An individual who finds a chattel, acquires that particular chattel and is deemed to have immediate possession over the chattel and as a result that person would have the right to bring an action against any third party who interferes with this possession except where the true owner or, the owner of the land where the chattel was found have a better title to the chattel.

DEFENCES.

I) Private Necessity: This defense can be used when the purpose of using another person’s chattel is to protect your own interests. Private necessity can only be claimed if you were attempting to protect yourself from death or serious bodily harm. As such, this defense is not as commonly used.

II) Public Necessity: This defense can be used if you intentionally interferes with another person’s chattel to protect the public. However, if you acted unreasonably when taking another person’s chattel, this defense will not be available to you. An example of when this defense would be available is if you took another person’s gun in order to prevent someone else from shooting up an entire building.

III) Consent: This is the most common defense to trespass. If the owner of the property gave you permission to use their personal property, you can claim consent. Keep in mind that consent can be given through both words and actions. However, this defense will not work if the consent was induced by fraud or was given by someone who is incompetent, intoxicated or a minor.

REFERNCES

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