**Definition of chattel**

A chattel is any property other than land and immovable property. A chattel is any movable property. Examples of chattel or goods include books, cars, furniture, animal, aircraft and anything that is moveable and capable of being owned.

**Brief explanation on tort of trespass to chattel**

The tort of trespass to chattels protects all the chattel, goods or personal properties of a person who has title, or possession by prohibiting all interference without legal justification. The tort of trespass to chattel protects the rights of ownership or possession of a chattel from wrongful interferences.

Trespass to chattel is actionable per se. Explaining the law that trespass to person is actionable per se *Adefarasin J* in *Davies v lagos City Council held that:*

* *The plaintiff is entitled to succeed… in trespass…there may be a trespass without the infection of any material damage by a mere taking or asportation. In my view, the seizure of the plaintiff's vehicle without just cause… is a wrongful act, on account of which all the defendants taking part in it are jointly and severally liable.*

Although, trespass to chattel is actionable per se, however it is not a strict liability tort.

In Nigeria, the tort of trespass to chattel is made up of three types of torts:

* Trespass to chattel per se, without a conversion or continue of the chattel in question
* Conversion
* Dentinue

Trespass to chattel is any direct and unlawful interference with a chattel in the possession of another person.In other words trespass to shuttle is any direct interference with a personal property in the possession of another person without lawful justification. The interference must be direct and wrongful.

Trespass to chattel is designed to protect the following interest in personal property.

* Right of retaining ones chattel.
* Protection of the physical condition of the chattel.
* Protection of the chattel against unlawful interference or meddling.

He tort of trespass to chattels is designed to protect possession, that is the right of immediate possession of chattel, as distinct from ownership. It protects the right of the person to the control, possession, retention or custody of chattel against interference by another person without lawful justification. To maintain an action for trespass the plaintiff must show that he had possession at the time of the trespass or is entitled to immediate possession of the chattel. Thus, a borrower, or a bailee of goods, possesses the goods lent, hired or bailed and therefore we maintain an action against any person who wrongfully interferes with the . Similarly, a person was wrongfully acquired possession may also maintain action against all persons except the owner or agent of the owner of the chattel.

In this torts, injury or wrong is done to chattel while it is in the possession of the person claiming damages for the injury. The chattel is usually not taken from his possession as we have as we have in conversion or detinue.

*In Erivo v Obi,* The defendant respondents close the door of the plaintiff appellant's car, and the side windscreen got broken. The appellant sued inter alia for damage to the windscreen and the loss incurred in hiring another car to attend his business. The defendants respondents Alternatively pleaded inevitable accidents.On appeal, the Court of Appeal held that defendant respondent was not liable. He did not use excessive force but only normal force in closing the door the car. He did not break the windscreen intentionally, nor negligently. It was an inevitable accidents which the exercise of reasonable care and the normal force used by the respondents could not avert.

Trespass to chattels may be committed in many different ways. However, The trespass must be intentional or negligence. Trespass may be committed by mere removal or any damage, and it can be committed when there is no intention to deprive the owner, possessor or custodian permanently of the chattel. Examples of trespass to chattel include;

* Taking a chattel away.
* Another person’s property away, such as in annoyance.
* Mere moving of the goods from one place to another, that is, mere asportation.
* Scratching, or making marks on the body of the chattel, or writing with finger in the dust on the body of a motor vehicle

**Innocent delivery or receipt**

Generally, innocent delivery, or innocent receipt are not tort, not criminal offences. Therefore, where an innocent holder of goods, such as a carrier, a warehouseman, receives goods in good faith from a person he believes to have lawful possession of them and he deliver’s them, on the persons instructions to their party in good faith, there would be no conversion. Similarly, innocent receipts of goods is not conversion. However the receiver must not willfully damage or destroy the goods unless the goods constitute a nuisance. *In Uniport v Prima Tankers Ltd.* The defendant oil tanker owners had a contract to carry Uniport's cargo of fuel from Port Harcourt. The captain of the vessel allegedly went elsewhere with the cargo of fuel. The plaintiff-appellant Uniport sued for conversion and loss of the cargo. The court of Appeal held: that the respondents respondents were liable in conversion. The word loss is wide enough to include a claim for conversion against a carrier. It is elementary law that in a claim for conversion, the claimant is entitled to the return of the article seized, missing or, in the possession of the other party, or reimbursement for it’s value.

**The rule regarding finding lost property**

The rules of law applicable to finding a lot property were authoritatively settled by the English court of Appeal in the case of *Parker v British Airways.* However, the rules are not often easy to apply. The rules applicable to finding lost property may be summarised as follows

A finder of the chattel acquires no rights over it, unless it has been abandoned, or lost, and he takes it into 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.

Any servant, or agent who finds a lost property in the course of his enployment, does so on behalf of his employer, who by law acquires the rights of the a finder.

An occupier of land, or a building has superior rights to those of a finder, over property or goods in, or attached to the land, or building. Based on this rule, rings found in the mud of a pool in the case of *South Staffordshire Water Co v Sharman,* and a pre-historic boat discovered six feed below the surface were held as belonging to the land owner in the case of *Elwes v Brighs Gas Co.*

However, an occupier of premises does not have superior rights to those of a finder in respect of goods found on or in the premises, except before the finding, the occupier has manifested an intention to exercise control over the premises, and things on it.

In *Parker v British Airways.* The plaintiff was waiting in the defendants airways lounge at Heathrow Airport, London, England 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. It was not claimed by anybody and the defendants failed to return it to the finder and sold it. The English Court of Appeal held; that the proceeds of sale belonged to the plaintiff who found it.

As a general rule, anybody who has a finder's right over a lost property, has an obligation in law to take reasonable steps to trace the true owner of the lost property, before he may lawfully exercise the rights of an owner over the property he found.

**The persons who may sue for trespass to chattel**

Anyone who has possession or caretakership of a chattel may sue any other person who needles with the chattel. This is so for the object of tort of trespass is to protect possession, or the right to immediate possession. In other words, anyone who has possession or right to immediate possession can sue. Accordingly, some persons who do not have legal right are deemed by law to have possession, so that they will be able to protect chattels left under their care, for instance an employee to whom an employer has given custody of goods, a repairer, caretaker, personal representatives of a deceased and so forth. Therefore, the persons who may sue for trespass to chattel, provided they have possession at the material time of the interference include:

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

**Defences for trespass to chattel**

* In an action for trespass to chattel, the defences a defendant may plead include:
* Inevitable accident
* Just tertii, that is, the title, or better right of a third party, provided he has the authority of such third party.
* Subsisting lien
* Subsisting bailment
* Limitation of time, as result of the expiration of time specified for legal action.
* Honest conversion, or acting honestly

**Remedies for trespass to chattel**

The remedies available to a person for whose chattel has been meddled with are:

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

**Differences between trespass to chattel, conversion and detinue**

In tort of trespass to goods, there is no taking away, straling, conversion, detention or detinue of the goods from the owner;/or person entitled to possession.

However, in the tort of trespass to chattel there must be some act of interference, meddling, harm, injury, damage or destruction of the goods, against the desire of the owner, possessor, custodian or caretaker.

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.

Retinue is the proper remedy where the plaintiff wants a return of the specific goods in question, and not merely an assessed market value. However, where specific return of the chattel or a replacement will not be possible, an award of the current market value of the chattel is usually made to the plaintiff. .