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What is trespass to chattels?

Any moveable property is a chattel. Trespass to chattels is a tort whereby the infringing party was intentionally interfered with another person’s lawful possession of the chattel. Chattel can be seen as any property other than land and immoveable items. examples include cars,furnitures,boats and other moveable things. trespass to person is said to be actionable per say,the proof of direct and unlawful application of force is enough,,there is no need to prove for damages. The tort of trespass to chattel protects properties and all personal properties as long as they have the right to ownership of that property

In ERIVO v. OBI(1993)- The defendant respondent closed the door of the appellants car and the side windscreen got broken. The appellant sued inter alia for damages to his car and the cost he incurred in hiring another car for his business. Inevitable accident was a defense for the defendant.he did not break the windscreen intentionally or negligently. In this case, the court of appeal held that the defendant respondent was not liabe. For trespass to chattel to be actionable,it must have been done by a wrongdoer. The two main elements of trespass as stated above are:

1. Intentionally
2. Negligently – see the case of NCB(National coal Board) v J E evans&co. an electrical cable was placed under the land of the county council by the NCB or its predecessors without the council’s knowledge as far has it had been established. The council contacted the JE evans & CO to excavate a trench on the land. Evans had no knowledge or indication there was a cable . when excavating the land, the cable was struck and damaged. NCB brought a cause of action for trespass. The issues where, whether Evans could be found to have acted negligently when excavating even without the knowledge of the cable. And whether Evan’s failure to give immediate notice to the NCB that the cable had been struck, amounted to negligence .The court held that no liability in tresoass could be found since the act was involuntary and accidental . the act of Evans was neither neglectful and was utterly without fault . the liability of negligence lay with NCB or their predecessors for failing to notify the council when they placed the cable on their land without the knowledge or consent from the council. The case of WEAVER V WARD(1616) HOB.134 was applied in that, where a defendant is entirely with fault, it is a good defense to trespass. The damage was therefore indirectly cause by the predecessors.

Anyone who is the legitimate owner of that property can sue for trespass . persons that may sue for trespass include:

1. Executors
2. Caretakers
3. Lenders
4. Assignes
5. Owners
6. Bailees
7. Tenant e.t.c

In order to prove trespass to chattel, you must be able to show the following:

1. Intent to trespass
2. Lack of owners consent
3. Interference of chattels – disposing chattel of another person, using or inter meddling in the possession of another, damaging the chattel

NOTE: mistake of ownership is not a valid defense to a trespass of chattel. It doesn’t matter if the person didn’t know that the property belonged to another person. For example: Michael goes to visit Jacob . after visiting, Michael takes Jacob’s jacket by mistake thinking its his jacket because they look alike. In this situation, Michael is still liable for trespass to chattel . but Jacob cannot successfully sue unless he is able to show that Michael has done some damages to the jacket or that he incurred some damages due to the loss of the slippers. Without showing actual damages, Jacob wont be able to recover any compensation.

 Also note that in trespass to chattels claim , you can o4jjn aa nly recover actual damages (as opposed to nominal damages). Actual damages are measured by the diminished value of the chattel that resulted from the defendant’s action.

DEFENSE FOR TRESPASS TO CHATTEL

1. Jus tertii (latin, “third party rights”) is the legal classification for an argument made by a third party (as opposed to the legal title holder). When a tenant or bailee or the other person in possession of property pleads that the title is in some other persons hand , a JUS TERTII is set up.
2. Acting honestly
3. Subsisting lien:this is a form of security granted over a property to secure the payment of debt. this is in force
4. Inevitable accident :inevitable accident which is also known as unavoidable accident says that a person cannot be held liable for an accident which was not forseeable despite all care and caution taken from his side .law states that a high degree of precaution is not required, reasonable care is sufficient. For example; Michael was driving a car with all the reasonable care from his part. Suddenly due to heavy rain and storm the road collapsed and michael’s car hit many pedestrian. Here also the driver would not be liable. It was completely out of his hand. For the defendant to use the defense of inevitable accident, it is necessary to prove the following:

1) there was no intention on the part of the defendant

1. And, the collision would not have been avoided with reasonable care .

See the case of HIDASI V. HIDASI – the defendant was travelling along a mountain road, he knew how slippery the roas was but he still took precautions . despite all his precautions, the car lost balance . the car hit the near barrier and injured the plaintiff(his wife). The plaintiff sued the husband stating that he was not driving with precaution. The defendant defense was that it was an inevitable accident and the court accepted the pleading .

1. Subsisting bailment: this is a legal relationship where the owner of the property transfers physical possession of that property to the bailee for a time, but retains ownership.
2. Limitation of time

REMEDIES FOR TRESPASS TO CHATTELS

1. Repai of damages: the damaged chattel will be repaired by the person that caused the damages
2. Replacement of the chattel: the person who damaged the chattel will replace it with another one
3. Payment of damages; when the a court awards damages to someone, it means that that money should be paid to the plaintiff by the person who has damaged the reputation or property of the plaintiff.
4. Replacement of the chattel:it means that the person who damage the chattel will replace it.

CONVERSION

Conversion is an intentional tort consisting of taking with the intent of exercising over the chattel an ownership inconsistent with the real owner’s right of possession. According to SIR JOHN SALMOND in his book , **a conversion is a 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 the civil wrong while larceny is the criminal act. Conversion is a tort that allows the injured party to seek relief.

See the case of LEWIS V AVERAY

ELEMENTS OF CONVERSION

1. That the plaintiff owns or has the right to posess the personal property in question at the time of the interference
2. That the defendant intentionally interfered with the plaintiff’s personal property
3. That the interference deprived the plaintiff of possession or use of this property.
4. That the interference caused damages to the plaintiff.

NOTE: the most direct and obvious way to commit conversion is by taking personal property that belongs to that person without permission.for example, if you take a framed photograph from the wall of a local restaurant or a document from someone’s table, you may be held liable for conversion.

However, if you remove paperwork or any moveable items from someone’s office or home temporarilty in order to copy the information with the intention to return the document tom its woner, you might not be liable for conversion because this temporary interference does not necessarily the owner of the possession or use of the property.

DEFENSES FOR CONVERSION OF CHATTEL

1. Temporary retention: a defendant may choose to not give up goods while steps are taken to verify the tittle of the plaintiff who is claiming tittlee before the chattel is handed over to him.
2. Limitation of time
3. Subsisting lien
4. Jus tertii
5. Subsisting bailment.

Others include: Authority of law,Statutes of limitationAbandonment of property by plaintiff: the involuntary relinquishment of ownership,Consent or approval of the plaintiff,Lack of value of property,Unlawful and illegal act,Nonexistence or lack of identity of property,Waiver, ratification and estoppels e.t,c

REMEDIES FOR CONVERSION

The remedy for conversion is usually in the form of damages equal to the fair market value of the chattel at the tikme of the conversion. The converter can offer to return possession of the chattel to the complaint, but the complainant is not obligated to accept. The remedies include:

1. Alternative order for payment of the current market value of the chattel
2. Order for delivery, return or specific restitution of the goods
3. Recovery of special and general damages
4. An order for payment of any consequential damages.
5. General damages; in the situation wherenthe plaintiff whose working equipment is convered by another person , the plaintiff may sue for loss of profit or any other damages incurred during that period.

INNOCENT RECEIPT

This is not conversion,neither is it tort or criminal offense. Where a innocent holder of goods such as the carrier or arehouse man receives goods in good faith from a person he believes to have lawful possession of them and he delivers them bassed on the person to a third party in good faith, there would be no conversion, case of OWENA BANK NIG LTD V NIGERIAN SWEETS CONFECTIONARY CO LTD(1993) 4 NWLR PT.290,P,698 CA,the first respondent was granted an import license by the federal ministry of trade import granulated sugar. The second respondent opened a letter of credit and imported the suagr. The first respondent sued for damages for the wrongful conversion of the import license. The court of appeal held that the defendants were liable for the conversion of the import license papers. Therefore, an action in conversion will lie in conversion for any corporeal personal property, including papers and title deeds.

LOST PROPERTY RULE

Lost property is the property that was unintentionally left by the owner. E.g a wallet that falls out of a person’s pocket.under common law, the person who find the property can keep it until and unless the original owner comes forward.some jurisdictions, have laws that modifies lost of property under common law. This statutes typically requires that lost property should be turned over to government official and if the property is not claimed within a period of time, it goes to the finder and the rights of the original owner of that property is terminated.

The rules applicable to finding lost properties are as follow:

1. A finder of a chattel acquires no right over it, unless it has been abandoned or lost and he takes it into his care and control.
2. Any servant or agent who find a lost property in the course of his employment , does on behalf of his employer, who by law acquiresthe rights of the finder.
3. An occupier of a land or building has superior rights to those of a finder over property or goods in or attached to the land or building. Based on the rules, rings found in the mud of a pool in the case of SOUTH STAFFORDSHIRE WATER CO. V SHARMAN (1896) 2 QB 44 and a pre-historic boat discovered six feet below the 118 surface were held as belonging to the land owner in the case of ELWES V BRIGGS GAS (1886)33 CH D 562
4. 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 finding the occupier has manifested an intention to exercise control over the premises and things on it.

DENTINUE

 In tort law, detinue is an action to recover for the wrongful taking of personal property. It is initiated by an individual who claims to have a greater night to their immediate possession than the current possessor. For an action in detinue to succeed, a claimant must first prove that he had better right to possession of the chattel than the defendant and second that the defendant refused to return the chattel once demanded by the claimant.

 Detinue allows for a remedy of damages for the value of the chattel , but unlike most other interference torts, detinue also allows for the recovery of the specific chattel being withheld. An example of detinue is where Bayo lends Tunde his phone charger for 24hours and tuned refuses to retuen it after 24hours as per agreement.

ELEMENTS OF DETINUE

There are four elements required to establish detinue

1. Make a demand : the plaintiff has to make a demand for the chattel to be returned and be entitled to the chattel at the time of the demand .
2. Refuse a demand
3. Unreasonable refusal : the refusal to return the chattel must be reasonabel
4. Consequential damage

 In KOSILE V FOLARIN(1989) 3 NWLR PT.107, P. 1 SC, the defendant motor dealer seized and detained the motor vehichle he had sold to the plaintiff on credit terms ,upon delay by the plaintiff to fuly pay up. The plaintiff buyer sued for detinue claiming damages . the supreme court held that inter alia the seizure and detention of the vehicle by the defendant was wrong. The plaintiff was entitled to the return of the vehicle or its value and for the loss of the use of the vehicle until the date of the judgement at N20 per day.

DEFENSES OF DETINUE

A defendant may plead that :

1. jus tertii
2. That the plaintiff has insufficient title as compared to him
3. Innocent delivery
4. Inevitable accident
5. Subsisting bailment
6. Reasonable defense of property or person
7. Temporary retention of the chattel to enable steps to be taken to check the title of the plaintiff
8. He has possession of the goods

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