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A chattel is any property other than land and immovable property; it is any movable property

The Trespass to chattel is made up of three types of torts. These are;

1. Trespass to chattel per se
2. Conversion
3. Detinue

 **TRESPASS TO CHATTEL**

Trespass to chattel is the intentional or negligent interference with the possession of the chattel of another person. It is the direct interference with a personal property in the possession of another without lawful justification. Trespass to chattel is designed to protect; the right of retaining one’s chattel, the physical condition of the chattel, the chattel against unlawful interference. To maintain an action for trespass, the plaintiff must show that he had possession at the time of the trespass and is entitled to immediate possession of the chattel. In this tort injury or wrong is done to the chattel while it is in possession of the person claiming damages for the injury. The chattel is usually not taken from his possession as we have in conversion or detinue. The persons who may sue for trespass to chattel is anyone who has possession or caretaker ship of a chattel like; owners, bailees, lenders, assignees, Trustees, finders, Custodians, caretakers e.t.c. Examples of trespass to chattel are;

1. Taking a chattel away
2. Throwing another person’s property away
3. Killing another person’s animal. See: *Cresswell .v. Sirl*
4. Scratching or making marks on the body of the chattel e.t.c

**The Elements of Trespass to chattel** that a plaintiff must prove to succeed must be that the act of trespass was

1. Intentional, or
2. Negligent.

See the case of ***ERIVO.***v. ***OBI;***

The defendant respondent closed the door of the plaintiff appellant’s car and the side windscreen got broken. The appellant sued *interalia* for damage to the wind screen and the loss he incurred in hiring another car to attend to his business. the defendant respondent alternatively pleaded inevitable accident. on Appeal, the court of appeal held that the defendant respondent was not liable. He did not use excessive force but only normal force in closing the door of the car. He did not break the windscreen intentionally nor negligently. it was inevitable accident which the exercise of reasonable care and normal force used by the respondent could not avert.

***G.W.K.***v. ***DUNLOP RUBBER CO***

Removing a tire from a car and replacing it with another tire was held to be trespass

***SLATER .V. SWANN***

Beating the plaintiff’s animal was held as trespass to chattel.

 THE DEFENCES FOR TRESPASS TO CHATTEL

1. Inevitable accident. *Erivo.v. Obi*
2. Jus tertii that is, the tittle or better right of a third party, provided that he has the authority of such third party
3. Subsisting lien
4. Subsisting bailment
5. Honest conversion or acting honestly

 REMEDIES

1. Payment of damages
2. Replacement of chattel
3. Payment of the market price of the chattel
4. Repair of the damage

 **CONVERSION**

 Conversion is any interference, possession, or disposition of the property of another person, as if it is ones own without legal justification. Conversion is any dealing which denies a person of a title, possession or use of his chattel. It is dealing with a chattel which belongs to another person in a manner that is inconsistent with the rights of the person. It includes wrongful taking, wrongful detention and or wrongful disposition of the property of another person. examples of conversion include;

1. Taking: where a defendant takes a plaintiff’s chattel out of the plaintiff’s possession without lawful justification with the intent of exercising dominion over the goods permanently or even temporarily, there is conversion. On the other hand, a defendant may not be liable; if he merely moves the goods without denying the plaintiff of title.
2. Using: Using a plaintiff’s chattels as if it is ones own, such as, by wearing the plaintiff’s jewelry, as in *Petre.v. Heneage,* or using the plaintiff’s bottle to store wine as was the case in *Penfolds wine ltd .v. Elliot* is conversion
3. Alteration; By changing its form howsoever
4. Consumption: By eating or using it up
5. Destruction: By damaging or obliterating it. However mere damage of a chattel is not sufficient to make one liable for conversion. As a general rule of law , mere damage or destruction of a chattel without more, is a trespass to chattel in tort and malicious damages
6. Receiving; involuntary receipt of goods is not conversion. However , the receiver must not willingly damage or destroy the goods unless the goods unless the goods unless the goods constitute a nuisance. Receiving a chattel from a third who is not the owner is conversion. This is wrongful, for it is an act of assisting the other person in the conversion of the chattel, or receiving the stolen goods.
7. By detention; see the case of **Armory.v. Delamire** ; A chimney sweep’s boy found a jewel and gave it to a jeweler for valuation. The jeweler knowing the circumstances, took the jewel, detained and refused to return it to the boy. The boy then sued the jeweler for conversion and for an order to return the jewelry to him. The court held: that the jeweler was liable for conversion. A finder of a property has a good title, and he has a right or interest, to keep it against all persons, except the rightful owner of the property or his agent.
8. Wrongful delivery
9. Purchase

SEE THE CASE OF **CHUKWUKA .V. C.F.A.O motors Ltd :** The plaintiff sent his car to the defendant motor company for repairs. Thereafter, he failed to claim the car. Nine months later the defendants sold the car to a third party who reregistered it in his own name. the plaintiff sued for conversion. The defendant was held liable.

The persons who may sue for conversion are; owners, bailees ( **see the case of the winkfield**), finders, holders of lien and pledge e.t.c

DEFENCES FOR CONVERSION OF CHATTEL

1. Jus tertii
2. Subsisting lien
3. Subsisting bailment
4. Temporary retention
5. Limitation of time

REMEDIES FOR COVERSION

1. Order for delivery, return or specific restitution of the goods
2. Alternative order for payment of the current market value of the chattel
3. Recovery of special and general damages

 **DETINUE**

The tort of detinue is the wrongful detention of the chattel of another person, the immediate possession of which the person entitled. Detinue is a claim for the specific return, delivery, or surrender of a chattel to the plaintiff who is entitled to it. To successfully sue in detention, a plaintiff must have possession before the detention, or have right to immediate possession of the chattel.

An example of detinue is;

A lends his chairs and tables to B for a one-day party, and B neglects, refuses to return the furniture at the end of the day as agreed or after the expiration of a reasonable period of time.

**A plaintiff can only maintain action for the tort of detinue after satisfying two conditions which are;**

1. The plaintiff must have title that is ownership or right to immediate possession of the chattel
2. The defendant who is in actual possession of the chattel must have failed, and or effused to deliver the chattel to the plaintiff after the plaintiff has made a proper demand for the return of the chattel, without lawful excuse.

***Kosile .v. Folarin***

The defendant motor dealer seized and detained the motor vehicle he had sold to the plaintiff on credit terms, upon delay by the plaintiff to fully pay up. The plaintiff buyer sued for detinue claiming damages. The supreme court held; inter alia that 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 loss of the use of the vehicle until the date of judgement at the rate of N20 per day.

***West Africa examinations council.v. Koroye***

The plaintiff sat for an examination conducted by the defendant council. The defendant neglected or and refused to release his certificate. The plaintiff successfully claimed in detinue for his certificate. The plaintiff successfully claimed in detinue for his certificate and was awarded damages in lieu of the release of the certificate by the supreme court

***Steyr Nig.Ltd .v. Gadzama***

At the end of their services, the plaintiff appellant company sued the defendant respondents who were former employees of the appellant for detaining official cars and household items which were in their use as top management staff of the company. the court of appeal held; that the respondents were to pay reasonable prices for the items in lieu of returning the chattels.

 **DEFENCES FOR DETINUE**

In an action for detinue, a defendant may plead that;

1. He has mere possession of the goods
2. That the plaintiff has insufficient title as compared to himself
3. The defendant may *jus tertii*
4. Innocent delivery
5. Subsisting bailment
6. Subsisting lien
7. Inevitable accident
8. Reasonable defence of a person or property

 **REMEDIES FOR DETINUE**

1. Claim for return of the specific chattel
2. Claim for replacement of the chattel
3. Claim for the current market value of the chattel
4. Recapture or self-help to recover goods
5. Damages

 **DIFFERENCES BETWEEN CONVESION AND TRESPASS**

Conversion is different from trespass to chattels in two main respects. These are

1. In conversion, the conduct of the defendant must deprive the owners of the possession of the chattel or amount to a denial or dispute of the tittle of the owner. Conversion is known as stealing o theft in criminal law. Therefore, mere touching or moving of a chattel and so forth only amount to trespass.  **See the case of** *Fouldes .v. Willoughby*
2. To maintain an action in conversion, the plaintiff need not be in actual possession of the chattel at the time of interference. It is enough if the plaintiff has right to immediate possession of the chattel that is the right to demand for immediate possession if the chattel

 **Concept of Innocent delivery or lost receipt:**

 Innocent delivery differs from conversion. For instance, where an innocent holder of goods, such as, a carrier or warehouse man receives goods in good faith from a person who is believed to have lawful possession of them and he delivers them in accordance with the person’s instructions to a third party in good faith, there would be no conversion. This principle also applies to an innocent receipt of goods. The receiver however must not voluntarily damage or destroy the goods unless it constitute a nuisance.

**REFERENCE:**

**Ese Malemi,produced by(PrincetonPublishing Co.)**