NAME: AGU CHRISTABEL ONYEDIKACHI

MATRIC NUMBER: 17/sms08/002

LEVEL: 300 LEVEL

COURSE: LAW OF TORTS

LECTURER: MISS OMOMEN

DATE OF SUBMISSION: 27th January, 2021.

1. **The tort of chattel is made up of trespass to chattel, conversion and Detinue. Discuss:**

There are three forms of trespass to chattel ( trespass to chattel, conversion and detinue). A chattel is anything movable and capable of being owned, like books, animal, cars, vessel and so on. While you can be sued under tort law under trespass to land, you can also be liable for what is referred to as trespass to chattel. This is defined as the intentional and wrongful interference with another’s personal property. It is also seen as an intentional or negligent interference with the possession of the chattel of another person, without lawful justification.For example, you are asked to hold onto an antique lamp for another person. They will need the lamp back and it is clear that you are not the owner of the lamp. But out of frustration for the owner of the lamp, you smash it and completely destroy the lamp. This would raise an action in trespass to Chattel. However trespass to chattel is actionable per-se, meaning that it is not necessarily based on the damage the defendant has don to the chattel of another person, but the main fact that the defendant interfered with the chattel belonging or in possession of another person without his permission or any legal justification.This is seen in the case of **Davies v Lagos City**, where the court held in favour of the plaintiff that the plaintiff still had title to the chattel at that time.

 Conversion at the other hand , is seen as any interference , possession of the property of another person, as if it is one’s own without legal justification. Conversion must be done intentionally. Intentionally and willfully denying a person of the title and possession of his personal property. Thus an owner can sue for conversion, as long as you have possession of that goods. This is seen in the case of **City Motor Properties ltd v Southern Aerial Service**, where the court held that An owner of a chattel was liable for dispossessing the plaintiff bailee of the chattel, during the subsistence of the bailment. The tort of conversion recovers chattels that have been stolen.

 Detinue is a claim for a specific return of a chattel wrongfully retained, or for payment of its current market value and any consequential damages. Anybody who wrongfully takes, detains, or retains a chattel and after a proper demand for it, refuses or fails to return it to the claimant without lawful excuse may be sued in detinue to recover it or its value.This is explained in the case of **Steyr Nig. Ltd v Gadzama**.

 These three forms of trespass to chattel discussed above are essential as they aim at or help to protect personal properties or chattels from damage and against unlawful interference or meddling. They also aid owners or people in possession of a chattel to recover their goods or private property.

2. **The definition and explanation of each tort ( Trespass to Chattel, conversion and Detinue):**

-Trespass to Chattel; before defining Trespass to Chattel, it is essential to know what a Chattel is. A **Chattel** is anything other than land and immovable which is capable of being owned . For example; clothes, cars, books, animal and so on. Trespass to chattel is defined as a direct and unlawful interference with personal property or chattel in possession of another person. The tort of trespass to chattel aims at protecting goods, chattels and personal properties which have titles or possession against interference without legal justification. The tort of trespass to chattel also protects chattels or personal properties from damage, demolition, conversion and other interference without legal justification.

-Conversion; Conversion is an act of 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. Conversion is when you take another person’s property and convert it for your personal use. In other words, it is when you take another person’s property, knowing that it does not belong to you, and take it with intend to keep it and make it yours. In conversion, there is no destruction of the property, but instead the property is purposefully held in their possession with the intent to own it.It is good to note that not just owners of personal properties can sue, but also a person who has mere custody, temporary possession can sue if a third party who tries to detain or convert the chattel.Tort of conversion helps in recovering chattels which have been stolen, used or deprived of the possessor.

-Detinue: Detinue is defined as a wrongful detention of the chattel of another person, the immediate possession of which the person entitled. It is basically a crime of wrong detention of goods or personal possessions. The tort of detinue is a claim for the specific return, delivery or surrender of a chattel to the plaintiff who is entitled to it. Where a defendant fails to return or surrender the detained chattel to the possessor,there can be a claim of detinue by the plaintiff. This is seen in the case of **Kosile v Folarin**.

**3. Elements of Trespass to Chattel, conversion and Detinue**

**Trespass to Chattel**

-That the plaintiff owns or has the right to possess personal property

- The tortfeasor intentionally interfered with the plaintiff’s personal property

-That the tortfeasor negligently interfered with the plaintiff’s property or goods or chattel.

-it is not aa strict liability tort

-It is actionable per se; accident to property do not automatically give rise to liability .

**Conversion**

-The plaintiff must own or possess the personal property

- The owner is deprived of the use and possession of his personal property or Chattel.

-It is an act of willful interference. This means it is an intentional act.

-The act or interference must have denied a person of his title , use or possession of the chattel

-When the property in question is subsequently converted

**Detinue:**

-A demand must be made for return of the detained chattel.

-The defendant must have refused the demand

-Unreasonable Refusal of demand

-Consequential Damage done to the chattel being detained.

4. **The concept of Innocent Delivery and Lost Property Rule**

 The concept of innocent delivery or innocent receipt occurs where an innocent holder of goods( could be a warehouseman or a carrier) receives goods in good faith from a person he believes or trusts to have lawful possession of them, delivers it to the third party , on the person’s instructions. Innocent delivery are not torts, neither can they be considered to be a conversion. However, the receiver must not willfully damage the goods unless it constitutes nuisance .

 The rules regarding lost property was settled in the case of  **Parker v British Airways**, where the court held that the lost property ( the bracelet) belonged to the plaintiff who found it. The rule states that;

- A finder of a chattel acquires no right over it , unless it has been abandoned or lost and he takes it into his own control and care. This means he has the right to keep that property from everyone but the true owner.

- In a case of any servant who finds a lost property in the course of his employment, does so on behalf of his employer, who by law acquires the right of a finder.

-An occupier of land or a building has superior rights to those of a finder over any property or goods attached to the land or building. This is seen in the case of **South Staffordshire water co. V Sharman**, where rings found in the mud of a pool was held belonging to the land owner.

- An occupier of a premises does not have superior right of a finder in goods or chattels found on those premises, except the occupier has intentions of exercising control over that premises before the lost property was found.

5. **Examples of Conversion include**; Taking another person’s property, Alteration of the chattel, using chattel in possession of another without permission, consumption of the chattel, and much more.

6. **Examples of people qualified to sue for trespass to Chattel**

Different people can be qualified to sue for trespass, as long as they have possession at the material time of the interference. Examples of such people include; owners, Bailees(transferred possession from the owner), custodians, Administrators of estates, finders,Lenders and so on.

7. Remedy and defense to trespass to: chattel, conversion and detinue include;

**Remedies of Trespass to chattel include;**

- payment of damages. The defendant pays for the damage of the chattel. It is seen in the case of **Leame v Bray**, where the plaintiff was awarded damages for the damage of his coach.

-Replacement of the Chattel by the defendant

-Repair of the damage caused by the defendant. This means that the tortfeasor qill be liable for the actual damage of the actual damage.

-payment of the market price of the Chattel.

**Defense of trespass to Chattel include;**

-A defendant may plead inevitable accident.Here the tortfeasor does not intentionally nor negligently interfere or cause damage to the Chattel. This is seen in the case of **Erivo v Obi**  Where the defendant closed the door of the plaintiff’s car and the side windscreen broke. The defendant pleaded inevitable accident and the court ruled in the plaintiff’s favour.

-Jus tretii can also be a defense. Whereby the defendant is permitted by the third party to interfere with the Chattel rtell.This is seen in the case of **Davies v Lagos City Council,** where the plaintiff transferred permit to a third party.

-**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.

**Remedy for Conversion**

The following are remedies available to a plaintiff for conversion of chattel;

- Payment of any consequencial damages. However, allowance may be made for any improvement in the goods.

-Recovery of special and general damages. The plaintiff here is to recover special damages for specific loss proved.

-Also, the remedy for conversion is usually in the form of damages equal to the fair market value of the chattel at the time of conversion

- An order for delivery, return or specific restitution of the goods is also seen as a remedy for conversion of a chattel.

**Defences for conversion**

-Abandonment of the property before it was taken by the defendant is a complete defense.

-*Delay in bringing action*. This is seen as a defence, when Statutes of limitations are defined by legislative jurisdiction. Some cases are based on "reasonable knowledge". Paintings purchased from a third person became the subject of an action in conversion, even though the incident had occurred 30 years prior. The action accrued based on when the plaintiff reasonably knew or should have known the identity of the possessor of the converted paintings.This defense is related to the doctrine of ‘laches’.

- *Privilege*. Finders of lost property may be entitled to use or ownership if the real owner cannot be identified.

-Jus tertii; the title of a third party. This means when a third party has possessory rights by showing the legal title in another person.

**Remedies for Detinue**

A person who is denied possession or use of his chattel has different remedies. They include;

- Claim for the recovery of the chattel being withheld. Especially if the chattel in question has not been damaged.

- A defendant may be asked to replace the chattel by supplying an identical or similar chattel. It depends on the chattel in the case.

- Defendant is to pay damages for detention of the chattel, even when he made use of the goods for his personal purpose or not and payments of other damages affirmed by the court.

- Recapture or self help: A person who has been deprived of his personal property or chattel can resort to retake his goods from the person detaining it using only reasonable force and the he may not trespass the land of an innocent person without permission to retake the chattel. However Self help is frowned at by the court , as it can be seen as taking laws into your hands. This remedy is only done when it is safe and necessary.

**Defense for Detinue**

The following points can serve as defense in an action for detinue;

- That the plaintiff has insufficient right of possession.

- The defendant can claim no refusal if sufficient time was not given for the return or surrender of the goods.

- When the plaintiff has mere possession of the goods.

-Inevitable accident can also be a defense

8. **Differences between Conversion and Detinue**

The line between conversion and detinue is very thin, as the elements of detinue is similar to that of conversion but not the same. Although in the United kingdom, Conversion and Detinue are merged to be conversion by detinue or detention, Nigeria still treats Conversion and Detinue as a separate tort. Differences between Detinue and Conversion include;

- Detinue is the refusal to surrender or return a Chattel on demand . There must have been a demand. However in conversion , there is no demand but rather an order to return the chattel.

-Secondly, detinue is the proper remedy where the plaintiff wants a return of the specific goods in question, and not merely an assessed market value. In conversion, where specific return of the goods is not possible, an award of the current market value of the chattel is usually mad to the plaintiff

**References**.

- **Ese Malemi( Princeton publishing Co.2008)159 T ;** Definition of detinue, trespass to chattel, elements of detinue and conversion.

-**Gibbs wright litigation lawyers;Brisbane; Copyright 2021**; Defenses for detinue and conversion.

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