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  **DEFINITION OF TRESPASS TO CHATTEL**

 The word “chattel” means any article, goods, or personal property, other than land and immoveable property. Examples of chattel or goods are innumerable and anything which is moveable and capable of being owned. Therefore, a trespass refers to a wrongful use of another person's property without his or her permission. Trespass to chattel refers to the intentional and wrongful interference of another individual’s personal property without their permission.

The tort of trespass to chattel is designed to protect possession that is the right of immediate possession of a chattel, as distinct from ownership. A person who wants to sue in trespass to chattel can sue under trespass to goods, conversion and negligence that is involved in the commission of the trespass or conversion. These actions are stipulated in the provisions of the **Torts (Interference with Goods) Act 1977**. In the case of **Eriro v Obi**, the Court of Appeal restated the position of the law that, trespass to chattel is actionable per se, that is, without proof of actual damage. Any unauthorized touching or moving of a chattel is actionable at the suit of the possessor of a chattel, even though no harm has been done to the chattel. Therefore, for trespass to chattel to be actionable, it must have been done by the wrong doer; **intentionally** or **negligently**.

**Trespass to Chattel** in Nigeria in Nigeria, the tort of trespass to chattel is made up of three types of torts. They are:

i. Trespass to chattels per se, without a conversion or a detinue of the chattel in question;

ii. Conversion;

iii. Detinue.

**ELEMENTS OF TRESPASS TO CHATTEL**

The basic elements of a claim of trespass to chattels are:

1. The lack of the plaintiff's consent to the trespass (negligent)

2. Interference or intermeddling with possessory interest.

3. The intentionality of the defendant's actions (intentional): Proving intention or negligence is very important as trespass to chattel is not a strict liability tort.

Hence, accident, intentional, or negligent trespass do not automatically give rise to liability per se, as an appropriate defense can be pleaded to avoid liability.

**THE PERSONS WHO MAY SUE FOR TRESPASS TO CHATTEL**

Anyone who has possession or caretaker ship of a chattel may sue any other person who meddles with the chattel. Accordingly, some persons who do not have legal rights are deemed by law to have possession, so that they will be able to protect chattels left under their care. Thus 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, Administrators of estates etc.

**THE DEFENCES FOR TRESPASS TO CHATTEL**

In an action for trespass to chattel, the defences a defendant may plead include

1. Inevitable accident

2. Subsisting lien.

3. Honest conversion or acting honestly.

4. Subsisting bailment

5. Limitation of time, as a result of the expiration of time specified for legal action.

**REMEDIES TO TRESPASS TO CHATTEL**

Remedies available to a person whose chattel has been meddled with include;

1. Payment of damages;

2. Replacement of the chattel;

3. Payment of the price of the chattel;

4. Repair of the damage.

**DEFINITION OF CONVERSION**

Conversion is often defined as other interference of a person’s right to property without the owner’s consent and without lawful justification (**Stevenson v. Economy Bank of Ambridge**). A conversion occurs when a person without authority or permission intentionally takes the personal property of another or deprives another of possession of personal property. It is a tort which allows the injured party to seek legal relief. Conversation is the deprivation of another’s right to use or possess personal property. Essentially, conversion is any inconsistent dealing with a chattel to which another person is entitled to immediate possession whereby the person is denied the use possession or title to it. According to **Sir John Salmond**, he defined conversion as “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 of it.” In other words, conversion is any dealing which denies a person of the title, or use of his chattel. It is the assertion of a right that is inconsistent with the rights of the person who has possession or right to use the chattel.

**EXAMPLES OF CONVERSION**

There are different ways conversion of a chattel can be committed. They include;

1. Alteration: Changing the form of the chattel

2. Using: This involves using a plaintiff’s chattel as if it is one’s own, such as in the case of **Penfolds Wine v Elliot**.

3. Detention: This involves illegally holding a chattel from the rightful owner of a property (**Armory v Delamirie**)

4. Consumption: By eating or using up the chattel

5. Receiving: involuntary receipt of goods is not conversion. Receiving a chattel from a third party who is not the owner is a conversion.

6. By wrongful Disposition: such as by sale, transfer of title or other wrongful disposition.

7. Purchase: At common law, conversion is committed by a person who bought and took delivery of goods from a seller who has no title to the chattel nor right to sell them.

**ELEMENTS OF CONVERSION**

Conversion is a tort that exposes you to liability for damages in a civil lawsuit. It applies when someone intentionally interferes with personal property belonging to another person. To make out a conversion claim, a plaintiff must establish four elements:

1. First, that the plaintiff owns or has the right to possess the personal property in question at the time of the interference;

2. Second, that the defendant intentionally interfered with the plaintiff's personal property (sometimes also described as exercising "dominion and control" over it);

3. Third, that the interference deprived the plaintiff of possession or use of the personal property in question; and

4. Fourth, that the interference caused damages to the plaintiff.

**INNOCENT RECEIPT OR DELIVERY IS NOT CONVERSION**

 Generally, innocent delivery or innocent receipt are not torts, nor criminal offences, thus, innocent delivery is not conversion. Hence, where an innocent holder of goods, such as, a warehouseman or a carrier, receives goods in good faith from a person he believes to have lawful possession of them, and delivers them, on the person’s instruction to a third part in good faith, there would be no conversion. Contrary, in the case of **Unipetrol v Prima Tankers**, The Court of Appeal held that the respondents were liable in conversion. 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. Also, in case of **OA BANK NIG LTD V NIGERIAN SWEETS &CONFECTIONERY CO .LTD**, the 1st respondent was granted an import license by the federal ministry of trade to import granulated sugar. The 1st respondent sued for damages for the wrongful conversion of the import license.

On Appeal by the bank, the court of appeal held that the defendants were liable for conversion of the import license papers.

**THE RULES REGARDING FINDING LOST PROPERTY**

Property is generally deemed to have been lost if it is found in a place where the true owner likely did not intend to set it down, and where it is not likely to be found by the true owner. Lost property is typically defined as personal property that an owner unintentionally and involuntarily parts with. At common law, the finder of a lost item could claim the right to possess the item against any person except the true owner or any previous possessors. This rule applied to people who discovered lost property in public areas, as well as to people who discovered lost property on their property. Many exceptions may be applied at common law to the rule that the first finder of lost property has a superior claim of right over any other person except the previous owner. The rules of law applicable to finding a lost property were settled by the English Court of Appeal in the case of **Parker v British Airways**. The rule applicable to finding lost property includes the following;

 (1) Any servant or agent who finds a lost property in the course his employment, does so on behalf of his employer, who by law acquires the right of a finder.

(2) A finder of a chattel acquires no right over i, 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.

**REMEDIES TO CONVERSION**

The remedies available to a plaintiff in a claim for the conversion of the chattel include;

 1. Recovery of special and general damages.

2. Alternative order for payment of the current market value of the chattel.

3. Order for delivery, return or specific restitution of the goods.

4. An order for payment of any consequential damages.

**DEFENCES FOR CONVERSION**

The defendant may plead the following in an action for conversion of a chattel;

1. Limitation of time

2. Subsisting lien

3. Jus tertii (better right of a third party)

 **DEFINITION OF DETINUE**

Detinue is defined as the wrongful detention of goods, committed when one unreasonably refuses to surrender or return personal property to its rightful owner, only if and when the owner claims the immediate right to possession of these goods. Detinue is a claim for the specific return, delivery or surrender of a chattel to the plaintiff who is entitled to it. Anyone 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. The tort of detinue is the wrongful detention of the chattel of another person, the immediate possession of which the person entitled. As a general rule, to successfully sue in detinue, a plaintiff must have possession before the detention, or have right to immediate possession of the chattel.

**REMEDIES TO DETINUE**

The remedies to detinue include;

 1. Claim for the replacement of the chattel

2. Claim for return of the specific chattel

3. Compensatory damages

4. Abatement

**DEFENCES TO DETINUE**

There are several defences to detinue. These include;

1. That the plaintiff has insufficient title as compared to himself

2. The defendant may plead jus tertii

3. Enforcement of a court order or other legal process

4. Inevitable accident

5. Subsisting bailment

6. Innocent delivery

**THE DIFFERENCE BETWEEN CONVERSION AND DETINUE**

The Tort of conversion and detinue are very similar. However, some differences are to be noted which include the following;

1. Detinue 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 in o the plaintiff.

2. 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.

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