

**COVENANT UNIVERSITY  
NIGERIA**

*TUTORIAL KIT  
OMEGA SEMESTER*

**PROGRAMME: ESTATE  
MANAGEMENT**

**COURSE: ESM 225**

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# ESM 225: LAW OF TORT

## COURSE LECTURERS: MR. OLUJOBI, OLUSOLA

- (1) Who is your neighbour in the Atkinian sense of the word in the tort of negligence?
- (2) Mention 2 elements that must be established to succeed in a case of detinue.
- (3) Differentiate between slander and libel?
- (4) Explain the major principles in the tort of negligence?
- (5) What are the components of the tort of defamation?
- (6) State two of the defences available to a person sued for defamation?
- (7) Distinguish acts of conversion from trespass?
- (8) Describe is a misrepresentation? Briefly explain remedies available to the party affected?
- (9) What must be proved in order to establish a defendant's liability for the tort of negligence?
- (10) Explain the various remedies for trespass to land?
- (11) State and briefly discuss three established maxims of equity?
- (12) Discuss the view that the principles of law on trespass are still relevant to Nigeria's socio-economic context?
- (13) Briefly trace the history and evolution of the equitable jurisdiction in Nigeria?
- (14) To what extent is the Nigerian law of torts influenced by English precedents and statutes?
- (15) State and critically discuss any four (4) tort offences?
- (16) In what specific ways can the principles on the tort of passing off protect economic interest of persons in Nigeria?
- (17) Discuss the issue of overlap as it relates to the components or elements of any two tort offences?
- (18) State any four (4) defenses that can be utilized to avoid legal liability in tort cases?
- (19) Distinguish between trespass to land and Trespass to property in the Nigerian Context?

## ANSWERS

(1) Your neighbour in the Atkinian sense of the word in law of negligence is: persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called to question.

(2) To succeed in a case of detinue the complainant must:

The complaint must have title to the goods in question and the goods must be in actual possession of the defendant.

The complainant must take a demand for the goods and the Defendant must have failed or refused to deliver the goods without lawful excuse.

(3) Slander and libel are two forms of defamation of character. Where the defamation is in a permanent form e.g writing, photography etc. It is called libel. Where the defamation is in a transit form e.g verbal it is called slander. While libel is actionable per se i.e. requiring no proof of special damage. Slander requires proof of actual damage.

(4) This question tests the candidate's ability to explain the basic elements in negligence as a tort. Eg. Duty of care, breach of legal duty, damage to the plaintiff.

(5) Libel is a defamatory statement which is published in a permanent form e.g writing, print, photograph or carving.

Slander: It is a defamatory statement which is published in a transient form, by words or gestures.

(6) Student are expected to discussed the following concepts: Justification, fair comment, privilege information, consent, innocent publication

(7) Conversion there is a single wrongful act, while detinue is a continuing cause of action which accrues at the time of the wrongful refusal to return goods and continue until delivery or judgment. It is actionable per se (that is without proof of damage). It is only for interferences that are direct. An action in trespass will not succeed if the interference complained of is indirect.

In conversion interference must be intentional, whereas in trespass it may be intentional or negligent. In conversion, it is not necessary for the plaintiff to have had possession of the good at the time of interference; it is sufficient if he had an immediate right to possession.

(8) Misrepresentation is a false statement of fact, made by one party to the contract to the other before the contract with a view to inducing the other to enter into it upon which fact the affected party entered into contract.

## REMEDIES

**Damages:** A party to the contract can recover **damages** for loss arising from misrepresentation.

**Rescission:** this an equitable right that must be exercised reasonably promptly, wherein the party affected seeks for restoration of each party to their original position before the contract.

(9) Students are expected to explain the following: Duty of care, Breach of that Duty, Damages to plaintiff as a result of the breach of duty.

(10) **Action for damages:** He may sue for damages. The aim of awarding damages is to put the injured party, so far as money can do it in the same position as if the contract had been performed. Damages mean compensation monetary or otherwise.

**Injunction:** It is an equitable remedy. It restrains or prohibits a person from doing a particular act, omission or to undo an act or omission.

**Damages:** A party to the contract can recover damages for loss arising from misrepresentation.

**Rescission:** this an equitable right that must be exercised reasonably promptly, wherein the party affected seeks for restoration of each party to their original position before the contract.