

Liability for Intentional Intrusions on Land

One is subject to liability to another for trespass, irrespective of whether he thereby causes harm to any legally protected interest of the other, if he intentionally

- (a). Enters land in the possession of the other, or causes a thing or a third person to do so,
- (b). Remains on the land, or
- (c). Fails to remove from the land a thing that he is under a duty to remove.

Restatement Torts 2d § 158

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Ways of Committing Trespass to Chattel

(1). A trespass to chattel may be committed by intentionally:

- (a). dispossessing another of the chattel; or
- (b). using or intermeddling with the possession of the chattel in the possession of another.

(2). One is liable for Trespass to Chattels if:

- (a). he dispossesses the other of the chattel; or,

(b). the chattel is impaired as to its condition, quality or value; or,

(c). the possessor is deprived of the use of the chattel for a substantial period of time.

Restatement Torts, Second §§ 217, 218.

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TORTS TO PROPERTY

A. Trespass To Land

1. One who directly enters or causes an entry upon the land of another is liable if the entry is intentional. This includes entry above and below the surface.

2. Intent is required. This may be any of the intents that we have already seen, including transferred intent and substantial certainty intent.

3. Damage: at least nominal damages are recoverable even when there is no actual harm. The extended liability rule makes defendants liable for even unexpected harms. In other words, one is responsible for the consequences of one's actions.
4. Trespass is an interference with possessory interests and possessors may sue as well as fee owners. But non-possessors who merely have the right to use the land, may not sue for trespass.
5. So, if entry is substantially certain to occur, the requisite intent is shown.
6. An accidental entry is not trespass unless there is a subsequent refusal to leave.

B. Conversion of Chattels - Trover

1. Intent to exercise dominion is required.
2. Modes of converting an object: anything that shows dominion such as taking, using substantially, altering, destroying, selling, or buying will suffice.
3. What may be converted: tangible personal property.
4. Serial conversions: there may be several converters of P's goods, one buying from another. Each is liable.
5. Bona Fide Purchasers: A bona fide purchaser from a thief does not get good title; he is a converter. However, if A by fraud gets good title from P, A's transfer of the goods to B who is a bona fide purchaser for value will transfer good title to B. B is not a converter although A is.
6. The UCC: special rules for those who entrust goods to a merchant who deals in such goods. The entruster takes the risk that the merchant will sell the good as his own. A bona fide purchaser from such a merchant takes good title and is not a converter.
7. Remedies: damages for the value of the goods at the time of the conversion is the normal rule, varied somewhat with property having fluctuating value. Replevin (which is a cause of action used to actually recover the chattel) is also available.

C. Trespass to Chattels

A trespass to chattels may occur when the defendant's conduct falls short of a conversion. However, there can be a recovery for this tort only if there is either dispossession or actual damage. Damages recovered are not the value of the chattel, but for the actual damage or dispossession only.