

**THE REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

**Claim No: CV 2021-00594**

**BETWEEN**

**DIDIER MORA**

**CLAIMANT**

**AND**

**THE CHAIRMAN, ALDERMEN, COUNCILLORS AND ELECTORS  
OF THE REGION OF TUNAPUNA/PIARCO**

**DEFENDANT**

**Before the Honourable Madame Justice Margaret Y Mohammed**

**Date of Delivery 19 September 2025**

**APPEARANCES**

**Mr Anthony Manwah Attorney at law for the Claimant**

**Mr Farai Hove Masaisai instructed by Mr. Akinola Goodridge and Mpule Williams of  
Messrs Hove and Associates Attorneys at law for the Defendant**

**JUDGMENT**

1. The Claimant was a market vendor selling dry goods and vegetables at the Tunapuna Public Market (“the Tunapuna Market”) on 6 July 2019 when the Defendant, through its servants and/or agents, wrongfully seized and carried away the Claimant’s dry goods and vegetables (“the goods”). The Tunapuna Market is under the Defendant’s

supervision and control. The Claimant contended that the seizure of the goods by the Defendant was unlawful and that the Defendant failed to return the goods to him and disposed of them. In the instant action the Claimant is seeking the following orders: the sum of \$69,339.00 as loss of earnings; damages for trespass, damages for detinue and /or conversion; interest, costs and such further or other relief.

2. The Defendant opposed the orders sought by the Claimant. The Defendant's case was that random Inspections were carried out at the Tunapuna Market by the Public Health Officers of the Defendant and the Municipal Police to ensure that vendors were adhering to the Bye-laws ("the Bye-laws") of the Tunapuna Market. On 6 July 2019, agents of the Defendants conducted a site inspection at the Tunapuna Market in order to ensure that the vendors were in compliance with the Bye-laws of the Tunapuna Market.
3. The Defendant contended that on the day of the inspection the Claimant was selling the goods in the meat section of the Tunapuna Market which could cause a health hazard. The Claimant was informed by the Market Clerk that selling agricultural produce in the meat section was a breach of the Bye-laws which governed the Tunapuna Market. The Market Clerk asked the Claimant to relocate to another stall in the Tunapuna Market where dry goods and vegetables were allowed to be sold and which was not in the meat section. However, the Claimant was adamant in his refusal and/or unwillingness to relocate, notwithstanding that other vendors and labourers offered to assist in the relocation. The Defendant contended that the Claimant was in wilful breach of the Bye-laws which governed the Tunapuna Market. The Defendant's agents seized the goods pursuant to the Bye-laws, and the goods were relocated to the Defendant's Head Office. The Claimant was informed of the location where the goods would be stored for collection at his convenience. However, the Claimant failed to collect the goods which decomposed. Approximately two (2) weeks thereafter as the Claimant failed to make any effort to retrieve the goods the Defendant disposed of the decomposed goods.

4. The issues which arose for determination from the pleadings are:
  - (a) Whether the Defendant is liable to the Claimant for damages for the goods which were seized.
  - (b) If so, whether the Claimant has proven his loss.
5. At the trial the Claimant gave evidence to support his case. He also called Raphael Reece (“Mr Reece”) and Lindy Doyle (“Ms Doyle”) as his witnesses. The Defendant relied on the evidence of Leanna Grant (“Ms Grant”), Quincy Legerton (“Mr Legerton”), Bevon Belgrade (“Mr Belgrade”) and Lisa John (“Ms John”).

#### **Detinue and Conversion**

6. In **Lynette Aurora Reid v Wayne Leslie Reid**<sup>1</sup>, Mohammed J set out the elements which a claimant has to prove to succeed with a claim in detinue as:

“[40] Thus, the elements of detinue which would have to be proved are that –

- (i) the claimant is the rightful owner of the good(s) in question;
- (ii) as a result of the claimant’s absolute or special ownership of the good(s), the claimant had a right to immediate possession;
- (iii) the goods are in the possession of the defendant and the claimant made a proper and formal demand for the goods to be delivered up; and
- (iv) subsequent to the formal demand by the claimant, the defendant failed or refused to deliver up possession of the goods.”

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<sup>1</sup> CV2012-01193

7. Harris J in **Ricardo Huggins v the Attorney General of Trinidad and Tobago**<sup>2</sup> referring to **Garnett Simmons and Anor v Clinton Mohan et al**<sup>3</sup> stated at paragraph 18 that to constitute Conversion, there must be a positive wrongful dealing with the goods in a manner inconsistent with the owner's rights and an intention in so doing to deny the owner's rights or to assert a right inconsistent with them. The gist of the action is inconsistency. There need not be any intention to challenge the true owner's rights. A demand and refusal is sufficient evidence of conversion.
  
8. In **Gerard Mootoo v The Attorney General**<sup>4</sup>, Stollmeyer J (as he then was) described the distinction between the elements of Detinue and Conversion as follows:

“**Conversion** is a purely personal action for pecuniary damages resulting in judgment for a single sum, generally measured by the value of the chattel at the date of judgment together with any consequential damage flowing from the conversion which is not too remote. Where conversion cannot be directly proved, it may be inferred from proof of a demand for the item and the refusal to hand it over. **Detinue** is more in the nature of an action in rem because the Plaintiff seeks the return of the item or payment of its value assessed at the date of judgment, together with damages for its detention. This effectively gives a defendant a choice of whether to return or pay for the item. It is immaterial whether a defendant obtained the item by lawful means because the injurious act is the wrongful detention, not the original taking or obtaining of possession. Detinue is usually evidenced by a failure to deliver an item when demanded. Damages for Detinue are intended to compensate a plaintiff for his loss, not to punish a defendant...”<sup>5</sup>

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<sup>2</sup> CV2016-00380

<sup>3</sup> CV2016-03803

<sup>4</sup> HCA 431 of 1997

<sup>5</sup> Pages 59-60 at paragraphs 201

9. In order for the Claimant to succeed with his claim in detinue the onus was on him to prove on a balance of probabilities that (a) he was the rightful owner of the goods which were seized by the Defendant; (b) due to the Claimant's ownership of the goods he had a right to immediate possession; (c) the goods were in the possession of the Defendant and the Claimant made a proper and formal demand for the goods to be delivered up; and (d) subsequent to the Claimant's formal demand the Defendant failed or refused to deliver up possession of the goods to the Claimant.
10. It was not in dispute from the pleadings that the goods were owned by the Claimant. In those circumstances the Claimant had a right to possession of the goods. It was also not in dispute from the pleadings that after the Defendant seized the goods it remained in its possession.
11. The areas of dispute surround the third and fourth elements of the tort of detinue. The evidence in the witness statements from the parties on whether a formal request was made by the Claimant for the Defendant to deliver the goods to him was conflicting .In order to determine which version is more probable from assessing the evidence, I am guided by the learning in **Horace Reid v Dowling Charles and Percival Bain**<sup>6</sup> cited by Rajnauth–Lee J (as she then was) in **McLaren v Daniel Dickey**<sup>7</sup>, which stated that determining the version of events which is more probable, the Court was obliged to check the impression of the evidence of the witnesses against the: (1) contemporaneous documents; (2) pleaded case; and (3) inherent probability or improbability of the rival contentions.
12. I am also guided by the learning in the Court of Appeal judgment of **The Attorney General of Trinidad and Tobago v Anino Garcia**<sup>8</sup> that any deviation by a party from his pleaded case immediately calls his credibility into question and that credibility is

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<sup>6</sup> (1989) UKPC 24

<sup>7</sup> CV2006-01661

<sup>8</sup> Civ Appeal 86 of 2011

wider than mere demeanour, which is mostly concerned with whether the witness appears to be telling the truth. Further where a party without explanation fails to call as a witness a person whom he might reasonably be expected to call, if that person's evidence would be favourable to him, then, it is open to the Court to draw an adverse inference from the failure to call them or to account for their not being called<sup>9</sup>.

13. The Claimant did not plead that he made any demand, formal or otherwise, for the Defendant to deliver the goods to him after they were seized. However, the Claimant stated in his witness statement that he and his brother, who was a former employee of the Defendant visited the Defendant during the course of the week after the seizure to inquire about information about the goods but no one seemed to have information. In my opinion this evidence from the Claimant is lacking in credibility for several reasons. First this was new information which was not pleaded in the Statement of Case. Second, it was also not stated in the Claimant's Pre-Action Protocol Letter dated 31 July 2019 that the Claimant made enquiries that the Defendant return the goods to the Claimant. Third, the Claimant failed to set out any details such as the date of the said visit and the names of the persons at the Defendant's office he and his brother spoke to and fourth, the Claimant did not bring his brother as a witness to corroborate his evidence. Indeed the credibility of the Claimant's evidence in his witness statement was destroyed in cross examination as he testified in cross examination that he was not informed where the goods were being stored but he admitted that he did not make any demand for the return of the goods.
14. On the other hand the evidence from the Defendant's witnesses showed that the Claimant was informed the location where the goods were stored and he made no formal demand for their return. Ms John was a Public Health Officer at the material time. Her evidence was that when the goods were seized she informed the Claimant

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<sup>9</sup> Oilfield and Marine Sales and Services Limited v Education Facilities Company Limited CV2013-04786 at paragraphs 20 and 21 (Boodoosingh J., as he then was)

that the goods which were seized were stored at the electrical room of the Defendant's Head Office at Centenary Street, Tunapuna. She also stated that the Claimant made no effort to collect the goods which were eventually disposed of as they decomposed.

15. Ms John's evidence was corroborated by the evidence of Ms Grant, the Market Clerk whose evidence was that she was present when Ms John informed the Claimant that the goods would be stored for collection at his convenience at the electrical room of the Defendant's Head Office at Centenary Street, Tunapuna.
16. However, both Mr Legerton and Mr Belgrave who were employees of the Defendant and who were present during the seizure of the goods gave evidence that Ms Grant was the one who informed the Claimant that the goods would be stored for collection at his convenience at the electrical room of the Defendant's Head Office at Centenary Street, Tunapuna.
17. In my opinion, although the evidence of Mr Legerton and Mr Belgrave conflicted with that of Ms John and Ms Grant, I am of the view that it was more probable that Ms John informed the Claimant that the goods would have been stored for collection at his convenience at the electrical room of the Defendant's Head Office at Centenary Street, Tunapuna as she was in charge of the exercise which led to the seizure of the goods. In those circumstances, it was more probable that the Claimant was aware of the location where the Defendant had stored the goods yet based on his own admission he failed to make any formal demand to the Defendant for their return. In the absence of any evidence by the Claimant of any formal demand for the Defendant to return the goods, the Claimant failed to prove a material element of his claim in detinue and for this reason this aspect of his claim must fail.
18. I now turn to the claim for Conversion. It was not in dispute that the goods which were seized by the Defendant were perishable. The Defendant's case which was supported by the evidence of Ms Grant and Ms John was that the Claimant made no

effort to collect the goods from the Defendant's Head Office and that they were eventually disposed of as they decomposed.

19. In my opinion the Defendant is not liable to the Claimant for damages for conversion as, there was no formal request by the Claimant for the Defendant to return the goods. Further, there was no evidence that the Defendant misused or wrongfully destroyed the goods as the undisputed evidence was that the goods decomposed which meant that they were of no use after that time. Therefore the Defendant's actions of disposing of the goods after they decomposed in my opinion cannot be a wrongful disposal of the goods as the Defendant acted reasonably in disposing of the goods. For those reasons I am of the view that the Claimant has failed to prove his claim for conversion.

### **Trespass**

20. The relief the Claimant pleaded was not trespass to goods but only trespass. At the closing addresses Counsel for the Claimant argued that the relief sought for trespass was trespass for goods in light of the facts pleaded by the Claimant.

21. **Halsbury's Law of England**<sup>10</sup> described trespass to goods as follows:

"Trespass to goods is an unlawful disturbance of the possession of goods by seizure or removal or by a direct act causing damage to the goods.

The subject matter of trespass to goods must be a personal chattel which is the subject of lawful possession.

Defences available in an action for trespass to goods include claim of right, jus tertii, and that the act complained of was done by the leave and licences of the claimant or in the exercise of a lawful legal right."

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<sup>10</sup> Halsbury's Laws of England/TORT (VOLUME 97 (2010) 5TH EDITION)/3. TORTS TO SPECIFIC INTERESTS/(4) WRONGFUL INTERFERENCE WITH GOODS/602. Trespass to goods

22. Counsel for the Claimant argued that the seizure of the goods was unlawful as the Claimant was in lawful occupation of 2 stall spaces at the Tunapuna Market and the Defendant failed to prove that the Claimant had breached any of the Bye Laws for the Tunapuna Market by selling agricultural produce in the meat section.
23. Counsel for the Defendant submitted that the seizure of the goods was lawful as the Claimant was in breach of sections 10(1) and (g) and 12 of the Bye-Laws of the Tunapuna Market.
24. Section 196 of the Municipal Corporations Act<sup>11</sup> gives the Defendant the power to make bye-laws, inter alia, for restricting the sale or display of certain classes or kinds of marketable commodities to designated areas in any public market or prohibiting the introduction of such marketable commodities to any such market. Section 196 (j) and (h) gives the Defendant the power to make bye-laws generally for the good governance of public markets and to prescribe measures to be taken by vendors of marketable commodities in any such market to protect such commodities from contamination by flies and dust or otherwise.
25. Section 10 (1) (f) and (g) of the Bye-laws of the Tunapuna Market states as follows:-

“A person who-

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- (f) except with the permission of the Market Administrator or his assistant uses a stall in the market which he is not fully licensed or authorized to use;
- (g) sells, offers or exposes for sale or deposits for sale any article whatever in the market other than at or upon a stall which at the

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<sup>11</sup> Chapter 25:04

time of such sale, offer or exposure for sale or of such deposition is allotted to him by the Market Administrator;...

is guilty of an offence”.

26. Section 12(1) of the Bye-Laws of the Tunapuna Market provides:

“12(1) All persons selling in the market shall obey the reasonable orders of the Market Administrator or other officer of the market.

(2) Any person who while in the market, neglects or refuses to comply with any directions for the maintenance of order or for carrying any order into effect given by the Market Administrator or any other officer of the market, is guilty of an offence.”

27. The onus was on the Claimant to prove that the seizure of the goods was unlawful. The Claimant’s evidence in his witness statement was that he has been a vegetable vendor at the Tunapuna Market for over 5 years and that he sold in an area which was about 15 feet from the meat section. He stated that he was allowed to operate on that location by the previous Market Clerk, Mr Phillip and Safety Officer Ms Persad. He had paid all the relevant fees in order to operate in that space. The Claimant also stated that on the material day the Market Clerk came to move him as she stated that he was too close to the meat section and to immediately remove the goods.

28. In cross examination, the Claimant also accepted that if a public health officer requested the removal of goods, such a request would be reasonable under the circumstances. The Claimant also acknowledged that he was within the meat section selling agricultural produce. The Claimant agreed that the goods were removed because they were being sold in the area allocated for the sale of meat, that the

agents and/or servants of the Defendant including a public health officer asked him to remove the goods and he refused the request.

29. Therefore based on the Claimant's admission in cross examination he was in breach of section 12 (1) of the Bye-laws.
30. Mr Reece's evidence in his witness statement was that on the material day Police Officer and Health Inspector told the Claimant to move the goods and he told them he had approval to sell in that location and he had nowhere to put the goods and up to present vegetables are being sold in the same location where the Claimant was selling. In cross examination Mr Reece testified that the Claimant was selling in a stall in front of the meat section.
31. Ms Doyle's evidence was that the Claimant's stall was about 15 feet away from the meat section. In cross examination Ms Doyle testified that did not hear anything the officers of the Defendant told the Claimant.
32. Ms Grant's evidence was that on the material day the Claimant was selling vegetables in the meat section. She informed him that selling agricultural produce in the meat section of the market was in breach of the Bye- laws of the Tunapuna Market and could cause a health hazard. She asked him to relocate to another stall in the Market where vegetables were allowed to be sold but the Claimant was adamant that he did not want to move even though other vendors and labourers offered to aid in his relocation. Then Ms John directed that the goods be seized. However in cross examination, Ms Grant could not point out which Bye-Law was breached by the Claimant.
33. Ms John stated in her witness statement that she saw the Claimant selling agricultural goods in the meat section of the Tunapuna Market. The Market Clerk, Ms Grant informed the Claimant that selling agricultural produce in the meat section of the Market was in breach of the Bye- laws of the Tunapuna Market. She saw Ms Grant

ask the Claimant to relocate to another stall in the Market where agricultural goods were allowed to be sold. However, the Claimant indicated that he was unwilling to move even though other vendors and labourers offered to assist him. Ms John attached a report<sup>12</sup> of the exercise conducted on the material day which set out the details which transpired. The report referred to a vendor who was selling vegetables in the meat section of the Tunapuna Market and that the said vendor was given the opportunity to merely relocate his goods instead of having them seized. but he refused. Notably the said report did not name the Claimant as the said vendor. Ms John testified in cross examination that the Claimant was in breach of Bye-Laws 12.1,2.1, 9.1, 10(g) and 10.2 (d).

34. Mr Legerton's and Mr Belgrave's evidence was that the Claimant was selling agricultural goods in the meat section and Ms Grant asked the Claimant to relocate to another assigned stall in the Market where agricultural goods could be sold. The Claimant refused. In cross examination they both testified that they were taking instructions from Ms John.
35. In my opinion, given the admissions made by the Claimant in cross examination and the consistent evidence of Ms John and Ms Grant it was more probable that the Market Clerk, Ms Grant asked the Claimant to relocate to another stall in the Market to see the goods as he was selling in the meat section. This request was reasonable as Ms Grant had a concern that this would pose a health hazard. The Claimant's failure to comply with this reasonable request in my opinion was in breach of section 12 of the Bye-Laws of the Tunapuna Market.
36. Having found that the Claimant has failed to prove that the Defendant is liable in detinue and/or conversion and trespass to goods the issue of damages does not arise.

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<sup>12</sup> Exhibit L.J.3

37. The general rule is costs follow the event. In the instant case the Defendant as the successful party is entitled to its costs. The sum claimed by the Claimant as damages was \$69,339.00. Pursuant to Rule 67.5 (2) (b) (i) CPR the Claimant to pay the Defendant prescribed costs in the sum of \$17,867.80.

**ORDER**

38. The Claimant's action is dismissed.

39. Pursuant to Rule 67.5 (2) (b) (i) CPR the Claimant to pay the Defendant prescribed costs in the sum of \$17,867.80.

**/s/ Margaret Y Mohammed  
Judge**