The Tubantia (1924) p78
Dutch stream ship sank 1916. 1922 Located & Salvaged. Abandoned due to bad weather & sea loss. Who had possession? Held: Plaintiffs had possession because they had intention to possess the wreck.

Parker v British Airways Board (1982) 1 Q.B. 1044
Passenger in airport lounge found a gold bracelet. Handed it in. British Airways attempted to possess it as they had possession. Held: Airport did not have control of the lounge and Parker could have ownership.

ATTRIBUTES OF POSSESSION

1. Exclusive

- Moore v Bourke (1919) 26 CLR 265 at 271

"exclusiveness is essential. That, of course, does not mean that several persons may not in anomaly have and exercise that exclusive possession against the rest of the world."

2. Indivisible

- no provision for present and future interests as in real property

3. Possession is prima facie evidence of ownership - if there is no reluctance to accept ownership but be enforceable against subsequent possessor

Possession - Fisher - relativity p82

1. In the event of a wrongful taking of goods the prior possessor’s possessory title prevails over the rights of a wrongdoer in relation to possession of the goods.

2. As between the prior possessor and the owner the owner has the superior right to possession, accordingly the possessory title of the possessor must yield - Unless there is some contractual relationship (eg bailment) entered into between the parties that changes the title. As between the true owner and the wrongdoer the superior right of the owner prevails against the wrongdoer.

Degrees of possession - Pollock and Wright

- Custody - a physical holding that falls short of possession as normally determined eg custody of chattels by employees

- Actual or defects possession - the strongest in effective control of goods - does not relate to whether wrongful or not

- Legal possession - being in possession as contemplated by the law - not necessarily rightful.

- PHYSICAL & INTENTION

- Lawful possession - based on gift, bailment, occupancy.

ABANDONMENT

Need to show intention to relinquish

- Re Jigrose Pty Ltd (1991) 90 R236,385 Kellie J

"intention to abandon"

I do not propose to seek it out and I have no further interest in ownership. If however I decide to resume and recover possession from other persons."

POSESSON

- Joff v Cooper (1947) SASR 286 at 292

"Possession denotes a relationship between a person and some material object. It is a status subsisting in fact. The "right" of the possessor to the chattel (or object) arises from the fact of its possession."

- control - corpus possessadesthysical element requiring some degree of power over goods

- mental entity - animus possessori

ELEMENTS OF POSSSESSION

- Control - corpus possessadesthysical element requiring some degree of power over goods

- Mental entity - animus possessori

- legal relationship between two parties which centre on tangible personal property (goods), and on the fragmentation of ownership and possession

- personal property between those parties.”

BAILMENT

- Definition - Fisher - "a legal relationship between two parties which centres upon tangible personal property (goods), and on the fragmentation of ownership and possession between those parties.”