

1857.

Watson
v.
Munro.

would be almost unaccountable that *Munro* while suing for his debt should make a further advance of about two-thirds the amount of his debt, and undertake to pay also the interest in arrear on the purchase money, and instalments becoming due from time to time. It is quite unlike the advances made in the course of business between merchants and factors, and dealers in lumber or produce when security is given, for advances needed to be made in the ordinary course of their dealings. Here we must suppose a transaction entirely out of the ordinary course of dealing and of a nature most unlikely to occur.

Judgment.

The improvements made by *Munro* under the eye of *Watson*, for he has lived ever since in the immediate neighbourhood, and his long undisputed possession are material; for although they form no objection to redemption when the right to redeem is clear, they are circumstances to shew that such right did not exist, because not claimed by the party now claiming it.

In addition to all this is the evidence of Mr. *Bell*, the attorney of *Munro* in the action at law to recover the debt against *Watson*. He says that he understood from each of the parties separately that the debt was settled by the conveyance of the land, and as he thought the payment of a sum of money besides; and that he heard nothing from either party as to the land being taken as a security.

There remains to be considered, the circumstance of the continued receipt by *Watson* of the rent of the premises. The bill states this at eight months, and that *Munro* then induced the tenant to attorn to him. The tenant states it at about two years, and other evidence confirms this. The account given by the defendant in his answer, is that it was part of their agreement that *Watson* should retain possession for a certain period; that *Munro* went to England, and *Watson* in his absence