

ments upon the land; and must have made them under the belief that the land was his own.

It was impossible to say that some at all events of the buildings and erections did not constitute lasting improvements; and an inquiry as to that aspect of the case should be directed if the respondent was entitled to be compensated for lasting improvements.

As to the expenditures made after it was discovered that Luc Montreuil was tenant for life only, it was clear that they were not made by the respondent under the belief that the land was its own. And the improvements made before the discovery were not made and could not have been made by the respondent under the belief that the land was its own. The respondent, until it exercised its option to purchase, had no estate in the land but that of a tenant for years. It had the right, if Luc Montreuil had been owner in fee simple, to become the owner if it should choose to exercise the option. The respondent was in no sense the owner of the land, and never supposed that it had any rights in it except those which the lease conferred.

*Young v. Denike*, supra, was not an authority for the application of sec. 37 in such circumstances as existed in the case at bar.

Although the respondent was not entitled to invoke the provisions of the statute, it was entitled, as a condition of the granting of the relief which the appellants claimed—recovery of possession of the land—to be compensated for the lasting improvements that were made on the land before it was discovered that Luc Montreuil was a tenant for life only, to the extent to which the value of the land had been enhanced by the improvements: *Bright v. Boyd* (1841-3), 1 Story R. 478, 2 Story R. 605; *Gummerson v. Banting* (1871), 18 Gr. 516.

Although both of these were cases of a purchaser in possession holding under a defective title, the principle of the decisions was of wider application and extended to such a case as the present. The respondent was in possession under an agreement which entitled it, if the lessor had the title which it was assumed he had, to become the owner of the land on the terms and subject to the conditions mentioned in the lease, and the improvements which were made before the discovery that the lessor was tenant for life only were undoubtedly made under the belief that he was owner in fee simple, and that, subject to those terms and conditions being complied with, the respondent would become the owner of the land.

It would be manifestly unjust that the remaindermen should be permitted to take possession of the improvements without making compensation to the extent to which they enhanced the