

knew that McGillivray was the agent of plaintiffs, and some years ago, upon the instructions of McGillivray, made repairs upon plaintiffs' buildings. On the 6th May Longley told McGillivray that this property was badly in need of repair, and that he thought of helping Bunting out, and McGillivray then suggested Longley's first getting a quit-claim from Bunting. McGillivray wrote to plaintiffs on the subject. Plaintiffs replied on 15th May. This letter was received at Kenora on 20th May, when McGillivray at once wrote to Longley informing him of plaintiffs' refusal to treat, but again suggesting his getting a quit-claim from Bunting. Longley obtained the quit-claim on 1st June, and took it at once to McGillivray. What took place between McGillivray and defendant is clearly shewn in McGillivray's evidence and in the correspondence. From 1st June until the receipt by defendant of McGillivray's letter of 19th June the defendant thought himself the owner, subject to the agreement with plaintiffs, which he expected to carry out. The evidence of McGillivray and the defendant is in substantial accord.

Upon the evidence I find that whatever improvements were made on this property on and after 1st June to and inclusive of 19th June were made under a bona fide mistake of title, within the meaning of R. S. O. 1897 ch. 119, sec. 30, and the defendant Longley is entitled to a lien upon the land for these improvements. Before the quit-claim was executed in favour of Longley, both he and McGillivray thought that the plaintiffs' objection to dealing with Longley was that he was a stranger in the transaction, and that it would be different, once Longley obtained an assignment of Bunting's interest, and it was because of that that McGillivray said in his letter to defendant of 20th May, "If you could obtain a quit-claim deed from Jas. Bunting, I have very little doubt but that the company would accept payment of the arrears from you at the rate you mention, but they apparently cannot see their way clear to making any such arrangement while Bunting still remains in the position of purchaser."

It must be kept in mind that at this time the defendant had no notice of the alleged cancellation by registered letter of the agreement to purchase. On the contrary, defendant was informed that a notice had been sent for service upon Bunting.