

GEORGE V. STEAM STONE CUTTER CO.

*Circuit Court, D. Vermont.*

May 29, 1884.

VENDOR AND VENDEE—RIGHT TO RECOVER FOR  
IMPROVEMENTS—EJECTMENT—NOTICE OF  
INCUMBRANCE.

*Jones v. Steam Stone Cutter Co., ante, 477*, distinguished.

At Law.

*William Batchelder*, for plaintiff.

*Aldace F. Walker*, for defendant.

WHEELER, J. This case differs from that of *Jones v. Steam Stone Cutter Co., ante 477*, in this: that this plaintiff purchased this land of them supposing the title to be good in fee. She made the betterments in reliance upon the title itself. The attachment was of the land without the betterments. Its force is not abated by the statute, or these proceedings. If she is within the description of the statute, she owns so much of the premises as her betterments have enhanced the value, and the defendant the rest, which is exactly what was attached. If not, the defendant owns the whole, according to the common law. The statute declares and enforces a right arising from the natural equity in favor of giving the enhanced value of land to the one who placed it there as an owner. The manner in which the title fails, whether by an unknown lien or a paramount title, is not made any condition. The sole test of the right to the value conferred by the betterments is that they be made by the purchaser of a supposed title in fee. *Brown v. Storm*, 4 Vt. 37; *Whitney v. Richardson*, 31 Vt. 300.

The plaintiff falls within the description, and is entitled to judgment in her favor upon this declaration. The betterments are found to enhance the value of the land to the amount of \$1,300. Final judgment

in the action of ejectment has not yet been entered, but withheld to preserve the right of the plaintiff there to have the value of the land ascertained by commissioners according to further provision of the statute. Section 1269 *et seq.* Final judgment will now be entered for the seizin and possession of the premises, with six dollars damages, and costs, and judgment for the plaintiff on the declaration for betterments for \$1,300, value of betterments.

Executions stayed according to section 1266, Rev. Laws Vt.

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