

too, according to the marine law, an account for meliorations is made, if necessary, even beyond the profits; and for ascertaining the amount, the rule is to consider the *quantum* of the improved state in which the ship comes into the hands of the original proprietors; for as to that part, it is not a restitution to them, but a new acquisition. *The Perseverance*, 2 Rob. 239; *The Kierlighett*, 3 Rob. 101; *Nostrade Conceicas*, 5 Rob. 284. But according to the English principles of equity, if the true owner insists on an account of rents and profits, as he may, not according to the value when the purchaser entered, but according to the present value, the Court will order an allowance to be made for repairs and improvements. *Sugd. V. & P.* 525.

But where a man has acted fraudulently, and is conscious of a defect in his title, or has bought a title notoriously bad at the time of the purchase, in such a case, as a *mala fide* possessor, he is permitted by no law to make any claim whatever for improvements; he must take the consequences of his own imprudence. By the Roman law it is declared, that if a man build with his own materials upon the ground of another, the edifice becomes the property of him to whom the ground belongs, because the owner of the materials is understood to have made a voluntary alienation of them, if he knew he was building upon another's land; and by the common law it is in general true, that where a tenant affixes any thing * to the freehold, he does thereby immediately vest it in the freeholder, so entirely, that it would be waste, in the tenant, afterwards to remove it; *Am. & Fer. Law Fix.* 14, 214; and so it has been held, in the English Court of Admiralty, that if a person buys a ship, the title to which is notoriously invalid, it must be at his own peril that he proceeds to lay out money in repairing and improving her, as no allowance for ameliorations will be made in such case. *Just. Inst. b. 2, tit. 1, s. 30*; *Nostra de Conceicas*, 5 Rob. 294. 78

In the argument of *Coulter's Case*, 5 Co. 30, among other things, it is said, "in divers cases, one who is in of his own wrong, shall recoupe and retain, &c. He who hath a rent of £10 issuing out of certain lands, disseises the tenant of the land, in an assise brought by the disseisee, the disseisor shall recoupe the rent in the damages; so that where the *mesne* profits of the land, in such case, were of the value of £13, the disseisee shall recover but £3. The disseisor shall recoupe all in damages which he hath expended in amending the houses." And as an authority in support of the last position, a case cited as far back as the year 1340. This argument is adduced in a case in which the only question was, whether an executor *de son tort* could retain. The Court in their opinion held that he clearly could not, assigning the most satisfactory reasons: and they then go on to say, that "as to the case of recouper in damages in the case of rent service, charge, or seek, it was resolved,