Quasi-Contract: Improvements to Realty

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cumstances the court declared that the order rejecting the fair bid of the plain-
tiff, depriving her of a substantial portion of her investment, overriding as it
did the equities of the situation, was an erroneous application of the powers
outlined in the Suring State Bank case.

Richard B. Johns.

Quasi-Contracts—Improvements to Realty.—The defendant-contractor who
had been doing work for the defendant-owners was asked to give his advice and
to estimate on work believed necessary to preserve the shoreline of the defendant-
owner’s property. During the absence of the owners, the contractor built a large
wall completely blocking the beach. The contractor now seeks to recover for the
value of the work done in erecting the wall. The defendant-owners counterclaim
for damages. The trial court found that the owners did not authorize the con-
tactor to build the wall, but permitted the contractor to recover the value of the
work done on the theory of quasi-contract and gave him a lien on the land for the
amount of such recovery. On appeal, Held, judgment reversed. There could
be no recovery in this case on the theory of quasi-contract because the court found
that the owner had not unjustly or inequitably retained a benefit. Dunnebachke
Co. v. Pitman et al., (Wis. 1934) 257 N.W. 30.

Where a trespasser, under no claim of right or license, constructs improve-
ments on another’s land, he cannot recover from the owner, nor can he remove
it, as it becomes part of the property. Fischer v. Johnson, 106 Iowa 181, 76 N.W.
658 (1898) (structure built by mistake on another’s land); Schroeder v. Gold-
smith, 260 Ill. App. 318 (1932); Schiawonie v. Ashton, 269 Ill. App. 386 (1934)
(improvements); Mitchell v. Bridgeman, 71 Minn. 360, 74 N.W. 142 (1898)
here went so far as to grant relief to a trespasser who built under no claim of
right or license; the owner was given the option of paying for the enhanced
value or of releasing the land to the improver on payment of its fair market
value); Hardy v. Burroughs, 251 Mich. 578, 232 N.W. 200 (1930). But where
the improver has acted under some claim of right or license, such as a void con-
tract or a void deed, the courts are almost unanimous in allowing a recovery for
(N.S.) 810 (1909) (a void contract); Casteel v. Pennington, 228 Ky. 206, 14
S.W. (2d) 753 (1929) (a void deed); Blodgett v. Hitt, 29 Wis. 169 (1871) (a void
sale). Cf. Fischer v. Schumacher, 207 Wis. 10, 238 N.W. 80 (1933) (where terms
of a contract were not complied with). When one renders services for another
which are voluntarily accepted a recovery will be allowed. In re Hughes’ Will,
101, 244 N.Y.Supp. 764 (1930); Hooper v. O. M. Corwin Co., 199 Wis. 139, 225 N.W.
637 (1928) (recovery denied where services are of such character that no choice
could be exercised). If a finder substantially improves the res without the own-
er’s knowledge he has been allowed a recovery when the improvements were
necessary, Chase v. Corcoran, 106 Mass. 286 (1871). In the instant case the
defendant-owners insisted that they did not desire to retain the wall and de-
manded that it be removed. The court decided therefore that there was no
unjust or inequitable retention of a benefit; that the wall continued to exist upon
the property was immaterial. It is suggested that if some structure was in fact
necessary to prevent damage to the property, a subsequent expression by the
owners that they did not desire the structure erected should not be sufficient to
defeat a reasonable recovery on the theory of quasi-contract.

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