

33. — If a person has in bad faith constructed a building on a piece of land owned by another person, he must at his own expense put the land in its former condition.

If it is impossible to put the land in its former condition or it would be damaged thereby, the owner of the land shall become the owner of the building ; he shall be liable to no compensation to the constructor for any increase of value accruing to the land from the building, and he shall be entitled to compensation from him for any decrease of value resulting from the same.

Cf. Obligations, S.119. Maroc. 18(1). S.672.

*Illustrations for Sections 32 and 33: — A dies. No will being found, his estate devolves on B, who is the nearest statutory heir of the deceased. B builds a house on a piece of land included in A's estate. Then C, who was absent at the time of A's death, comes back, produces a will made by A in his favour and obtains from the Courts a final judgment declaring that he is the person on whom A's estate must devolve and ordering B to return the said estate to C. B has built his house on a land which belongs, not to him, but to C. If it is proved that he did not know of A's will in favour of C, he must be considered as being in good faith and S. 32 shall apply. If on the contrary, it is established that he knew of the will and kept it secret, he shall be considered as being in bad faith and Section 33 shall apply.*

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34.—If the conditional owner of a piece of land has constructed a building on it and the land becomes afterwards the property of another person by the effect of

the condition, he may either put the property in its former condition at his own expense, or deliver it in such condition as it is ; in the latter case, he shall be entitled to compensation from the new owner of the land for any increase of value accruing to the land from the building, but he shall be liable to compensation to him for any decrease of value resulting from the same.

Cf. Dika No. 259/121.

*Illustration : — A has sold a piece of land to B with a right of redemption. B is only the conditional owner of the land, that is to say, as long as the time for redemption has not elapsed, he is the owner of the land only under the condition that A will not exercise his right of redemption. If B builds a house on that land before the time for redemption has elapsed and A redeems the land, B has built his house on a land which has become the property of another person and S. 34 applies.*

*B is entitled either to remove the house at his own expense, or to leave it to A. If B leaves it, he is entitled to receive from A a compensation amounting to the increase of value. If there has been a decrease of value, because for instance B has pulled down an existing house, B is liable to compensation to A.*

35. — The three foregoing Sections apply *mutatis mutandis* to a person who, instead of constructing a building, has made a plantation or any other kind of work.

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35.—The three foregoing Sections apply *mutatis mutandis* to a person who, instead of constructing a building, has made a plantation or any other kind of work.

However, if the yearly harvest or crop is still to be made, the owner of the land must either allow the per-

son in good faith or the conditional owner who has made the plantation to remain in possession of such land up to the time of the harvest or crop on payment of compensation based on the rental value of the same, or take at once possession of the land on payment to the other party of compensation for the loss of the harvest or crop.

F. 555. S. 678.

36. — When the owner of a piece of land has in good faith constructed buildings on such land or made plantations or any other works from materials belonging to another person, he becomes the owner of such materials, but the other person is entitled to the payment of the value of those materials and compensation for injury if any.

F. 554. Maroc. 17.

*Illustration. — I. — A who wants to build a godown has ordered from B 500 sheet of corrugated iron. In consequence of a misunderstanding, the agent of A takes from B 500 sheet which had been delivered to C (e.g., loaded in a boat belonging to C) and were C's property. When the mistake is detected, the 500 sheet removed by A's agent have already been cut, pierced and screwed to the framework of A's godown. A has built his godown with materials belonging to C. A shall not be compelled to remove the sheet of corrugated iron and to return them to C; but he shall have to pay compensation to for any injury suffered by C in consequence of the mistake made by A's agent; e.g., he shall have to repay to C the purchase money paid by C to B; if C cannot find 500*

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