

It is certainly true, that a court of equity will not decree the specific performance of a mere voluntary agreement, and if these parties were simply volunteers, and were here asking to have the agreement specifically performed, they could not be gratified. But they are not here asking the aid of the court in their favor. They have been brought here as defendants, and merely ask the court to leave them in possession of the property which they have held for many years, which they have improved at considerable expense, and which they had abundant reason to think had been given to them.

The difference between *King's heirs vs. Thompson and wife, 9 Peters, 204*, in the attitude in which the parties appear before the court, is in favor of these defendants. There the parties claiming under the proposed grant of George King, were complainants, seeking the enforcement of the contract in which they would have been successful if the terms could have been established with sufficient certainty. The circumstances of that case and this are very much the same, and yet the Supreme Court said that it could not be considered voluntary. There was not only a good consideration, that of natural love and affection, but a valuable one. To constitute a valuable consideration, it is not necessary that money should be paid, but if, as in this case, it be expended on the property on the faith of the contract, it constitutes a valuable consideration.

The same principle was established by the case of *Shepherd vs. Bevin et al, 9 Gill, 32*, where, after speaking of the inclination of the courts to deal favorably with agreements made by a parent with a child, and declaring the agreements of that kind will be supported by a slight consideration, it was held that money expended in improvement of land on the faith of the contract constitutes a consideration on which to ground a claim for specific performance.

Upon the authority of these two cases, and especially of the latter, to which this court is bound to defer, there can be no doubt, I think, that if these parties, Hardy and wife, and Mordecai Haines, were here as complainants, asking for the specific execution of the agreement of Nathan Haines with them, and