

Tofferson County Circuit Court
Case File - Civil

Box 11 Folio 3

April 1859, Mo. 5

Polly, Vincent
vs
Beldue, Lewis

Specific performance for contract

160 acres in S18 T39 R4E

Inform all men by these presents that
I Lewis, Bodine of Jefferson County Mo
do Bind myself and my heirs and
assigns to make a free King's title
to Vincent Sully of the land suitable
for farming and that part of section
25. Over and entered by me - and
also his improvement which is
an arid land. - Given under my
hand this 12th day of Feb 1829

J. C. Patton

Lewis Bodine

J. C. Patton

Vincent Pully } In the Circuit Court
Against } Jefferson County
Louis Bolduc }

Plaintiff states that prior to the 12 of February 1849 he had made an improvement upon public land to wit the South East quarter of section No 28 of Township No 39 of Range four east containing one hundred and sixty acres in Jefferson County Missouri. That he had applied to enter by purchase said land and made proof of his improvement. That before he was able to complete his said entry the defendant applied for and entered said land. That after said entry plaintiff was about to take steps to have said entry vacated and set aside. That defendant to prevent this proposed to convey to plaintiff in consideration of his improvements upon said land, and in consideration that he would ^{not} vacate said entry such a part of said land as should cover the improvements of plaintiff and the land in said section suitable for farming which said defendant had entered as aforesaid. To this plaintiff agreed whereupon defendant then and then ~~on the~~ intended entering with the plaintiff to convey to plaintiff by fee simple title each part of said land as above specified. Said writing is hereto annexed and made part of it. Plaintiff says that defendant by said writing obligated himself his heirs and assigns to convey as aforesaid said land, but that he has hitherto wholly failed to do so. Plaintiff prays the Court to compel the defendant to execute to him a good fee simple title for each part of said land as he may be entitled to under and by virtue of said instrument of writing.

or that the title to the same may be diverted of
the defendant and vested in the plaintiff and for
such other further relief as he may be entitled
to in the cause

Pepkin & Housar
attys for ptff

Vincent Pully Master of the said court
that the above petition and the matters
therein as stated he believes to be true
Sworn to & subscribed

before me Oct. 25 1858

Edw. F. Horney clk

his
Vincent Pully
mark

Despatch June 14th 1860 Book No 4 page 316

1722

Hyman's and
Weston 1858

Francis Pulley

Ag. and

Sam. Adams

Peterson

Attest for 15th 1858

Chas J. Hoeney
Clerk

chd

Vincent Pully
Against
Louis Boddue.

In the Circuit Court
Jefferson County

Plaintiff States that prior to the 12th of February 1849. he had made an improvement upon Public land. to wit: The Southeast quarter of Section No 18. of Township No 39 of range four east, containing one hundred and sixty acres in Jefferson County Missouri. that he had applied to enter by pre-emption said land and made proof of his improvement. that before he was able to complete his said entry, the defendant applied for and entered said land. that after said entry, plaintiff was about to take steps to have said entry vacated, and set aside. that defendant to prevent this, proposed to convey to plaintiff in consideration of his improvement, upon said land, and in consideration that he would not vacate said entry, such a part of said land as should cover the improvements of Plaintiff and the land in said Section suitable for farming which said defendant had entered as aforesaid, to this plaintiff agreed, whereupon defendant then and there entered into writing - with the plaintiff to convey to plaintiff by fee simple title such part of said land as above specified. Said writing is hereto annexed and made a part of petition - Plaintiff says, that defendant by said writing obligated himself his heirs and assigns to convey as aforesaid

said land, but that he has hitherto wholly failed to do so. Plaintiff prays the Court to compel the defendant to execute to him a good fee simple title for such part of said land as he may be entitled to under and by virtue of said instrument of writing or that the title to the same may be divested of the defendant, and vested in the plaintiff, and for such other & further relief as he may be entitled to in the Cause.

Pepkin & Thomas
Attys for Plff.

Vincent Pully, makes oath and says, that the above petition and the matters therein as stated he believes to be true.

Sworn to & Subscribed
before me. Oct 25th 1858 } Vincent ^{his} Pully
Elias D. Honey Clerk } _{marks}

A true copy of the original petition and affidavit on file in my office

Witness my hand and the Seal
of said Court. at office Nov.
30th A D 1858.

Elias D. Honey Clerk

COUNTY OF JEFFERSON, SS.

The State of Missouri.

Washington
To the Sheriff of the County of ~~Jefferson~~ -- Greeting:

We command you, that you summon Louis Bolduc

----- if - he - be
found in your County, that he be and appear before the Hon.
Judge of our Circuit Court, on the first day of the next term thereof,
to be begun and held at the town of Hillsboro, within and for the
County of Jefferson, on the fourth Monday of April
next, then and there to answer unto Vincent Pully

upon his original petition, a copy whereof is herunto annexed and
accompanies this writ -- and have you then there this writ.

Elias J. Honey

Witness, THO. B. FLETCHER, Clerk of our said Circuit
Court, with the seal thereof hereto affixed, at
office, in Hillsboro, this Twentieth
day of November A. D. 1858

Elias J. Honey

CLERK CIRCUIT COURT.

No 5-

Jefferson Circuit Court

April Term 1859

Vincent & Pully

vs & Summons

Louis Bolduc

James Long Sheriff

per \$100

Filed Decr 24th 1858

Chas J Carey

Clerk

Served The within Petition affidavit and
Summons on Louis Bolduc, on the 14th
day of December 1858, by Delivering to him
a certified Copy thereof

James Long Sheriff
of Washington County

Vincent Pully }
 vs. } In the Circuit Court
 Louis Boland } Jefferson County.

The Defendant demurs to the petition of plaintiff and alleges the following grounds of objection:

- 1st It does not appear by the writing filed as the foundation of the action, that any consideration passed from plaintiff to defendant, on which to base the promise to convey.
- 2 - Said writing is palpably a *modus pactum*.
- 3 - The Land referred to in said Contract is not sufficiently described, so as to furnish any cause of action, it not appearing what amount of Land is to be conveyed, ^{where it is situated,} or that the Land lies in the State of Missouri.
- 4 - By the petition it appears, Defendant had entered the land prior to the agreement, and if so, he was entitled to any improvements made thereon, and a promise to pay therefor is void for want of consideration.
- 5 - It is not averred in the petition, that plaintiff had a pre-emption on the land at the time of said entry, and therefore he had no grounds on which to vacate the entry.
- 6 - Said petition does not state facts sufficient to constitute a cause of action.

} A. Greer
 } Atty for Deft.

of Circuit Court

Jefferson County

Whitcomb, ^{vs.} Fuller

vs.
John B. Fuller

Declarator

Filed June 6th 1859

Elias A. Honey, Clerk

Entered