

Jefferson County Circuit Court
Case Files - Civil
June 1859, No. 39

Box 11 Folder 45

Vinyard, Charles

v.

Hiney, Bazile
Belt, Henry B.

Breach of Contract

Defendant Hiney sold a lot of land to Defendant
Belt after he had sold the same lot to Plaintiff.
Damages \$100.00; lot located in U.S. Survey No. 894
in T40 R4 and SE in Victoria on St. Louis &
Iron Mountain Railroad

Charles Vinyard, - Plaintiff }
 Against } In the Circuit
 Basil Winey, and } Court of Jefferson
 Henry B. Bell, - Defendants, } County, Missouri.

The Plaintiff states that some time in the fall of 1857, Samuel Donnell purchased of Basil Winey, one of the defendants, a Lot of ground in the Town, then called Hillsboro Station, now, Victoria, located on the St. Louis & Iron Mountain Rail Road, in Jefferson County Missouri, for the sum of twenty five dollars, to be paid when said Winey should have said Town surveyed off into Town Lots, at which time, Winey agreed to make him a Deed for the Lot. Said Town is situated on a Tract of Land, at that time owned by Winey, and described as a part of United States Survey No. 894, in Township No. Forty, of Range Nos. four and five East, and is particularly described in a Deed from said Winey & Wife to Henry B. Bell, dated the 1st of October 1858, and recorded in the Recorder's Office of said County, in Book "9" page 13.

By the terms of said Contract, (which was not reduced to writing) Winey agreed that said Lot should be of the same size as the other Lots of said Town, as laid off on the Plat thereof, when the same should be made, - and the particular Lot of ground so purchased, was at the time of making the Contract, selected by Donnell and agreed to by Winey. According to the Plat of said Town, as made by ~~the~~ ^{said} Winey, said Lot is described as Lot No. One in Block No. Fourteen and ^{one hundred} ~~is~~ ^{long} ~~feet~~ ^{feet} facing of the Railroad, and ^{about} ~~is~~ ^{seventy} ~~feet~~ ^{feet} ~~wide~~ ^{wide} that, being also the size of the other Lots of said

Iron. — Soon after said Contract was made, said Donnell and Alfred Stitchell (who had become a partner of Donnell) took possession of said Lot, by and with Wiley's consent, and commenced building a Store House and Office thereon.

After they had got their said Buildings about half finished, some time in the first of January 1858, they sold out all their interest in said Lot to Charles Vinyard, the plaintiff, by and with the consent of Brazil Wiley, who at the time agreed with the Plaintiff that he would carry out said Contract with him, and take him for the purchase money, instead of Donnell, and would make Plaintiff a Deed for said Lot as soon as he got said Town surveyed off into Lots, upon the same terms he had previously agreed upon with Donnell, and on Plaintiff's paying him the \$25.00, the purchase money thereof.

Plaintiff then under the belief and expectation that said Wiley would carry out said Contract according to its terms, took possession of said Lot, by and with Wiley's consent, and went on and completed said Store House & Office, and built also a stable on the lot, making lasting and valuable improvements on said Lot, of the value of seven hundred dollars. And Plaintiff has held possession of said Lot, Store House & Office, engaged in selling goods and carrying on merchantile operations therein, ever since the completion of the same; and plaintiff states that while these Buildings were being made, Wiley was present & consenting, and repeatedly stated that Plaintiff should have a Deed for the Lot according to the terms of the contract. — Plaintiff states that after said Town was surveyed off into Lots, some time

in the summer of 1858, he tendered to Wiley the full amount of the consideration for said Lot, to wit, twenty five dollars, and demanded a Deed from him for the same. But he, without positively refusing, put Plaintiff off under one pretext or another, until in the fall of 1858, said Wiley, with the intent to cheat and defraud Plaintiff out of his just rights to said Lot, sold and conveyed the Tract of Land aforesaid ^{except the part the Store House stands on, 20 1/2 by 30 1/2 beets,} including said Lot, to Henry B. Bell, the other defendant herein. And Plaintiff avers that at the time of said conveyance ^{to said Bell}, to wit, the 1st of October 1858, the said Bell had full notice of Plaintiff's claim to said Lot, as a purchaser thereof; that, previous to his purchase thereof, said Bell had seen Plaintiff doing business in said Store House, knew he had erected the buildings on said Lot, and that he claimed a right to a title thereof, as a purchaser from Wiley.

Plaintiff therefore charges that the said Defendants ^{have} combined and conspired together to cheat and defraud him of his just rights to said property.

Plaintiff states that he has paid Wiley a part of the consideration money for said Lot, and that he has been ready & willing at all times to pay him, or Bell ^{since his purchase} the balance due for said ^{Lot}, but that they now absolutely refuse to receive the same, and to make Plaintiff a Deed for the Lot aforesaid, although ^{often requested to do} And Plaintiff here tenders to the Defendants the residue of the purchase money for said Lot.

Plaintiff further states that by reason of said Defendants' ^{refusal} to convey said Lot according to Contract, and the delay of procuring title occasioned thereby, he has sustained damages

To the amount of one hundred dollars.

Plaintiff therefore in consideration of the premises, asks the Court to order and decree that the said Defendants, Bazil King & Henry B. Bell, be divested of all right, title, or interest whatsoever in and to the Lot of ground aforesaid, and that the title to the same may be fully vested in the Plaintiff; and that the Court will award to Plaintiff against the Defendants, the sum of one hundred dollars or whatever sum to the Court may seem just & right, as a compensation for the damages Plaintiff has sustained by reason of the breach of contract, as aforesaid, and that the Court will grant such other & further relief as may be consistent with Equity.

Abner Green
} Attorney for Plaintiff

Charles Vineyard, Plaintiff, makes oath and says the above Petition and the matters therein as stated he believes to be true,
Subscribed
before me April 4th

Charles Vineyard
mark

1859
Elias Honey, Clerk

In Circuit Court
Jefferson County
Shawled Brynau
vs.
Borgie Wines, &
Henry B. Bost
Plaintiff
Defendant
Let summons issue

Dated April 4th 1854
Geo. H. Henry Clerk

Charles Vinyard, - Plaintiff

Against

Bazil Hiney, and

Henry B. Belt, - Defendants.

} In the Circuit
Court of Jefferson
County, Missouri.

The Plaintiff states that sometime in the fall of 1857, Samuel Donnell purchased of Bazil Hiney, one of the defendants, a Lot of ground in the Town, then called Hillsboro Station, now Victoria, located on the St. Louis & Iron Mountain Rail Road, in Jefferson County, Missouri, for the sum of twenty five dollars, to be paid when said Hiney should have said Town surveyed off into Town Lots, at which time, Hiney agreed to make him a Deed for the Lot. Said Town is situate on a tract of land, at that time owned by Hiney, and described as a part of United States Survey No. 894, in Township No. Forty, of Range's No's. four and five East, and is particularly described in a Deed from said Hiney & Wife to Henry B. Belt, dated the 1st of October 1858, and Recorded in the Recorder's Office of said County, in Book "P." page 12.

By the terms of said Contract (which was not reduced to writing) Hiney agreed that said Lot should be of the same size as the other Lots of said Town, as laid off on the Plat thereof, when the same should be made; and the particular Lot of ground so purchased, was at the time of making the contract, selected by Donnell and agreed to by

Hinery, according to the plat of said Town, as made by ^{Said Hinery} ~~the proprietors thereof~~, said Lot is described as Lot No. ~~One~~, in Block No. **Fourteen** and is **100** feet long, facing of the Railroad, and ~~one~~ hundred and about ~~70~~ feet wide, that being also the size of the other Lots of said Town. ~ Soon after said contract was made, said Donnell and Alfred Mitchell (who had become a partner of Donnell) took possession of said Lot, by and with Hinery's consent, and commenced building a Store House and Office thereon; After they had got their said Buildings about half finished, sometime in the first of January 1858, they sold out all their interest in said Lot to Charles Vinyard the plaintiff, by and with the consent of Basil Hinery, who at the time agreed with the Plaintiff that he would carry out said contract with him, and take him for the purchase money, instead of Donnell, and would make Plaintiff a Deed for said Lot as soon as he got said Town surveyed off into Lots, upon the same terms he had previously agreed upon with Donnell, and on Plaintiff's paying him the \$ 25.00, the purchase money thereof.

Plaintiff then under the belief and expectation that said Hinery would carry out said contract, according to its terms, took possession of said Lot, by and with Hinery's consent, and went on and completed said Store House & Office, and built also a stable on the lot, making

lasting and valuable improvements on said Lot, of the value of Seven hundred dollars. And Plaintiff has held possession of said Lot, Store House & office, engaged in selling goods and carrying on merchantile operations therein ever since the completion of the same; and Plaintiff states that while these Buildings were being made, Hinery was present & consenting, and repeatedly stated that Plaintiff should have a Deed for the Lot according to the terms of the contract.

Plaintiff states that after said Town was surveyed off into Lots, sometime in the Summer of 1858, he tendered to Hinery the full amount of the consideration for said Lot, to wit: Twenty five dollars, and demanded a Deed from him for the same; but he, without positively refusing, put Plaintiff off under one pretext or another, until in the fall of 1858, said Hinery, with the intent to cheat and defraud Plaintiff out of his just rights to said Lot, sold and conveyed the tract of land aforesaid including said Lot, except the part the Store House stands on $20\frac{1}{2}$ by $30\frac{1}{2}$ feet, to Henry B. Belt, the other defendant herein. And Plaintiff avers that at the time of said conveyance to said Belt; to wit: the 1st of October 1858, the said Belt had full Notice of Plaintiff's claim to said Lot, as a purchaser thereof; that previous to his purchase thereof, said Belt had seen Plaintiff doing business in said Store

House, knew he had erected the buildings on said Lot, and that he claimed a right to a title thereof, as a purchaser from Hiney.

Plaintiff therefore charges that the said Defendants have combined and confederated together to cheat and defraud him of his just rights to said property.

Plaintiff states that he has paid Hiney a part of the consideration money for said Lot, and that he has been ready & willing at all times to pay him, or Belt since his purchase, the balance due for said Lot, but that they now absolutely refuse to receive the same, and to make Plaintiff a Deed for the Lot aforesaid, although often requested so to do.

And Plaintiff here tenders to the Defendants the residue of the purchase money for said Lot.

Plaintiff further states that by reason of said Defendants refusal to convey said Lot according to contract, and the delay of procuring title occasioned thereby, he has sustained damages to the amount of one hundred dollars.

Plaintiff therefore in consideration of the premises, asks the Court to order and decree that the said Defendants, Bazil Hiney & Henry B. Belt, be divested of all right, title or interest whatsoever in and to the lot of ground aforesaid and that the title to the same may be fully vested in the Plaintiff; and that the Court will award to Plaintiff against the Defendants

the sum of one hundred dollars, or whatever sum to the Court may seem just & right, as a compensation for the damages Plaintiff has sustained by reason of the breach of contract, as aforesaid, and that the Court will grant such other & further relief as may be consistent with equity.

} Abner Green
} Attorney for Plaintiff.

Charles Vinyard, Plaintiff, makes oath and says the above Petition and the matters therein as stated he believes to be true.

Sworn to & subscribed before me, April 4th 1859.

} Chas. ^{his} Vinyard.
mark
Elias F. Honey Clerk.

Filed April 4th 1859. Elias F. Honey Clerk

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
April 7th 1859
Elias F. Honey Clerk

COUNTY OF JEFFERSON, SS.

The State of Missouri.

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

We command you, that you summon Bazile Hiney
Henry B Belt

----- if they be
found in your County, that they 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 second Monday after the
fourth Monday of May
next, then and there to answer unto Charles Vengard

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

Elias J. Howey
Witness, ~~THO. C. FLETCHER~~, Clerk of our said Circuit
Court, with the seal thereof hereto affixed at
office, in Hillsboro, this seventh
day of April A. D. 1859

Elias J. Howey
CLERK CIRCUIT COURT.

I executed the within writ in the county of Jefferson
State of Missouri on Bazile Hiney by reading the within
named writ and petition to him on the tenth day of May
1859 also on Henry Belt by delivering him a true copy
of this writ and petition as furnished me by the clerk
on the tenth day of May 1859 Oscar Dower Sheriff

No 39

to Jefferson Circuit Court

June Term 1859

Charles Weigand
vs
1 defendant

Bazile Hiney
Henry P. Belt

Sheriff's fee \$2.00

Chd

Filed May 16th 1859

Chas Henry Clerk

Seam 39