Gulfport Fertilizer Co

—vs—

T G Huggins &

Chas T Nelson

Filed 11/8/1918.
G W Rogerson
Register

PROBATE COURT
BALDWIN COUNTY
BAY MINETTE, ALABAMA

The State of Alabama,)
Baldwin County.)

Gulfport Fertilizer Company, a corporation)
Plaintiff.) In the Circuit Court
vs.) of
T G Huggins and Chas M Nelson,) Baldwin County.
Defendant_)

I, T W Richerson, Clerk of the Circuit Court, in and for said county and State, do hereby certify that on the 23rd day of November, 1915, a judgment was rendered by said Court in the above stated cause, wherein Gulfport Fertilizer Company, a corporation, was Plaintiff and T G Huggins and Chas M Nelson were the Defendants in favor of the said Plaintiff and against the said Defendant for the sum of Nine Hundred Thirteen and 41/100 Dollars and also for the sum of Eight and 35/100 Dollars costs of suit, and that Chas Hall is the attorney of record for plaintiff in said cause.

Witness my hand this 25th day of November, 1915.

T W Richerson, Clerk.

(U S I R Stamp 10 cts.)
(Can: by T W R 11-25-15)

Filed for record Nov 25th, 1915,

Recorded Dec 1st, 1915.

J H H Smith, Judge of Probate. (L)

The State of Alabama,)
Baldwin County.)

I, James M Voltz, Judge of Probate in and for said State and County, hereby certify that the above and foregoing is a true, correct and complete copy of an instrument of writing as the same appears of record in Judgment Record No. 2, at page 37, now on file in the office of the Judge of Probate of Baldwin County, Alabama.

Witness my hand and the seal of the Probate Court of Baldwin County, Alabama, this 13th day of May A.D., 1918.

PROBATE COURT ALABAMA BALDWIN COUNTY

James M Voltz
Judge of Probate Court.

Gulf[illegible] Fertilizer Company,
[illegible]a Corporation, Plff.

vs.

Charles M Nelson and Mary A Nelson, Respondents.

In Equity, in Circuit Court of Baldwin County, Alabama. No. 51.

Comes the Complainant in the above entitled cause and moves the Court to be allowed to amend his Bill of Complaint in this cause, by striking out the words following, to-wit: "Organized under the laws of the State of Mississippi, and doing business at Gulfport, Mississippi", appearing in the fourth and fifth line of the Complaint, on the first page thereof.

Chas Hall

Gordon V Edington

Solicitors for Complainant.

No. 51

Gulfport Fertilizer Co.

vs

Chas. M. Nelson & Mary A. Nelson

Filed in Court May 20th 1918
T. W. Reinecker
Register

GULFPORT FERTILIZER COMPANY, a corporation, Pltff.	IN EQUITY, in CIRCUIT COURT OF BALDWIN COUNTY, ALA.
Vs.	NO. 51
CHARLES M.NELSON and MARY A. NELSON, Respondents.	

Comes the complainant in the above entitled cause, and by leave of the Court first had and obtained amends its bill of complaint in this cause by striking out the following, to-wit:-

" Organized under the laws of the State of Mississippi, and doing business at Gulfport, Mississippi", appearing in the fourth and fifth line of the original bill of complaint, on the first page thereof.

Chas. Hall
Grant Edington

Solicitors for complainant.

No. 51

Gulfport Fertilizer Co.

Vs.

Chas.M.Nelson and Mary A. Nelson.

Amendment to Bill of Complt.

Filed 6/4-1918
T.W. Richmond
Register

And these Respondents, having answered the said Bill of Complaint as by the footnote thereunto required, prays that it may be dismissed with their costs in this behalf expended.

Stone + Stone
Solicitors for Respondents.

-No. 46-

Gulfport Fertilizer Co, a corporation
Complainant

-Vs-

Charles M. Nelson & Mary A. Nelson

Answer.

Filed 3/23.-1918.
3 45 - P M
T W Richmond
Register

STONE & STONE
ATTORNEYS
BAY MINETTE, ALABAMA

-8-

LAW OFFICES
OF
STONE & STONE

-EIGHTH-

Answering further, the Respondents state and aver that the Complainant cannot maintain this suit for at the time of the filing of the Original Bill of Complaint in this cause the Gulfport Fertlizer Company, a corporation under the laws of the State of Mississippi, had not complied with the Constitution and Statutes of the State of Alabama in that it had failed to file with the Secretary of State of Alabama a certified copy of its Articles of Incorporation.

-NINTH-

Answering further, The Respondents state and aver that the Complainant cannot maintain this suit for at the time of the filing of the Original Bill of Complaint in this cause the Gulfport Fertlizer Company, a corporation, under the laws of the State of Mississippi, had not complied with the Constitution and Statutes of the State of Alabama in that it had failed to file with the Secretary of State of Alabama an insturment in writing, under the seal of the Corporation and signed officially by the president and secretary thereof, designating at least one known place of business and an authorized agent or agents residing thereat.

-TENTH-

Answering further, the Respondents state and aver that that Complainant cannot maintian this suit for at the time of the filing of the Original Bill of Complaint in this cause the Gulfport Fertlizer Company, a corporation organzied and doing business under the laws of the State of Mississippi, had not complied with the Constitution and Laws of the State of Alabama in that it had failed to file with the Secretary of State of the State of Alabama an instrument in writing, under the seal of the corporation and signed officially by the president and secretary thereof, designating at least one known place of business in this state and an authorized agent or agents residing thereat and in that it had failed to file with the Secretary of State of the State of Alabama a certified copy of its Articles of incorporation.

-FOURTH-

Answering further, the Respondents aver and state that the alleged debt upon which the said judgment was founded is a certain note endorsed by Charles M. Nelson in Baldwin County, State of Alabama, and that at the time of the endorsement of said note by Charles M. Nelson the Gulfport Fertlizer Company, a corporation organized and existing under the laws of the State of ~~Mississippi,~~ Georgia was doing business in the State of Alabama, without first having complied with the requirements of the Constitution and Statutes of this State by filing with the Secretary of State a certified copy of their Articles of Incorporation and without filing also with the Secretary of State an instrument in writing designating at least one known place of business in this state with an authori zed agent or agents thereat.

-FIFTH-

Answering further, the Respondents state and aver that the judgment upon which this suit is brought is void in that at the time of obtaining the same the Gulfport fertlizer Company, a corporation organized and doing business under the laws of the State of ~~Mississippi,~~ Georgia had no right to sue in any court of the State of Alabama and was not a real party Plaintiff in the said suit because it had not complied with the Constitution and Statutes of this state, having failed to designate, by an instrument in writing, under the corporate seal and signed officially by the President and Secretary thereof, and filed with the Secretary of State, one known place of business and an authorized agent or agents thereat and having failed to file with the Secretary of State ofAlabama a certified copy of its articles of incorporation.

-SIXTH-

Answering further, the Respondents aver and state that at the time of the filing of the original Bill of Complaint in this cause there was no such corporation as Gulfport Fertlizer Company.

-SEVENTH-

Answering further, the Respondents state and aver that the Gulfport Fertlizer Company is not the true owner of the said judgment upon which this suit is founded.

Gulfport Fertilizer Company, a corporation. Complainant.	No.-51-
Vs.	IN THE CIRCUIT COURT-IN EQUITY
	STATE OF ALABAMA
Charles M. Nelson and Mary A. Nelson. Respondents.	BALDWIN COUNTY

Now come the Respondents and, not waiving any defects or imperfections that the Original Bill in this cause filled may contain, answering the same, jointly and severally, say;

-FIRST-

They admit the allegations contained in the first paragraph of the Original Bill to be true.

-SECOND-

They deny that the allegations of the Second paragraph of the Original Bill are true.

-THIRD-

Answering further, the Respondents aver and state that the alleged debt upon which the said judgment is founded, is a certain note executed in Baldwin County, State of Alabama, and that at the time of the execution of the said note, the Gulfport Fertilizer Company, a corporation, was a foreign corporation, organized and doing business under the laws of the State of ~~Mississippi,~~ Georgia and had not complied with the Constitution and Statutes of the State of Alabama regarding foreign corporations doing business in this State in that they had failed to file with the Secretary of State of the State of Alabama a certified copy of its articles of incorporation and in that they had failed to file with the Secretary of State an instrument in writing, under the Seal of the Corporation, and signed officially by the president and Secretary thereof, designating at least one known place of business in this state with an authorized agent or agents thereat.

8587 SUMMONS—Original. Baldwin Times Print.

THE STATE OF ALABAMA,
BALDWIN COUNTY.

CIRCUIT COURT OF BALDWIN COUNTY,
IN EQUITY.

To any Sheriff of the State of Alabama—GREETING:

WE COMMAND YOU, That you summon Charles M Nelson and Mary A Nelson,

of Baldwin County, to be and appear before the Judge of the Circuit Court of Baldwin County, exercising Chancery jurisdiction, within thirty days after the service of Summons, and there to answer, plead or demur, wihout oath, to a Bill of Complaint lately exhibited by

Gulfport Fertilizer Company a Corporation

against said

Charles M Nelson and Mary A Nelson

and further to do and perform what said Judge shall order and direct in that behalf. And this the said Defendant shall in no wise omit, under penalty, etc. And we further command that you return this writ with your endorsement thereon, to our said Court immediately upon the execution thereof.

WITNESS, T. W. Richerson, Register of said Circuit Court, this 12th day of Oct 1917.

T. W. Richerson
Register.

N. B.—Any party defendant is entitled to a copy of the bill upon application to the Register.

Original

Serve on.....

CIRCUIT COURT OF BALDWIN COUNTY,

IN EQUITY.

No. 51.

SUMMONS.

Gulfport Fertilizer Co, a a Corporation.

vs.

Charles M Nelson and Mary A Nelson.

Chas Hall.
Solicitor for Complainant.

Recorded in Vol.....Page.....

-2-

THE STATE OF ALABAMA,

BALDWIN COUNTY.

Received in office this 12th day of October 191 7.

C E Embanks
Sheriff.

Executed this 17 day of Oct 191 7

by leaving a copy of the within Summons with

Charles M Nelson
and Mary A. Nelson
Defendant

C. E. Embanks
Sheriff

By S. T. Parker
Deputy Sheriff.

Gulfport Fertilizer Co., a corporation, Plaintiff,	:	In the Circuit Court - In Equity Side. County of Baldwin, State of Alabama.
No.51 vs.	:	
Charles M.Nelson and Mary A.Nelson, Defendants.	:	

Comes the Plaintiff in the above entitled cause, and moves the Court to set down for hearing in vacation the demurrer filed in this cause on November 16th, 1917, by the defendants, so that the same may be decided by the Judge of this Honorable Court as if the hearing was had in term time.

Chas Hall

Solicitor for Plaintiff.

Gulfport Fertilizer Co., a corporation, Plaintiff,	:	In the Circuit Court - In Equity Side. County of Baldwin, State of Alabama.
No.51 vs.	:	
Charles M.Nelson and Mary A.Nelson, Defendants.	:	

Comes the Plaintiff in the above entitled cause, and moves the Court to set down for hearing in vacation the demurrer filed in this cause on November 16th, 1917, by the defendants, so that the same may be decided by the Judge of this Honorable Court as if the hearing was had in term time.

Chas Hall

Solicitor for Plaintiff.

Gulfport Fertilizer Co., a corporation, Plaintiff,	:	In the Circuit Court - In Equity Side. County of Baldwin, State of Alabama.
No.51 vs.	:	
Charles M.Nelson and Mary A.Nelson, Defendants.	:	

Comes the Plaintiff in the above entitled cause, and moves the Court to set down for hearing in vacation the demurrer filed in this cause on November 16th, 1917, by the defendants, so that the same may be decided by the Judge of this Honorable Court as if the hearing was had in term time.

Chas Hall
Solicitor for Plaintiff.

4

No. 51

Gulfport Fertilizer Co.

Vs.

Chas. M. Nelson, et al.

Motion by Plaintiff to set down for hearing demurrer.

Filed 2/11-1918
D. W. Richmond
Register

(Demurrer to complaint)

GULFPORT FERTLIZER CO., a corporation, Plaintiff. -vs- CHARLES M. NELSON & MARY A. NELSON, Defendants.	IN THE CIRCUIT COURT--IN EQUITY SIDE. COUNTY OF BALDWIN STATE OF ALABAMA.

And now comes the Defendants, Charles M. Nelson and Mary A. Nelson and demur to the Bill of Complaint in this cause filed, and to each and every paragraph thereof, separately and jointly, and for grounds of this demurrer shows that;

First------That said Original Bill of Complaint fails to allege that the Complainant, Gulfport Fertlizer Company, a corporation of the State of Mississippi, is authorized to do business in the State of Alabama .

Second-----That said Bill of Complaint, and each paragraph thereof, fails to show that the said Gulfport Fertlizer Company, a foreign corporation, has ever complied with the laws of this State regarding foreign Corporations.

Wherefore these defendants demur to this said bill and to all matters and things therein contained, and prays the judgment of this honorable Court whether they shall be compelled to make any other or further answer thereto, and pray to be dismissed with their reasonable costs in this behalf sustained.

Stone & Stone,
Solicitors for Charles M. Nelson & Mary A. Nelson.

3

No. -51-

DEMURRER TO COMPLAINT.

GULFPORT FERTILIZER COMPANY,
a corporation,
Plaintiff.

-vs-

CHARLES M. NELSO N &
MARY A. NELSON.

CIRCUIT COURT,
BALDWIN COUNTY,
STATE OF ALABAMA.

-------IN EQUITY----------

66

Filed in this office this
Nov 16th, 1917.
T W Richman CLERK.

By Stone & Stone,
Attorneys for Defts.,

Chas. Hall Atty for Pltf.

STONE & STONE
ATTORNEYS
BAY MINETTE, ALABAMA

-3-

LAW OFFICES OF STONE & STONE

GULFPORT FERTLIZER COMPANY, A Corporation. Complainant.	Number fifty-one.
-vs-	IN THE CIRCUIT COURT OF BALDWIN COUNTY STATE OF ALABAMA.
CHARLES M. NELSON AND MARY A. NELSON, Defendants.	EQUITY SIDE.

(Brief and argument of Defendants in support of demurrer filed to bill.)

To the complaint filed in the above cause, the stating part, or premises of which is as follows;

> "Your complainant, Gulfport Fertlizer Company, a corporation organized under the laws of the State of Mississippi, and doing business at Gulfport, Mississippi, respectfully presents this, its bill of complaint against Charles M. Nelson and Mary A. Nelson, representing unto your Honor as follows:"

the defendants demurred and for grounds of demurrer set out the following;

> "First----That said Original Bill of Complaint fails to allege that the Complainant, Gulfport Fertlizer Company, a corporation of the State of Mississippi, is authorized to do business in the State of Alabama.
>
> Second----That said Bill of Complaint, and each paragraph thereof, fails to show that the said Gulfport Fertlizer Company, a foreign corporation, has ever complied with the laws of this state regarding foreign Corporations."

In support of this demurrer, if the Court Please, the Defendants respectfully submit:

It is a cardinal rule of equity pleading, as had been repeatedly said by the courts of Alabama, and founded in reason and good sense, that a bill must show the complainant's title to relief with sufficient certainty and clearness to enable the Court to see plainly that he has such a right as warrants its interference, and the defendant to be distinctly informed of the matter of the case upon which he will be called upon to defend; matters essential to the complainant's relief must appear; not by inference but by direct and unambiguous averments. 121 Ala. 395-6. (This case cites "Cockrell -v- Curley" 26 Ala. 205; and "Duckworth -v- Duckworth" 35 Ala. 70.)

The Court, in "McDonald -v- Mobile Life Insurance Company", 56

Ala. 408, says, "Bills in chancery must set forth, not the evidence, but every material averment of fact necessary to complainant's right of recovery. So complete must the averments of fact be, that, on demurrer or decree "pro confesso", the court can, without evidence, be able to perceive and confirm that complainant is entitled to relief prayed. Relief can only be granted on allegations and proof; the latter will never be allowed to supply omissions or defects in the former. Allegations admitted or proven are the only premises that will uphold a chancery decree...." In "Savannah & Memphis Railroad -v- Lancaster" 65 Ala.555, we find this, "Description is not, in pleading, equivalent to averment.....The stating part, or premises of the bill, should contain a clear or orderly statement of the facts upon which the suit is founded, without prolixity or repetition." This is also fully discussed in "Goldsmith -v- Goldsmith," 67 Ala. 560, but we do not deem it necessary to quote at length from this case. This is, and has been for many years, the rule in equity pleading. "It is a fundamental rule of equity pleading that every fact essential to complainant's title to maintain his bill and obtain the relief prayed must be stated.--- Story Eq. Pl. par. 257 and 1 Daniell Ch. Pr. 319." "And where it appears from the face of the bill, that the complainant's right to the relief he seeks depends upon some preliminary act by him, the performance of such preliminary act must be averred, or a demurrer will lie."

"The above rule of pleading being settled and confirmed---121 Ala. 395.", the only question now is this; In failing to allege compliance with the laws of Alabama and that it was duly authorized to do business in Alabama, did complainant fail or omit to allege things that are essential to its sustaining this bill? Or---Did it omit the allegation or averment of a fact, whose existence is necessary, before it can maintain this bill? Did it fail to allege or aver the performance of an act or acts whose performance is or are necessary as a pre-requisite to its maintenance of this bill?

To answer any of the above questions in the affirmative would be, under the rule of equity pleading set out above, to sustain the defendants demurrer.

In s

In answering either of the above questions, we must reach one of two conclusions, either, "That a foreign corporation, organized under the laws of the State of Mississippi, and doing business in this state, has to comply with the laws of this state in regard to foreign corporations before bringing suit." or "That it does not."

The defendants, as the basis of this demurrer filed, contend that a corporation, foreign to this state, does have to make these compliances as a pre-requisite or condition precedent, to its maintenance of any suit.

The laws of the State of Alabama, as found, not only in the Code of Alabama and Legislative Acts, but also in the Constitution itself, provide as follows;

> Code of Alabama of 1907 page 472. Article 21-Chapter 69. Section 3642-FOREIGN CORPORATIONS MUST FILE SINTRUMENTS OF WRITING DESIGNATING AGENT AND PLACE OF BUSINESS IN THIS STATE---Every corporation not organized under the laws of this state, before engagaing in or transacting any business in this state, shall file an instrument of writing, under the seal of the corporation and signed officially by the president and secretary thereof, designating at least one known place of business in this state and an authorized agent or agents residing thereat; etc., etc.,
>
> Section 3644-UNLAWFUL FOR FOREIGN CORPORATION TO TRANSACT BUSINESS IN THIS STATE BEFORE DECLARATION FILED---PENALTY.--It is unlawful for any corporation to engage in or transact any business in this state before filing the written instrument provided for in the tweo preceding sections; and any such corporation that engages in or transacts any business in this state, without complying with the provisions of the two preceding sections, shall, for each offense, forfeit and pay to the state the sum of one thousand dollars.
>
> Section 3653-UNLAWFUL TO DO BUSINESS WITHOUT PERMIT-CONTRACTS VOID---No such corporation, its agents, officers or servants, shall transact any business for or in the name of such corporation within the State of Alabama, without having first procured said permit, and all contracts, engagements or undertakings or agreements with, by, or to such corporations, made without obtaining such permit, shall be null and void.

These sections above set out were passed, along with many others, in furthereance of the purpose of the Constitutions of 1875 and 1901. In the Constitution of 1901, Section 232, we find the following;

> No foreign corporation shall do any business in this State without having at least one known place of business and an agent or agents therein, and without filing with the Secretary of State a certified copy of its articles of incorporation, etc., etc.,

These laws, and analagous laws, have always, by this state and all other states, been construed to be police regulations. Not for the

purpose of raising revenue but for the protection of its citizens. In "Dudley -v- Collier" 6 So.(Ala.) 304., the court, in discussing these same laws, said, "We have construed this to be a police regulation, just as much, we said, a police regulation for the protection of the property interests of the citizens of the state as the law forbidding vagrancy among its inhabitants. Tel. Co. -v- Tel. Co. 67 Ala. 68."

These are similar laws to those in regard to selling fertlizers which are unstamped. The Court in 6 So. (Ala.) 304, goes on to say; "In Wood -v- Armstrong it was accordingly held, where a statute of the state imposed a penalty for selling any fertlizer which had not been inspected, analyzed and stamped, in the mode prescribed by law, a note given for the fertlizer sold in violation of this requirement was void." So also in 32 Ala.30, note given for lease of a ferry was held to be void on the ground that the lessor had no license and the running of an unlicensed ferry was prohibited under a penalty. The same in 80 Ala. 412, in this case a physician sought to collect for services when he had no license, he was not allowed to do so.

In explaining why they rule this way the courts state; "This ruling rests upon a general principle that when a statute forbids, under a penalty or otherwise, the carrying on af any particular business without a license, a contract made for services rendered or goods sold in violation of the requirements of such statute, is void, especially if it appears that the object of the legislature was for police purposes and not solely for the purpose of raising revenue, or, in other words, where the legislative intent, in imposing the conditions, was the maintenance of public order or safety, or the protection of the persons dealing with those on whom the conditions are imposed. Such at least, seems to be the better and later view sustained by the more recent authorities." The Court here adds; "Analagous statutes, in other states, regulating the doing of business by foreign corporations, have been frequently construed by the highes courts of those states in accordance with the views which we have above expressed." Citing Assurance Co. -v- Rosenthal, 55 Ill 85; Insurance Co. -v- Harvey, 11 Wis 394; Hoffman -v- Banks 6 Or. 431, and others.

The same line of reasoning is followed in Farrior -v- New England Mortgage Co. 7 So. (Ala.) 200. " Thr prohibition of the Constitution

is against doing'any business in this state' without complying with the conditions specified. The doing af a single act of business, if it be in the exercise of a corporate function, is as much prohibited as the doing of a hundred such acts and it is just as much opposed to the policy of the Constitution, which is to protect our citizens against fraud and imposition of insolvent and unreliable corporations and to place them in the attitude to be reached by legal process from our courts in the event of any existing necessity to bring suit against them to vindicate a legal right or to contest the validity of any contract made with them"....."This case, in our judgment, must be governed by the rule declared in Dudley -v- Collier, supra. The loan of the money by the complainants to the defendants was an act of corporate business which was prohibited by the constitution and this illegal act was the consideration of the defendants promise to pay the borrowed money. The promise, therefore, was void, and, being executory, the courts will not lend their aid to its enforcement; for this would be in subversion of the laws made for the public good. Apparent injustice, it is true, often follows, from applications of provisions of this nature, by which contracts are annulled for illegality, or as obnoxious to good morals, or violative of public policy or for repugnancy to positive statutes. But the law does not allow this result for the benefit of either of the offending parties as being less censurable or more favored than the other. It only lets the parties, who are in equal fault, severely alone, as the surest means of securing obedience to the authority of its mandates."

The case of Mullens et al -v- American Freehold Land and Mortgage Co. 7 So. (Ala.)201, even goes farther and holds that in a suit in equity the complainant, a foreign corporation, must not only allege that it has complied at the time of the bringing of the suit but also that it had complied at the time the contract or mortgage was entered into.

Dundee Mortgage, Trsut and Investment Co. -v- Nixon, et al. 10 So. (Ala.) 311---In an action on a note, plaintiff, in its complaint, styled itself a corporation of Great Britain. The Only evidence as to where the note was executed was the note itself, which was headed and

dated as executed at a place in Alabama. There was no other evidence except that it was proven that the Corporation had notcomplied with the Constitution, Art. 14 Par. 4, (1875) and the Act of 1887, which requires etc., etc., Defendants had filed plea that alleged that complainant had not complied with these provisions and no sufficient demurrer was interposed. Held; That a verdict was properly directed for defendants.

Especially do we wish to call the attention of the Court to the case of "Sullivan, Receiver., etc., -v- Vernon, et al., 121 Ala. 393. This case involves the same question in this case and it is also brought before the court in the same manner, by demurrer. To quote at length; "PER CURIAM:-"THE original bill was filed to foreclose a mortgage executed in this state, on real estate, here situate, to secure the payment of a debt contract with the American Building, Loan and Investment Society., a corporation organized and existing under the laws of the State of Illinois. A motion was made to dismiss the bill for want of equity because it did not aver that at the time of the execution of the mortgage, the corporation had filed in the office of the Secretary of State, pursuant to the Statute Approved February 28th, 1887. (Pamph. Acts, 1886-8, p. 102.), an instrument in writing, designating for itself at aleast one known place of business in the state and an authorized agent thereat residing. The motion was sustained but leave was granted to amend within thirty days. From the decree sustaining the motion, this appeal is taken."

"The Constitution, Art. 14, Sec. 4, prohibits a foreign corporation from doing any business in this state, etc., etc., The statute to which we have referred was enacted in aid and execution of the Constitution. The uniform construction of the constitution is that it is prohibitory, rendering it unlawful for a foreign corporation, without compliancewith its condition, to transact any business here, and all contracts into which it might enter, while executory, requiring the aid of the courts to enforce them, are void. AND IT IS A SETTLED RULE OF PLEADING IN EQUITY, THAT A BILL FOR THE ENFORCEMENT OF SUCH CONTRACTS, IS DEMURRABLE, UNLESS IT CONTAINS AN EXPRESS AVERMENT THAT AT THE TIME OF MAKING SUCH CONTRACT, THE CORPORATION HAD ONE KNOWN PLACE OF BUSINESS THEREIN."

THIS CASE CITES THE FOLLOWING IN SUPPORT OF ITS LAST RULING;"Farrior -v- N. E. Mortgage Co., 88 Ala. 275; Mullens -v- American Freehold Mortgage Company., ib. 280; Christian -v- American Freehold Mortgage Co., 89 Ala. 198; Ginn -v- New England Mortgage Co., 92 Ala. 135."

It proceeds, "It is doubtless true, as a general rule, that the law presumes the contracts of corporations, like the contracts of natural persons, to be legal. But it is a cardinal rule of pleading in equity, as has been said by this court, that a bill must show the complainant's title to relief with sufficient certainty and clearness to enable the court to see plainly that he has such a right as warrants its interference, and the defendant to be distinctly informed of the nature of the case upon which he is called to defend; matters essential to complainants right to relief must appear, not by inference, but by direct and unambiguous averment. "

"When the constitution ordainsthat 'no foreign corporation shall do any business in this State without having at least one known place of business and an authorized agent or agents therein;" and the leg-islature prescribed the mode in which the corporation shall make known to the public a designated place of business in this state, and who is or are its authorized agent or agents thereat, obedience to the Constitution and the Statutes becomes a condition precedent to the transaction of business in this state. WHETHER, there has or has not been performance of the condition is a fact lying peculiarly within corporate knowledge. It is a fact essential to the right of recovery, whereever relief is sought because of corporate transactions had within the state, and it must appear, mot by inference or presumption, but by direct, unambiguous averment. It is one thing to presume in favor of the legality of the contracts of corporations and natural persons; and quite another thing, and essentially a different thing, to presume that tiether have performed statutory or constitutional requirements, when performance is of the essence of the capa city to contract. We regard the rule established in the cases to which we have referred, as founded in reason and good sense, in conformity to the rules of equity pleading, and we are unwilling to modify or depart from it.

In 50 So. (Ala.) p. 341, in the case of Alabama-Western R. R.

Co. -v- Tally-Bates Const. Co., the indentical question is presented. The courts says; "We are not inclined to concur in the appellants' contention that the contract was void ab initio because compliance with the statute did not ante date its execution. Necessarily, however, the contract was entered into with the purpose that it should be executed in this state. It could not be executed elsewhere. It must be taken to have contemplated legal action by the plaintiff, since compliance with the statute was a condition precedent to plaintiff's right to build the railroad. A promise to comply is implied as an essential and necessary element of the contract, if it is to be sustained and enforced as a valid agreement. When the time came for the execution of the agreement and the plaintiff failed to take the necessary steps to comply with the statutes-thus leaving the defendant without the protection for which he had stipulated, viz; the power to redress any wrong which it might suffer, in the courts of this state-the defendant had a right, under the law, to renounce the contract, then, or at any subsequent time, as for a breach by the plaintiff. Diamond Glue Company -vs- U. S. Glue Company, 187 United States, 611.

We desire to call the attention of the court just here to the fact that the last court's decision is based upon a decision handed down by the United States Court and it cites the case as shown. In the same Alabama case from which we have just quoted we also find this "The statute requires that an instrument in writing shall be filed with the Secretary of Statebefore engaging in or transacting any business within the state. Its purpose has been stated. The purpose is not to be accomplished by the filing, at the pleasure of the corporation, or when it may be to its interest to appeal to the courts of this state. We may safely affirm that nothing short of a compliance before any business is engaged in or transacted in this state, satisfies either the literal requirement of the Statute and the Constitution, or their policy" Pittsburgh Construction Company -v- West Side R. R. Co.154 Federal, 929." Paragrapgh "" of the syllabus of this case states "A foreign corporation may not sue in the domestic court until it has

put itself in a position to be sued therein, by complying with Code 1907, Secs. 3642, 3644, prescribing the conditions on which foreign corporations may do business in this state."

American Amusement Co. -v- East Lake Chutes Co., 56 So. (Ala.) 961. 1-"A foreign corporation, which has no known place of business nor any authorized agent in this state, and which has not filed with the Secretary of State a certified copy of its articles of incorporation, as required by the constitution of 1901, Section 232, nor complied with Code 1907, Secs., 4632, 3643, prescribing the conditions on which foreign corporations may do business within the state, cannot maintain an action in this state." This case also holds that a Defendant is not estopped to set up this defense, altho the Attorney of the Defendant advised the corporation that it was not necessary to file papers, etc., to comply with the law. The court says this will not excuse the performance of duties enjoined by law.

Geo W. Muller Mfg. Co. -v- First National Bank of Dothan, 57 So. (Ala.) 762. Anderson, J., speaking, says; "A foreign corporation, which has not required with the requirements of Secs. 3642 and 3644 of the Code of 1907, is prohibited from doing a single act of business in this State, if done in the exercise of its corporate function, and said corporation cannot sue in this state until it has put itself in a position to be sued therein by complying with the said section of the Code." Further on he states, "These statutes were enacted to give force and effect to Section 232 of the Constitution of 1901, and were intended as a police protection of the property interests of the citizens of the state, and the enforcement of the same by the courts of the land is imperative, notwithstanding the result, in some instances, may appear horrible and abhorrent to the judicial conscience."

Now, in conslusion, we wish to call the Court's attention to the case of Citizens' National Bank -v- Bucheit. This is a very late case and the last decisions touching this subject. It was decided first in January, 1916 and a rehearing denied February, 1916; it is found in vols 71 and 72, Southern Report, pages 83 and 1019, respectively. "Where the contract is to be performed in this state, altho not entered into here, and in the performance, the non-resident corporation must engage

in business in this state, altho the contract is valid (having been made outside the state), the policy of the State, as evidenced by the Constitution and Statutes, compels the courts of the State to refuse their aid to such offending corporation in the enforcement of such contract or recovering the benefits accruing thereunder. Alexander -v- Alabama Western Railroad Company, supra, Alabama Western Ry. Co. -v- Tally-Bates Co., 162 Ala. 396, 50 So. page 341; Geo. W. Muller Mfg. Co. -v- First National Bank of Dothan, 175 Ala., 229, 57 So. 762."

"However, from well-recognized principles of law, it would seem that any contract entered into in this State by a foreign corporation which has not qualified to transact business in this state contravenes the public policy of the state, and confers on the offending corporation no rights that the courts will recognize or enforce at its instance. This seems to b e the trend of the gret weight of the authority and some of the leading cases are here collated. Chattanooga National Building & Loan Ass'n -v- Denson, 189 U. S. (Tenn.) 408; Bank -v- Parker, 40 So. 988; General Electric Co -v- Town of Ft. Deposit, 174 Ala. 185; McGhee -v- Lindsey, 6 Ala. 16; Moog -v- Hannon, 93 Ala. 504; Jemison et al -v- Birmingham & Atlantice Ry. Co., 125 Ala. 383; W. U. Tel Co. -v- Young, 138 Ala. 243; Wood v Armstrong, 54 Ala. 150. And in one case it was said, 'The rule above declared is not only founded in the soundest principles of morality and public policy, but its enforcement is necessary to maintain the supremecy of the laws and the dignity of the state. Wood -v- Armstron, supra."" And in another; "It is sfficient of the law prohibitsthe doing of the act, and, when it does, the court, being organized under the law and required to administer it, cannot enforce any supposed rights, predicted upon a prohbited or the omission to perform an act that is prohibited. Union Tel. Co. -v- Young."

The court says; "The following cases support the conslusion; Hanover National Bank -v- Johnson, 90, Ala. 549; Hawley -v- Bibb, 19 Ala. 56; Bank -v- Coughron, (Tenn. Ch. App.) 52 S. W. 1113; Erhhardt -v- Robersoh, 78 Mo. App. 404; Montjoy -v- Bank, 76 Miss 402; Perkins -v- Savage, 15 Wend,(N.Y.) 412; Ward -v- Sugg, 13 N.C. 489; Aurora -v- West, 85 American Decisions, 416; Sondheim -v- Gilbert, 18 N. E. 687, 5 L. R. A. 432; New -v- Waller, 9 N. E. 386; Wallet -v- Parker 6 Wend, (N. Y.) 615; Sboddy -v- Bank, 7. L

Jones -v- Dannenberg, 52 L. R. A. 272, 112 Ga., 426."

From an examination of the neumerous decisions cited in this brief and argument, the court will find that from the first to the last, they being arranged in order of thier date; that the same purpose has been held in view by the courts and their decsions are all following out this purpose, which they have expressed to be the protection of the citizens of this state from insolvent and unrelieable corporations of other States. To carry out this purpose they have prohibited the corporations who do not comply with the laws from bringing suits in this state for the protection of themselves in their dealings with our citizens who are unable to do likewise because the corporation that has not complied with our laws are beyond the reach of our courts. They have held through all these decisions, that before a corporation can sue in this state they must be able to be sued; that they must, as a pre-requisite of such right, put themselves in a position to be reached by the same courts in which they seek relief, should the rights of our citizens, in dealing with such corporations, be threatened or damaged. The courts have clearly set themselves against the existence of any such state of affairs as will allow a stranger to sue a citizen without the citizen, who can look only to our courts for protection, being alloowed to sue the stranger.

Keeping before us these decisions, not only of this state, and other states who have similar lawsm but even of the United States Court, We find that a foreign corporation must comply with our laws relating to them before they can maintain a suit in this state.

This being so then, according to the rule of equity pleading discussed in the first part of this brief and argument, it is true, that a foreign corporation, bringing a suit in chancery, must, as a requisite to their right to maintain suit, allege that they have complied with our laws.

The complainant, Gulfport Fertlizer Compnay, a foreign Corporation, in their bill, have failed to do so.

We contend, therfore, that our demurrer is proper.

Respectfully submitted,

Stone & Stone

Solicitors for defendants.

nos.

Filed 2/22-18
T. M. Rickman
Register

GULFPORT FERTILIZER COMPANY, a Corporation,	:	
- VS-	:	IN CIRCUIT COURT OF BALDWIN COUNTY.
CHARLES M. NELSON, ET AL.	:	(IN EQUITY.) 2-20,54.

Answering the demurrers as filed in this cause by the respondents, we respectfully submit that the said demurrers are not well taken for the following reasons:

There is no averment or statement of facts in the said bill which would indicate that the complainant was doing business in the State of Alabama, or that it had ever done any business in the State of Alabama. The bill simply alleges that the complainant had secured a judgment in this honorable Court against these respondents, and that said judgment was filed for record during the year of 1915. There is nothing in said bill to show how the indebtedness accrued or the facts upon which the said judgment was secured, and so far as appeats from the bill it may have been a simple promissory note executed in Mississippi for money lent. Even if the demurrers set up legal objections to the bill, it would certainly be necessary that said bill should contain an averment of facts showing that the complainant, a foreign corporation, was doing business in this State, and if said bill did not allege such a fact, then it strikes us that the matters set up by demurrer would be by amswer. Then, further, for aught that appears in the bill of complaint, the complainant might have been engaged in interstate commerce only, and if this were true then Section 3650 of the Code would relieve it from any specific act as is required by Chapter 69, Article 21, of the Code of 1907, and which statutory law we presume is the basis of said demurrer.

Also if such contention as is suggested by the demurrer, was

Gulfport Fertilizer Co., a Corporation. vs. Charles M. Nelson, et. al.	)	In the Circuit Court of Baldwin County, Alabama. In Equity.

This cause is submitted on the demurrers of Respondents to the Original Bill of Complaint. The demurrers rest upon the ground that it is not averred in the bill that the Complainant, baing a foreign Corporation, has complied with the Constitution and Laws of this State to entitle it to engage in business in this State. Counsel for Complainant have prepared an exhaustive and well considered brief, but the Bill of Complaint does not disclose the fact that the basis of the relief prayed for was or consisted in engaging in business in this State. It may be, so far as the bill discloses that the basis of the contention between the parties was an act consumated without the State, or protected by the interstate Commerce Act. If so the demurrers are not well taken and there would be no necessity for the allegation demanded by the demurrers. The bringing or the prosecution of suit in the Courts of the State is not enganing in Business within the meaning of the Statute. In Ginn vs. Mortgae Co. 135, it was held that in a case of this kind the demurrer should be sustained and the Respondent put to his Answer, the matter being defensive. The Register will enroll the following decree:

Gulfport Fertilizer Co., a Corporation. vs. Charles M. Nelson, et. al.	)	In the Circuit Court of Baldwin County,. In Equity.

This cause is submitted for decree on the demurrers to the Original Bill of Complaint and, on consideration,

It is ordered, adjudged and decreed that the demurrers to the Original Bill be and the same are hereby overrulled.

It is further ordered that Respondents have thirty days from this date in which to file their answer to the said Original Bill of Complaint if they should be so advised to do.

This Feb. 23rd 1913.

A. E. Graves

Judge.

No. 51.

Gulfport Fertilizer Co
vs
Chas. C. Nelson
et al

Argument & Brief
of Chas. Hall

Filed 2/21 1918
T. W. Rickman
Register

-6-

Decree and Demurrer

Filed 2/26-1918
T W Richardson
Register

Recorded on Minutes

Gulfport Fertilizer Co., a Corporation. vs. Charles M. Nelson, et. al.	In the Circuit Court of Baldwin County, Alabama. In Equity.

This cause is submitted on the demurrers of Respondents to the Original Bill of Complaint. The demurrers rest upon the ground that it is not averred in the bill that the Complainant, baing a foreign Corporation, has complied with the Constitution and Laws of this State to entitle it to engage in business in this State. Counsel for Complainant have prepared an exhaustive and well considered brief, but the Bill of Complaint does not disclose the fact that the basis of the relief prayed for was or consisted in engaging in business in this State. It may be, so far as the bill discloses that the basis of the contention between the parties was an act consumated without the State, or protected by the interstate Commerce Act. If so the demurrers are not well taken and there would be no necessity for the allegation demanded by the demurrers. The bringing or the prosecution of suit in the Courts of the State is not enganing in Business within the meaning of the Statute. In Cinn vs. Mortgae Co. 133, it was held that in a case of this kind the demurrer should be sustained and the Respondent put to his Answer, the matter being defensive. The Register will enroll the following decree:

Gulfport Fertilizer Co., a Corporation. vs. Charles M. Nelson, et. al.	In the Circuit Court of Baldwin County,. In Equity.

This cause is submitted for decree on the demurrers to the Original Bill of Complaint and, on consideration,

~~It is ordered, adjudged and decreed that the demurrers to~~ the Original Bill be and the same are hereby overrulled.

It is further ordered that Respondents have thirty days from this date in which to file their answer to the said Original Bill of Complaint if they should be so advised to do.

This Feb. 23rd 1913.

A E Graves Jr

Judge.

BRIEF OF DEFENDANTS.
-on-
Demurrers to amended Comp.

Gulfport Fertilizer Co.,
a Corporation.

-vs-

Charles M. Nelson and Mary
A. Nelson,

Filed this 5th Sept 1918
T. W. Rieurson
Register.

STONE & STONE
ATTORNEYS
BAY MINETTE, ALABAMA

1 x

-FIFTH-

The amended Bill of Complaint fails to allege that the complainant "Gulfport Fertilizer Company, a corporation," is now authorized to do business in the State of Alabama.

-SIXTH-

The amended Bill of Complaint fails to allege that the complainant "Gulfport Fertilizer Company, a corporation," has ever complied with the laws of the State of Alabama, regarding foreign corporations.

Wherefore, these defendants demur to the said Bill of Complaint as amended and to all matters therein contained and pray judgment of this Honorable Court whether they shall be compelled to make any further or and other answer thereto, and pray to be dismissed with their reasonable costs in this behalf sustained.

Stern, Stern

Solicitors for Complainant.

-Answer and demurrer to amended bill-

GULFPORT FERTILIZER COMPANY, a corporation. Complainant. -vs- CAHRLES M. NELSON AND MARY A. NELSON, Defendants.	IN THE CIRCUIT COURT-EQUITY SIDE STATE OF ALABAMA BALDWIN COUNTY.

Filed this 7/2/1

Come the Defendants, Charles M. Nelson and Mary A. Nelson, and reserving to themselves all right of exception to the Original Bill of Complaint and the Bill of Complaint as amended, for answer thereto say;

They deny each and every paragraph of the said Bill, both separately and severally.

The Defendants, Charles M. Nelson and Mary A. Nelson, incorporate the following demurrer, in this their answer and demurrer, and for grounds of said demurrer to the Bill of Complaint as amended, and to each and every paragraph thereof, severally and separately and severally, and for grounds of demurrer show that;

-FIRST-

The amended Bill of Complaint fails to allege that the Complainant, "Gulfport Fertilizer Company, a corporation" is a corporation organized under the Laws of the State of Alabama.

-SECOND-

The amended Bill of Complaint fails to allege that the complainant, "Gulfport Fertilizer Company, a corporation," is organized under the laws of any state.

-THIRD-

The amended Bill of Complaint fails to allege ~~where~~ the complainant, " Gulfport Fertilizer Company, a corporation" was organized.

-FOURTH-

The amended Bill of Complaint fails to allege that the complainant "Gulfport Fertilizer Company, a corporation," was authorized to do business in this state at any time.

by competent authority, to enable them to maintain this action. That was the case of a foreign corporation." etc., etc.,.....

In this case we can find no Alabama decisions that deal with this question where a foreign corporation is involved. Surely there can be no judicial acknowledgment of such a body, no estoppel, for their acts, if foreign and unauthorized, are void, and as for their name suggesting a corporation, if it does, is suggests that of a foreign one.

We therefore, contend, that the allegations are necesary and our demurrer, consequently, well taken,

Respectfully submitted,

Solicitors for
Defendants.

fss.

trine of estoppel while still others base their rulings on the fact that judicial notice is taken of their corporate capacity. It can be readily seen that noe of these reasons can fit this case and save the complainants the necessity of making the necessary allegations.

This case must be considered in an entirely different light from those that relieve the Complainant of the necessity of making this allegation or allegations. In Alabama, we have special laws relating to foreign corporations. When it is shown that they are foreign they are put upon a different footing in our courts. They have entirely different defenses to meet and are put to greater proof in relation to themselves. Surely the courts of this state can take no judicial knowledge of the fact that a body of individuals have been lawfully incorporated under a foreign law. This must be alleged and proven by them in our courts in order for them to get the proper recognition.--"Encyclopedia of Pleading and Practice, Vol. 5, Page 74."

We find the whole question determined and settled in the case of Winnipiseogee Lake Co. -v- Young, 40 N. H. page 420-8 in the following language;"The Practice, we think, is nearly universal, that a corporation is described in its bill by its corporate name, with the addition of the fact that it is a corporation duly established by law in such a state, and having its place of business at such a place; and a corporation defendant is described in the same way."

To quote from the case of Holloway -v- Memphis, El Paso & Pacific R. R. Co.., found in the 76th Volume, American Decisions on page 68, "It is the settled rule of the English Law, and it is the rule of New York, Virginia and some other states, that where a body politic institutes legal proceedings, either on a contract or to recover property. It must, at the trial, under the general issue, prove the fact of incorporation: Angell & Ames on Corporations, 4th ed., sec. 632, and cases cited. In the case of Bank -v- Simonton, 2 tex. 531. this courtheld that the plaintiffs must aver and prove that they were a body corporate, duly constituted

GULFPORT FERTILIZER COMPANY, acorporation, Plaintiff.	
-vs-	CIRCUIT COURT-EQUITY SIDE STATE OF ALABAMA BALDWIN COUNTY
CHARLES M. NELSON AND MARY A. NELSON.	

BRIEF AND ARGUMENT OF DEFENDANTS IN SUPPORT OF DEMURRER FILED TO THE BILL OF COMPLAINT AS AMENDED BY PLAINTIFFS:-

The Bill of Complaint, as amended, reads as follows in the stating part, "Your complainant, Gulfport Fertilizer, a corporation, respectfully presents this its bill of complaint againstn Charles M. Nelson and Mary A. Nelson, representing unto your Honor as follows;"

In substance, the demurrer filed by the Defendants, a copy of which is hereto attached for reference, is as follows;

That the Bill of Complaint fails to allege;

(1)"that the complainant, "Gulfport Fertilizer Company, a corporation," is organized under the laws of any state." (2) "that the complainant is organized under the laws of the State of Ala." (3) ""where the complainant, "Gulfport Fertilizer Company, a corporation,"was organized." (4)"that the complainant was authorized to do business in the State of Alabama." (5) "that it is now authorized to do business in the State of Alabama." (6) "that it has ever complied with the laws of the State of Alabama regarding foreign corporations."

As to the necessity of these allegations the Defendants only desire to cite a few cases and comments thereon;

Upon an examination of the decisions touching the questions we have examined a large number of decisions and find among them many that do hold these averments not necessary. Upon a close examination of these, however, it will be found that they are based upon principles or facts that cannot be applied in this instance. Some rely upon the fact that the name in each case cited implies in itself that the plaintiff was a corporation; others rely upon the doc-

GULFPORT FERTILIZER COMPANY,)
VS) IN CIRCUIT COURT OF BALDWIN COUNTY
NELSON ET AL.) IN EQUITY.

We respectfully submit that the demurrers as filed to the bill of complaint in the above cause are not well taken for the following reasons:

The first, second and third demurrers raise the proposition that the complaint does not show where said corporation was organized, whether under the laws of this State or some other State. Section 3969 of the Code of 1907 expressly provides that there is no duty upon the complainant to prove the existence of the corporation, unless such existence as a corporation is denied by a sworn plea. If it is not necessary to prove a corporation's existence, then surely it would not be necessary to aver more than that the party complainant was a corporation, which was done in this instance. The mere fact that had it been alleged in said bill of complaint that the corporation was organized under the law of this State or any other State it would not have been necessary to prove this averment without a verified denial of such corporate existence, then surely it would have been useless to have made such an averment. This issue, under the Code section cited, can only be raised by answer or plea, and is not subject to demurrer.

This contention is absolutely borne out in the cause of Seymour and Sons vs. Thomas-Harrow Company, 81st Alabama page 250, where we find the following language:

"When the name of the plaintiff fairly imports either a partnership or an incorporated company, and the record is silent as to the character of the plaintiff, no presumption either way arises, and is not created by the mere use of the plural number. When an action is brought in a name appropriate for a corporation, or which may fairly import corporate character, and the capacity to sue is not put in issue, the capacity to sue, and corporate existence, if necessary will be intended for the purposes of the suit. As the complaint does not show that the plaintiff is not a corporation, and incapacity to sue does not appear on its face, it is not subject to demurrer founded on such objection, and being sufficient on demurrer, will support a judgment by default on appeal."

The above goes much further than is necessary

to sustain the bill in this case as against the demurrer filed, for in this bill it is expressly avered that the complainant is a corporation, where the above case holds that even if the name would fairly import corporate character it would be sufficient. We have carefully traced this decision down to date, and have been unable to find where the law as announced in the paragraph quoted above has ever been overruled, modified or questioned.

As to the other grounds of demurrer, we will state that they raise the same propositions which we submitted to this court heretofore in this particular case, and where this court held the bill not subject to the demurrer. This being true, we feel it unnecessary to cite the same authorities as were given in the former submission for the same matter having once been adjudicated in the case we feel sure that the court will adhere to its former ruling.

In conclusion we respectfully submit that under the section of the Code above cited and the case cited, that the respondent must file a verified plea denying the right of the complainant to sue before there is an issue upon which this court can adjudicate.

Respectfully submitted

Chas. Hall & Gordon & Edington

SOLICITORS FOR COMPLAINANT.

Gulfport Fertilizer Co
v
C. M. Nelson, et al,
Brief of Appl'ee

Filed 8/5—1918
T. McNamara
Reporter

Chas. Hall
Gordon Edington
Attys

Gulfport Fertilizer Co., a Corporation,	)	In the Circuit Court of Baldwin County,
vs.	)	
Charles M. Nelson and Mary A. Nelson.	)	In Equity.

This cause is submitted for decree on the demurrers of Respondents to the Original Bill of Complaint as amended, and on consideration,

It is ord red, adjudged and decreed that the said demurrers be, and the same are hereby overrulled.

This Sept. 6th 1918.

A. E. Gaillard

Judge.

Graff Fertilizer Co.
vs.
Chas. M. & Mary A. Nelson

Decree on Demurrer to Original Bill as amended

Filed Sept 9th 1918
T. J. Richmond
Register

Recorded on
Memoranda,

Gulfport Fertilizer Company, a corporation, Plaintiff.	:	In the Circuit Court, In Equity Side, County of Baldwin, State of Alabama.
No.51- Vs.	:	
Charles M.Nelson and Mary A.Nelson, Defendants.	:	

Comes the Plaintiff in the above entitled cause, and moves the Court to set down for hearing in vacation the demurrers filed in this cause on July 1st,1918 and July 2nd, 1918, by the defendants so that the same may be decided by the Judge of this Honorable Court as if the hearing was had in term time.

Chas. Hall &
Gordon & Edington

Solicitors for Complainant.

No. 51

Motion to hear
Demurrers filed by
Defendants July 1, 1918 &
July 2, 1918

Filed 8/26-1918
T. W. Rickman
Register

1 Ex

Gulfport Fertilizer Company, a Corporation, Plaintiff,	:	In the Circuit Court, In Equity Side, County of Baldwin, State of Alabama.
No.51- Vs.	:	
Charles M.Nelson and Mary A. Nelson, Defendants.	:	

To Messrs. Stone & Stone, Solicitors of record:

You are hereby notified that the plaintiff in the above stated cause has applied to the Court to set down for hearing in vacation the demurrers filed by the defendants to the amended bill in this cause on July 1st,1918 and July 2nd,1918, respectively, and that said demurrers will be submitted to the Judge of said Court of Baldwin County,Alabama, on the 6th day of September,1918, after ten days from the service of this notice on you.

Done at office in Bay Minette,Alabama, this 26th day of August,1918.

T W Richerson
Register of Circuit Court
of Baldwin County,Ala.

9 No. 51, 10

Gulfport Pastilage Company
v
Chas. M. Nelson et al

Notice of Motion to hear Demurrer

Filed 8/26/1918
T. C. F. Reinman
Register

Service of this Notice is hereby accepted by the undersigned and further notice thereof is hereby waived
This August 26, 1918
Steers & Steers
Sol for Respondent
13

No. 51

DEMURRER TO AMENDED BILL.

GULFPORT FERTILIZER CO.,
Complainant.

-vs-

CHARLES M. NELSON AND MARY A. NELSON,
Defendants.

Filed in this office
July 1st, 1918.
T. W. Robinson
REGISTER.

STONE & STONE
ATTORNEYS
BAY MINETTE, ALABAMA

10

Wherefore, these Defendants demur to the said amended Bill of Complaint and to all matters therein contained and pray judgment of this Honorable Court whether they shall be compelled to make any further or any other answer thereto, and pray to be dismissed with their reasonable costs in this behalf sustained.

Solicitors for Defendants.

-Demurrer to amended complaint-

GULFPORT FERTILIZER COMPANY, a corporation. Complainant. -vs- CHARLES M. NELSON AND MARY A. NELSON. Defendants.	IN THE CIRCUIT COURT-EQUITY SIDE STATE OF ALABAMA BALDWIN COUNTY

Come the Defendants, Charles M. Nelson and Mary A. Nelson, and demur to the amended Bill of Complaint in this cause filed, and to each and every paragraph thereof, severally and separately, and for grounds of demurrer show that;

-FIRST-

The amended Bill of Complaint fails to allege that the complainant, "Gulfport Fertilizer Company, a corporation" is a corporation organized under the Laws of the State of Alabama.

-SECOND-

The amended Bill of Complaint fails to allege that the complainant, "Gulfport Fertilizer Company, a corporation," is organized under the laws of any state.

-THIRD-

The amended Bill of Complaint fails to allege where the complainant, "Gulfport Fertilizer Company, a corporation," was organized.

-FOURTH-

The amended Bill of Complaint fails to allege that the complainant, "Gulfport Fertilizer Company, a corporation", was authorized to do business in the State of Alabama at any time.

-FIFTH-

The amended Bill of Complaint fails to allege that the complainant, "Gulfport Fertilizer Company, a corporation," is now authorized to do business in the State of Alabama.

-SIXTH-

The amended Bill of Complaint fails to allege that the complainant, "Gulfport Fertilizer Company, a corporation," has ever complied with the laws of the State of Alabama, regarding foreign corporations.

ANSWER AND DEMURRER-

Gulfport Fertilizer Company.
a corporation,
Complainant.

-vs-

Charles M. Nelson and Mary A.
Nelson,
Defendants.

CIRCUIT COURT-EQUITY SIDE
STATE OF ALABAMA
BALDWIN COUNTY.

Filed in this office this

July 2nd ,1918

T. W. Richerson
REGISTER

STONE & STONE
ATTORNEYS
BAY MINETTE, ALABAMA

17

-FIFTH-

The amended Bill of Complaint fails to allege that the complainant "Gulfport Fertilizer Company, a corporation," is now authorized to do business in the State of Alabama.

-SIXTH-

The amended Bill of Complaint fails to allege that the complainant "Gulfport Fertilizer Company, a corporation," has ever complied with the laws of the State of Alabama, regarding foreign corporations.

Wherefore, these defendants demur and answer to the said Bill of Complaint as amended and to all matters therein contained and pray judgment of this Honorable Court whether they shall be compelled to make any further or and other answer thereto, and pray to be dismissed with their reasonable costs in this behalf sustained.

Stone & Stone
Solicitors for Complainant.

-Answer and demurrer to amended bill-

GULFPORT FERTILIZER COMPANY, a corporation. Complainant. -vs- CAHRLES M. NELSON AND MARY A. NELSON, Defendants.	IN THE CIRCUIT COURT-EQUITY SIDE STATE OF ALABAMA BALDWIN COUNTY.

Come the Defendants, Charles M. Nelson and Mary A. Nelson, and reserving to themselves all right of exception to the Original Bill of Complaint and the Bill of Complaint as amended, for answer thereto say;

They deny each and every paragraph of the said Bill, both separately and severally, and demand strict proof thereof.

The Defendants, Charles M. Nelson and Mary A. Nelson, incorporate the following demurrer, in this their answer and demurrer, and for grounds of said demurrer to the Bill of Complaint as amended, ~~and to each and every paragraph thereof,~~ severally and separately ~~and severally,~~ and for grounds of demurrer show that;

-FIRST-

The amended Bill of Complaint fails to allege that the Complainant, "Gulfport Fertilizer Company, a corporation" is a corporation organized under the Laws of the State of Alabama.

-SECOND-

The amended Bill of Complaint fails to allege that the complainant, "Gulfport Fertilizer Company, a corporation," is organized under the laws of any state.

-THIRD-

The amended Bill of Complaint fails to allege wherethe complainant, " Gulfport Fertilizer Company, a corporation" was organized.

-FOURTH-

The amended Bill of Complaint fails to allege that the complainant "Gulfport Fertilizer Company, a corporation," was authorized to do business in this state at any time.

Gulfport Fertilizer Co
a corporation
Pltf.
vs
Charles M. Nelson
& Mary A. Nelson

Filed 10/12 1917,
T. W. Robinson
Register

EXHIBIT "D".

Deed Book 26 N.S., Page 262

This indenture, made the 27th, day of July 1917, between Charles M. Nelson of the first part, and Mary A. Nelson of the second part: Witnesseth, that the party of the first part, in consideration of the sum of Fifteen hundred Dollars, hereby acknowledged to have been paid the party of the first part by the party of the second part, do hereby grant, bargain, sell and convey unto the said party of the second part, her heirs and assigns, all that real property in Baldwin County, State of Alabama, described as follows:

N.W.¼ of N.E.¼ of Section 27, Township 7 S.R.2 E; E½ of SE¼ of Section 22, Township 7 S. Range 2 E; SW¼ of SW¼ of Section 23 Township 7 S. Range 2 East. Commencing at the center of the mouth of Muddy Bayou on West side of Weeks Bay in the Nicholas Cook grant Section 38 Thirty-eight Township (7) S. Range 2 E and run 75 feet more or less to a stake on Weeks Bay on North side of Muddy Bayou thence North 7 1/4 degrees East one 75/100 chains to a stake thence North 16 degrees East 2 81/100 chains to a stake thence North 18 degrees and 10° West 7 98/100 to a stake, thence North West 2 chains to a stake on the South line of Robert Bishop's field, thence along said South line North 70½ degrees west 24 10/100 chains to a stake, thence South 33½ degrees West 37 12/100 chains to a stake in the center of Muddy Bayou, thence Easterdwarly following the meanders of said Bayou to the place of beginning containing 113 1/2 acres more or less in the Nicholas Cook Grant, known as Section 38 Township 7 S Range 2 East. Total number of acres 293 1/2.

Together with all the rights and appurtenances to said described premises in anywise belonging: To have and to hold the same forever.

And I Charles M. Nelson for myself and my heirs, the said described premises and appurtenances, will forever warrant and defend unto the said party of the second part, her heirs and assigns, against the lawful claims of all persons whatsoever.

In witness whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of:
Albert Nelson.
Dewey Slocum.

Charles M. Nelson (Seal)

The State of Alabama,
Baldwin County.

I, Jas. P. Slocum a Notary Public in and for said County and State, do hereby certify that Charles M. Nelson whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me, on this day, that being informed of the contents of the said conveyance he executed the same voluntarily on the day the same bears date.

Given under my hand and seal, this 27th, day of July, 1917.

(Seal)

Jas. P. Slocum
Notary Public Baldwin County.

Filed for record July 31st, 1917 at 2 P M
Recorded July 31, 1917.
James M. Voltz, Judge of Probate.

EXHIBIT "C".

Deed Book 26 N.S., Page 262

This Indenture, Made the 27 day of July 1917, between Charles M.Nelson of the first part, and Mary L.Nelson of the second part: Witnesseth, that the party of the first part, in consideration of the sum of One thousand Dollars, hereby acknowledged to have been paid the party of the first part by the party of the second part, do hereby grant, bargain, sell and convey unto the said party of the second part, her heirs and assigns, all that real property in Baldwin County, State of Alabama, described as follows:

Beginning at the center of Section 31 Township 6 S Range 2 East and running South 10 chains to Point Clear Creek thence up said Creek to a point 3° 18/100 chains South of the East and West half Section line thence East 5.82 chains thence North 36 chains thence West 12.72 chains thence North 16.82 chains thence West 1 chains thence South 10.84 chains thence West 15.50 chains to Point Clear Creek thence Southerly with the creek to the South line of N W ¼ of Section 31 thence East 13.30 chains to the place of beginning also the North 1/3 of the North 1/7 of N½ of SW½ of Section 31 lying East of Point Clear Creek Also Lots 5 & 6 of the Dana Hamock tract or North ½ of S.W.½ of Section 31 containing in all 49 acres more or less.

Together with all the rights and appurtenances to said described premises in anywise belonging: To have and to Hold the same forever.

And I Charles M.Nelson for myself and my heirs, the said described premises and appurtenances will forever warrant and defend unto the said party of the second part, heirs and assigns, against the lawful claims of all persons whatsoever.

In witness whereof, the said party of the first part has hereunto set his hand and seal the day and year first above written.

Charles M.Nelson (Seal)

Signed, sealed and delivered in
the presence of,
Albert Nelson
Dewey Slocum.

State of Alabama, :
Baldwin County . :

I, Jas.P.Slocum a Notary Public in and for said County and State, do hereby certify that Charles M.Nelson whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that being informed of the contents of the said conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and seal this 27 day of July 1917.

Jas.P.Slocum Notary Public,
Baldwin County.

(Seal)

Filed for record July 31,1917 at 2 P M
Recorded July 31,1917

Jas.M.Voltz,Judge of Probate.

EXHIBIT "B".

Deed Book 26 N.S., Page 263

State of Alabama, :
_____ County. :

Know all men by these presents That I Charles M.Nelson of Barnwell Baldwin County Ala in consideration of the sum of One Dollar and other considerations to me in hand paid by Mary A.Nelson the receipt whereof is hereby acknowledged, I do remise, release and convey to the said Mary A.Nelson all my right, title, interest and claim, in or to the following described personal property, to-wit:

My entire stock of sheep consisting of about four hundred (400) head marked crop, split and underbit in the right ear and two underbits in left ear about 80 head of cattle marked crop, split and underbit in the right ear and two underbits in left ear branded (C N) also two mules and two horses wagon one mare and buggy and all other personal property that I posess. to have and to hold, to the said Mary A.Nelson her heirs and assigns forever.

Given under my hand and seal this fourth day of May 1915.

Executed in the presence of

Chas.M.Nelson (Seal)

State of Alabama, :
_____ County. :

I, Jas.P.Slocum, a Notary Public in and for said County and State, do hereby certify that Charles M.Nelson whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me, on this day, that being informed of the contents of the said conveyance he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this fourth day of May 1915.

(Seal) Jas.P.Slocum Baldwin County.

Filed for record July 31st, 1917 at 2 P M.
Recorded July 31st, 1917.

Jas.M.Voltz, Judge of Probate.

EXHIBIT "A".

CERTIFICATE OF JUDGMENT.

THE STATE OF ALABAMA.
BALDWIN COUNTY.

Gulfport Fertilizer Company, a Corporation.

PLAINTIFF

VS.

T. G. Huggins and Chas M Nelson.

DEFENDANT

IN THE
CIRCUIT COURT
OF
BALDWIN COUNTY.

I, T.W.Ribherson, Clerk of the Circuit Court, in and for said County and State, do hereby certify that on the 23rd. day of November 1915 a judgment was rendered by said Court in the above stated cause, wherein Gulfport Fertilizer Company, a Corporation was Plaintiff and T.G.Huggins and Chas M Nelson were the Defendants in favor of the said Plaintiff and against the said Defendant for the sum of Nine hundred thirteen and 41/100 Dollars, and also the sum of Eight and 35/100 Dollars, costs of suit, and that Chas Hall is the attorney of record for Plaintiff in said Cause.

Witness my hand this 25th day of November 1915

T. W. Ribherson Clerk.

OK

No. 1137

THE STATE OF ALABAMA.
BALDWIN COUNTY.

CIRCUIT COURT

Gulfport Fertilizer Company,
a Corporation.

VS.

T.G.Huggins and Chas M Nelson

BALDWIN TIMES PRINT.

Chas. Hall, Atty

11/25/15 —

THE STATE OF ALABAMA, BALDWIN COUNTY. } Office of the Judge of the Probate Court.

I, J. H. H. SMITH, Judge of said Court in and for said County, do hereby certify that the within instrument was filed in this office for record on the 25th day of Nov. 1915, at —— o'clock ——, and I further certify that the same is duly recorded in Record Book No. 2 Judg. Page 37 and duly examined.

Witness my hand this 1st day of Dec, 1915.

J. H. H. Smith, Judge of Probate Court

By L. Kersler Clerk

FOOT NOTE: The defendants are required to answer each and every paragraph of the foregoing bill of complaint, but not under oath, their oath thereto being expressly waived.

Chas Hall

SOLICITOR FOR COMPLAINANT.

complainant in the collection of the above said judgment, which said deed was filed for record in the office of the Probate Judge of Baldwin County, Alabama, on July 3Ist, I9I7, a copy of which said deed is hereto attached and made a part of this complaint and marked exhibit "C"; and complainant further represents that on or about the 27th day of July, I9I7, for the purpose of hindering, delaying and defrauding your complainant in the collection of its said judgment, the said Charles M. Nelson, who then and there was in possession of and owned other real property in Baldwin County, Alabama, fraudulently conveyed same to Mary A. Nelson, his wife, and which said deed was recorded in the office of the Probate Judge of Baldwin County on July 3Ist, I9I7, and a copy of which said deed is hereto attached and made a part of this bill of complaint and marked exhibit "D".

The premises considered, your complainant prays that your Honor will take jurisdiction of the cause presented by this bill of complaint and will make the said Charles M. Nelson and Mary A. Nelson parties respondent thereto, and that process be served upon them requiring them to plead, answer or demur to this bill of complaint within the time provided by law. And complainant further prays that upon the final hearing of this cause that your Honor will enter a decree declaring each of the said conveyances by the said Charles M. Nelson to Mary A. Nelson, his wife, void as against the complainant, and will further enter a decree ordering the said property to be sold for the satisfaction of the indebtedness due complainant by the said Charles M. Nelson, as shown by the said judgment above described, and the costs incurred in this proceeding, together with the interest thereon, and will further order a reference to be held to ascertain the amount of said indebtedness, with the interest thereon.

And your complainant prays for such other and different relief as may seem just.

And complainant will ever pray, etc.

Chas. Hall

SOLICITOR FOR COMPLAINANT

plainant, together with interest thereon, and all of the costs of these proceedings, and the balance, if there be any, shall be turned over to the respondents.

In term time, at Bay Minette, Alabama, November 18th, 1918.

A. E. Faircloth

JUDGE OF THE CIRCUIT COURT OF BALDWIN C
COUNTY, SITTING IN EQUITY.

No 51

Gulfport Fertilizer Co.

vs.

Chas. M. Nelson and
Mary A. Nelson

Final Decree

Filed December
4th 1918.
T. W. Richardson
Register

Recorded on
Minutes Pages
35-36.

225

To the Honorable Arthur E. Gamble, Judge of the Circuit Court of Baldwin County, Alabama, sitting in Equity:

Your complainant, Gulfport Fertilizer Company, a corporation organized under the laws of the State of Mississippi and doing business at Gulfport, Mississippi, respectfully presents this its bill of complaint against Charles M. Nelson and Mary A. Nelson, representing unto your Honor as follows:

FIRST: That your complainant secured a judgment against T. G. Huggins and Charles M. Nelson in the Circuit Court of Baldwin County on the 23rd day of November, 1915, which judgment was for the sum of $913.41, and for the additional sum of $8.35 as costs in said cause, and that a certificate of the said judgment was filed for record and was recorded on the 25th day of November, 1915, in Record Book No. 2 of Judgments, and on Page 37, in the office of the Judge of Probate of Baldwin County, Alabama, the original of which certificate of judgment, bearing the stamp of record of the Probate Judge, is hereto attached and made a part of this bill of complaint and marked exhibit "A".

SECOND: Complainant further represents unto your Honor that just prior to securing the above said judgment, that the said Charles M. Nelson was in possession of and owned a large number of sheep and cattle and also two mules and one horse, and just prior to the securing of the above said judgment the said Charles M. Nelson did fraudulently, and with the intent to hinder, delay and defraud your complainant in the collection of its said claim, convey all of the said personal property to his wife, Mary A. Nelson, a copy of which conveyance is hereto attached and made a part of this complaint and marked exhibit "B"; and complainant further represents to your Honor that the said Charles M. Nelson did, on or about the 27th day of July, 1917, and prior thereto, own and was in possession of certain real property in Baldwin County, Alabama, and that he did, on the said 27th day of July, 1917, fraudulently convey said real property to his wife, Mary A. Nelson, with the intent to hinder, delay and defraud your

ALSO, that certain deed executed by Charles M. Nelson to Mary A. Nelson on the 27th day of July, 1917, and which deed conveys that real property situate in Baldwin County, State of Alabama, to-wit:-

Northwest 1/4 of Northeast 1/4 of Section 27, Township 7 South, Range 2 East; East 1/2 of Southeast 1/4 of Section 22, Township 7 South, Range 2 East; Southwest 1/4 of Southwest 1/4 of Section 23, Township 7 South, Range 2 East; West 1/2 of the Northwest 1/4 of Southwest 1/4 of Section 23, Township 7 South, Range 2 East. Commencing at the center of the mouth of Muddy Bayou on West side of Weeks Bay in the Nicholas Cook grant, Section 38, Township 7 South, Range 2 East and runs 75 feet more or less to a stake on Weeks Bay on North side of Muddy Bayou, thence North 7-1/4 degrees, East 1-75/100 chains to a stake, thence North 16 degrees, East 2-81/100 chains to a stake, thence North 18 degrees and 10 minutes, West 7-98/100 chains to a stake, thence North 22 degrees, West 2 chains to a stake on the South line of Robert Bishop's field, thence along said South line North 70-1/2 degrees, West 24-10/100 chains to a stake, thence South 33-1/2 degrees, West 37-12/100 chains to a stake in the center of Muddy Bayou, then Eastwardlyfollowing the meanders of said Bayou to the place of beginning, containing 113-1/2 acres more or less in the Nicholas Cook Grant, known as Section 38, Township 7, South, Range 2 East, which said deed is recorded in Deed Book 26 N.S., Page 262 in the Records of the Probate Court of Baldwin County, Alabama,

are each null, void, and of no effect as to the complainant in this cause; and it being easily ascertained what the amount of the indebtedness of the said Charles M. Nelson to the complainant is, the Court herewith ascertains and decrees that the amount of said indebtedness is $1131.45; it is further ordered, and decreed that the respondents have thirty days from the date of this decree within which to pay said indebtedness, together with the costs in said proceeding and should respondents not pay said indebtedness and costs, then the Register in Chancery is hereby ordered to sell all of said property above described, or so much as may be necessary to pay the amount ascertained by the Court to be due complainant by the respondents, together with the costs thereof by first giving thirty days notice of the time and place of sale by publication in the Baldwin Times, a newspaper published at Bay Minette, Baldwin County, Alabama, and to execute deeds to the purchaser of said property at such sale; and it is further decreed that out of the proceeds of said sale, that the Register in Chancery shall first pay the amount of the above decreed indebtedness of the respondent to the com-

GULFPORT FERTILIZER CO., a Corporation, Complainant,	
-VS-	IN THE CIRCUIT COURT OF BALDWIN COUNTY, FALL TERM 1918.
CHARLES M. NELSON AND MARY A. NELSON, Respondents	IN EQUITY.

This cause coming on to be heard at this term, is submitted for final decree on the pleadings and proof as noted by the Register, and the same having been heard and considered by the Court, it is ordered, adjudged and decreed that the complainant is entitled to the relief prayed for in its bill of complaint in this cause; it is therefore ordered, adjudged and decreed that that certain conveyance, executed by Charles M. Nelson on the 4th day of May, 1915, conveying to Mary A. Nelson his entire stock of sheep, consisting of about four hundred head, marked crop, split, and underbit in the right ear and two underbits in the left ear, about eighty head of cattle, marked crop, split and underbit in the right ear and two underbits in the left ear, branded (C.N.); also, two mules and two horse wagon, one mare and buggy and all other personal property that he possessed, and which said conveyance is recorded in Deed Book 26 N.S., Page 263 of the Records of the Probate Court of Baldwin County; and also that certain deed, executed on the 27th day of July, 1915, by Charles M. Nelson to Mary A. Nelson, conveying that certain real property situate in Baldwin County, State of Alabama, to-wit:-

Beginning at the center of Section 31, Township 6, South Range 2 East and running South 10 chains to point Clear Creek, thence up said Creek to a point 3°18/100 chains South of the East and West Half Section line, thence East 5.82 chains, thence North 36 chains, thence West 12.72 chains, thence North 16.82 chains, thence West 1 chain, thence South 10.84 chains, thence West 15.50 chains to Point Clear Creek, thence Southerly with the creek to the South line of Northwest quarter of Section 31, thence East 13.30 to the place of beginning; also, the North 1/3 of the North 1/7 of North 1/2 of Southwest 1/4 of Section 31, lying East of Point Clear Creek; also, lots 5 and 6 of the Dana Hamock Tract or North Half of Southwest Half of Section 31, containing in all 49 acres, more or less; which said deed is recorded in Deed Book 26 N.S., Page 262 of the Records of the Probate Court of Baldwin County, Alabama.

This Indenture, Made the 27 day of July, 1917, between Charles M Nelson of the first part, and Mary A Nelson of the second part: Witnesseth, that the party of the first part, in consideration of the sum of One Thousand Dollars, hereby acknowledged to have been paid the party of the first part by the party of the second part, do hereby grant, bargain, sell and convey unto the said party of the second part, her heirs and assigns, all that real property in Baldwin County, State of Alabama, described as follows:

Beginning at the center of Section 31, Township 6 S, Range 2 East and running South 10 chains to Point Clear Creek thence up said Creek to a point 3° 18/100 chains South of the east and west half section line thence East 5.82 chains thence North 36 chains thence west 12.72 chains thence north 16.82 chains thence west 1 chains thence South 10.84 chains thence west 15.50 chains to Point Clear Creek thence Southerly with the creek to the South line of N W ¼ of Section 31, thence east 13.30 chains to the place of beginning also the north 1/3 of the North 1/7 of N½ of S W ¼ of Section 31 lying east of Point Clear Creek Also lots 5 & 6 of the Dana hamock tract or north ½ of S W ½ of Section 31, containing in all 49 acres more or less.

Together with all the rights and appurtenances to said described premises in anywise belonging: To have and to hold the same forever.

And I Charles M Nelson for myself and my heirs, the said described premises and appurtenances will forever warrant and defend unto the said party of the second part,--heirs and assigns, against the lawful claims of all persons whatsoever.

In witness whereof, The said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of Albert Nelson, Dewey Slocum.	Charles M Nelson	(seal)

State of Alabama,)
Baldwin County.)

I, Jas P Slocum, a Notary Public in and for said county and State, do hereby certify that Charles M Nelson whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that being informed of the contents of the said conveyance he executed the same voluntarily on the day the same bears date.

Given under my hand and seal, this 27 day of July, 1917.

(seal) Jas. P. Slocum, Notary Public,
Baldwin County.

Filed for record July 31st, 1917 at 2 P M
Recorded July 31st, 1917.
Jas M Voltz, Judge of Probate.

The State of Alabama,
Baldwin County.

I, James M Voltz, Judge of Probate in and for said State and County, hereby certify that the above and foregoing is a true, correct and complete copy of an instrument of writing as the same appears of record in Deed Record 26 N S at Page 262, now on file in the office of the Judge of Probate of Baldwin County, Alabama.

Witness my hand and the seal of the Probate Court of Baldwin County, Alabama, this 13th day of May A.D., 1918.

James M. Voltz
Judge of Probate Court.

PROBATE COURT ALABAMA BALDWIN COUNTY

Exhibit "D"

Charles M. Nelson

TO

Mary A. Nelson

Filed 11/18-1918
T W Richerson
Register

PROBATE COURT
BALDWIN COUNTY
BAY MINETTE, ALABAMA

Signed, sealed and delivered in the presence:

Albert Nelson,

Dewey Slocum

Charles M Nelson (seal)

State of Alabama,
Baldwin County.

I, Jas P. Slocum, a notary Public in and for said County And State, do hereby certify that Charles M Nelson whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me, on this day, that being informed of the contents of the said conveyance he executed the same voluntarily on the day the same bears date.

Given under my hand and seal, this 27 day of July, 1917.

(seal) Jas, P, Slocum,

Notary Public, Baldwin Co.

Filed for record July 31st, 1917 at 2 P M

Recorded July 31st, 1917.

Jas M. Voltz, Judge of Probate.

The State of Alabama,
Baldwin County.

I, James M Voltz, Judge of Probate in and for said State and County, hereby certify that the and foregoing is a true, correct and complete copy of an instrument of writing as the same appears of record in Deed Record 26 N s, at page 262, now on file in the office of the Judge of Probate of Baldwin County, Alabama.

Witness my hand and the seal of the Probate Court of Baldwin County, Alabama, this 13th day of May A.D., 1918.

James M. Voltz

Judge of Probate Court.

PROBATE COURT ALABAMA BALDWIN COUNTY

This Indenture, Made the 27 day of July, 1917, between Charles M Nelson of the first part, and Mary A Nelson of the second part: Witnesseth, that the party of the first part, in consideration ofthe sum of Fifteen Hundred Dollars, hereby acknowledged to have been paid the party of the first part by the party of the second part, do hereby grant, bargain, sell and convey unto the said party of the second part, her heirs and assigns, all that real property in Baldwin County, State of Alabama, described as follows:

N W ¼ of N E ¼ of Section 27 Township 7 S R 2 E E ½ of S E ¼ of Section 22, Township 7 S, Range 2 E S W ¼ of S W ¼ of Section 23, Township 7 S Range 2 E W ½ of N W ¼ of S W ¼ Section 23 Township 7 S, Range 2 E. Commencing at the center of the Mouth of Muddy Bayou on West side of Weeks Bay in the Nicholas Cook Grant, Section 38, Thirty-eight Township (7) S Range 2 E and run 75 feet more or less to a stake on Weeks Bay on North side of Muddy Bayou, thence North 7 ½ degrees East one 75/100 chains to a stake thence North 16 degrees East 2 81/100 chains to a stake, thence North 18 degrees and 10° West 7 98/100 to a stake thence North 22 degrees West 2 chains to a stake on the South line of Robert Bishop's field, thence along said South line North 70½ degrees west 24 10/100 chains to a stake, thence South 33½ degrees west 37 12/100 chains to a stake in the center of Muddy Bayou, thence easterdwarly following the meanders of said Bayou to the place of beginning, containing 113 ½ acres, more or less in the Nicholas Cook Grant, mnown as Section 38 Township 7 S Range 2 East. Total number of acres 293 ½.

Together with all the rights and appurtenances to said described premises in anywise belonging: To have and to hold the same forever.

And I Charles M Nelson for myself and my heirs, the said described premises and appurtenances, will forever warrant and defend unto the said party of the second part, her heirs and assigns, against the lawful claims of all persons whatsoever.

In witness whereof, The said party of the first part has hereunto set his hand and seal the day and year first above written.

Chas M Nelson

TO

Mary H. Nelson

Filed 11/18/1918
R O Ritchie
Register

PROBATE COURT
BALDWIN COUNTY
BAY MINETTE, ALABAMA

The State of Alabama,

Baldwin County.

I, James M Voltz, Judge of Probate, in and for said State and County, hereby certify that the above and foregoing is a true, correct and complete copy of an instrument of writing as the same appears of record in Deed Record 26 N S, at page 263, now on file in the office of the Judge of Probate of Baldwin County, Ala.

Witness my hand and the seal of the Probate Court of Baldwin County, Alabama, this 13th day of May A.D., 1918.

PROBATE COURT ALABAMA BALDWIN COUNTY

James M Voltz

Judge of Probate Court.

Chas. M. Nelson

TO

Mary A. Nelson

Filed 11/8-1918
D. McCleskey
Register

PROBATE COURT
BALDWIN COUNTY
BAY MINETTE, ALABAMA

State of Alabama,)
)
----------County.

Know all men by these presents, That I Charles M Nelson, of Barnwell Baldwin County Ala in consideration of the sum of One Dollar and other considerations to me in hand paid by Mary A. Nelson the receipt whereof is hereby acknowledged, I do remise, release and convey to the said Mary A. Nelson all my right, title, interest and claim, in or to the following described personal property, to-wit:

My entire stock of sheep consisting of about Four hundred (400) head marked crop, split & underbit in the right ear and two underbits in left ear about 80 head of cattle marked crop, split and under bit in the right ear and two underbits in left ear branded (C N) also two mules an_ two horse wagon one mare and buggy and all other personal property that I posess.

To have and to hold, to the said Mary A, Nelson her heirs and assigns forever,

Given under my hand and seal this Fourth day of May 1915.

Executed in presence of) Chas. M, Nelson (seal)
)

State of Alabama.)
)
----------County.)

I, Jas, P, Slocum, a notary public in and for said county and State, do hereby certify that Charles M Nelson whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me, on this day, that being informed of the contents of the said conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand and official seal, this Fourth day of May, 1915.

(seal) Jas, P. Slocum, Baldwin County.

Filed for record July 31st, 1917 at 2 P M

Recorded July 31 1917,

Jas M Voltz, Judge of Probate.

51

NOTE OF EVIDENCE.

Gulfport Fertilizer Company, a corporation, Plaintiff,	:	No. 51 IN EQUITY. IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.
Vs.	:	
Chas. M.Nelson and Mary A. Nelson, Defendants.	:	

At the hearing of this cause, the following note of evidence was taken, to-wit:

FOR THE PLAINTIFF, GULFPORT FERTILIZER COMPANY, ~~xxxxxxxxxx~~

1. Original bill of complaint,as amended,and Exhibits "A","B" "C",&"D".
2. Certified copy of judgment against the defendants in favor of the Plaintiff.
3. Certified copy of conveyance bearing date May 4th,1915,from Chas.M.Nelson to Mary A.Nelson, conveying stock of sheep.
4. Certified copy of deed of conveyance bearing date July 27th, 1917, and marked Exhibit "C".
5. Certified copy of conveyance bearing date July 27th,1917, and marked Exhibit "D".

ATTEST.

F W Richerson Register.

No. 51.

Culfport Fertilizer Co.
a corporation,

vs.

Chas.M.Nelson and Mary A.
Nelson.

In Circuit Court of
Baldwin County,Ala.

NOTE OF EVIDENCE.

Recd & filed
11/18-1918
T. W. Beckworth
Register