

BAY MINETTE LAND COMPANY, a  
corporation,

Complainant,

-vs-

B. V. PARDON AND HOMER M. DIAMOND,

Defendants.

CIRCUIT COURT OF BALDWIN  
COUNTY.  
IN EQUITY.

TO THE HONORABLE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA.

Your orator, the Bay Minette Land Company, a corporation organized under the laws of the State of Alabama and doing business at Bay Minette, Alabama, brings this its bill of complaint against B. V. Pardon, who resides in Baldwin County, Alabama, and Homer M. Diamond, who resides in Phinx City, in the State of Florida, and both of whom are over the age of twenty-one (21) years and shows unto your Honor as follows:

FIRST: That the complainant, Bay Minette Land Company, being then and there the owner of the lands described in the contract about to be set forth, and in possession of them, entered into a contract with the defendant, Homer M. Diamond, on the sixteenth day of June, 1923, a copy of which is in words and figures as follows:-viz:-

"July 16, 1923.

H. M. Diamond, Esq.,

Bay Minette, Ala.

Dear Sir:

I hereby lease to you the merchantable pine timber on the following described lands, to wit: On the land of the Company into Section 28, Three South, Four East, consisting of 480 acres in Section 28, Township Three South, Range Four East, and on a small strip running about two hundred yards in the Southwest quarter of the Southwest quarter of Section 22 as estimated by Captain Durant.

On this sale you have given us a credit of \$200.00,

being the balance of your bill for cyprus furnished for the culvert on the Fort Morgan Road. The total consideration is \$800.00, and you have given us your note for \$600.00, the balance of the consideration due, on or before two years from this date, with eight per cent interest.

This lease runs for three years, or for such shorter period, as will be nine months from the date you begin to cut.

We also lease to you the merchantable pine timber on the land we own in Section Four, Five and Six, in the same Township, for one year from this date.

You have given us your note at eight per cent interest for \$408.00 to pay for this timber. In spite of the maturities named in these notes you are to pay each of the notes before you begin to cut the timber.

Yours very truly,

Bay Minette Land Company

Hampton Ewing,  
President.

HDE:T

Accepted

H. M. Diamond."

SECOND: The complainant further shows unto your Honor that during the winter of 1924-1925, exact date being unknown to the complainant, the defendant Homer M. Diamond undertook to authorize the defendant, B. V. Pardon, to turpentine the lands referred to in said contract. The complainant is informed and believes and, therefore, alleges that this authority was attempted to be given verbally and without writing, but if it is mistaken in this, then it alleges that this authority was attempted to be given by some writing, the exact contents of which is to the complainant unknown. The complainant, however, shows unto the Court that under the terms of said lease, said Homer M. Diamond had no right to turpentine said timber or to go upon said lands for that purpose and that he could not and did not in fact confer any

right upon the said B. V. Pardon either to go upon said lands for said purpose or to so turpentine said lands.

THIRD: The complainant further shows unto the Court that it is in possession of said land, no cutting having been done up to this time of said lease, and that turpentineing of said trees would greatly reduce their value; further than this, the complainant shows unto the Court that it has contracted for the sale of the said land, but that the turpentineing of said timber and assertion of the right to do so will seriously interfere with the sale.

FOURTH: Complainant further shows unto the Court that the defendants claim the right to turpentine said timber under the said lease; and that the complainant has no adequate remedy at law against the said trespasses in turpentineing of said property, which will constitute continuous trespass; that the defendant, B. V. Pardon, acting under the said authority from said Homer M. Diamond, is now engaged in turpentineing said timber and insists upon the right to continue the same and that no suit is now pending between the complainant and either of said parties.

PRAYER FOR PROCESS.

To the end, therefore, that equity may be done in the premises, the complainant prays that said Homer M. Diamond and said B. V. Pardon may each be made parties defendant to this, your orator's bill of complaint and that due process may issue to the defendants, B. V. Pardon and Homer M. Diamond, according to the practice of this Honorable Court and that due publication may be made as against the defendant Homer M. Diamond and subpoena issued and served upon him, should he be found within the jurisdiction of this Court, the premises considered.

PRAYER FOR RELIEF

Your orator further prays that a preliminary injunction may be issued against said Homer M. Diamond and B. V. Pardon restraining them from further turpentineing the timber upon said lands or entering upon said lands for that purpose and that upon the hearing of this cause, this Honorable Court make said injunction permanent and will ascertain and decree the true status of the title and rights of the respective parties and that the said defendants, and neither of them, have any right to turpentine said timber and that the complainant be awarded damages for the turpentineing of said timber that has already been done or that may be done by the said defendants and that the complainant may have such other and further relief as it may be entitled to, the premises considered.

Homer M. Diamond & B. V. Pardon  
ATTORNEYS FOR COMPLAINT.

FOOT NOTE:

Each of the defendants is required to answer each and every allegation of the above and foregoing bill of complaint, from paragraph FIRST to paragraph FOURTH, both inclusive, but not under oath, oath as to such answer being hereby expressly waived.

Homer M. Diamond & B. V. Pardon  
ATTORNEYS FOR COMPLAINANT.

STATE OF ALABAMA

COUNTY OF

Personally appeared before me, Robert H. Weston  
a Notary Public in and for said State and County, Dewitt C.  
Flanagan, who upon oath, deposes and says that he is the manager  
of the Bay Minette Land Company and as such, is authorized to make  
this affidavit and that the facts stated in the foregoing com-  
plaint are true.

Dewitt C. Flanagan  
manager

Subscribed and sworn

to before me this 6th  
day of Aug, 1925.

Robert H. Weston  
Notary Public, Brewton Alabama.

The foregoing bill of complaint having been presented  
to me on the sixth day of August, 1925, at Brewton, Alabama, it  
is hereby ordered that preliminary injunction issue as prayed for  
in the bill upon the complainant's giving of a sufficient bond  
as required by the Statute in the sum of \$200<sup>00</sup>

Made this sixth day of August, 1925.

John D. Leigh  
Judge of 21st Judicial  
Circuit of Alabama.

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 B.V. Pardon

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, without oath, to a Bill of Complaint lately exhibited by

Bay Minette Land Company, a Corporation,

against said

B.V. Pardon,

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 7th day of August

192 5.

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. \_\_\_\_\_

SUMMONS

Bay Minette Land Co.,

vs.

B. V. Pardon.

Harry T. Smith & Caffey.

Solicitor for Complainant.

Recorded in Vol. \_\_\_\_\_ Page \_\_\_\_\_

THE STATE OF ALABAMA  
BALDWIN COUNTY

Received in office this 7<sup>th</sup>  
day of August 1925  
W. R. Stuart  
Sheriff.

Executed this 7<sup>th</sup> day of  
August 1925  
by leaving a copy of the within summons with  
P. V. Pardon

W. R. Stuart Defendant.  
Sheriff.

By \_\_\_\_\_  
Deputy Sheriff.

RECORDED