

ETHEL B. MASCHMEYER,

Complainant

versus

C. H. BRYARS,

Respondent.

IN THE CIRCUIT COURT OF  
BALDWIN COUNTY, ALABAMA.  
IN EQUITY.

TO THE HONORABLE F. W. HARE, JUDGE OF SAID COURT:

Comes your complainant, Ethel B. Maschmeyer, and shows unto your Honor the following facts as a basis for the relief hereinafter prayed for:

FIRST

That your complainant, Ethel B. Maschmeyer, is a resident of the State of Alabama, and over the age of twenty-one years; and that the respondent, C. H. Bryars, is over the age of twenty-one years and a resident of Baldwin County, Alabama.

SECOND

That on, to-wit, the 6th day of October, 1925, W. D. Stapleton and Leila H. Stapleton, his wife, executed to Albert P. Bush and Ethel B. Maschmeyer, executors of the estate of Bell E. Burgess, deceased, a mortgage deed conveying the following described property, situated in Baldwin County, Alabama, to-wit:

All of Section Twenty-six, except the West half of the Southwest Quarter. The Northwest Quarter of Section Thirty-six, and the West half of the East half and the East half of the Northwest Quarter and the Northeast Quarter of the Southwest Quarter of Section Thirty-four, all in Township Three, South of Range Three East, containing one thousand acres, more or less.

The Northeast Quarter of Section Nineteen, Township Four South of Range Four East.

The Southwest Quarter of Section Nineteen, Township Four South of Range Four East.

The Northwest Quarter of Section Thirty, Township Four South of Range Four East.

The Northeast Quarter of Section Fourteen, Township Four South, Range Two East,

to secure the indebtedness therein referred to, which mortgage was recorded on the 6th day of October, 1925, in the Probate Office of Baldwin County, Alabama, in Mortgage Book No. 20, page 532; that the indebtedness secured by said mortgage was transferred to your complainant; that default was made in the payment of the indebtedness

so secured to your complainant, and, under the powers contained in said mortgage, your complainant, as such transferee, foreclosed said mortgage, and caused said property to be sold at public outcry under the power and authority, and by the terms, contained in said mortgage; that your complainant was the purchaser at said sale, purchasing said property for the sum of \$2500.00; that a deed conveying said property was executed by the auctioneer conducting said sale to your complainant, conveying the property above described, on the 16th day of June, 1932, which deed is recorded in the Probate Office of Baldwin County, Alabama, in Deed Book 52 N. S. pages 355-6.

THIRD.

That after said mortgage was executed by the said W. D. Stapleton and Leila H. Stapleton, the respondent, having notice of said mortgage, entered said above described lands and committed waste thereon, turpentineing the trees standing on said lands, and cutting and removing practically all the standing timber of value from said lands, and sold the same; that the standing timber, merchantable or otherwise, and the turpentine, were the most valuable assets of the security held by your complainant; that by reason of said acts on the part of the respondent, the said lands have been greatly reduced in value, and the principal worth of said lands was destroyed thereby. Your complainant further avers that her security under said mortgage was greatly impaired and practically destroyed by reason of the said acts of the respondent, and she was prevented by said acts from satisfying her lien on said lands granted by said mortgage, all of which was greatly to her damage and injury, and that the lands conveyed by said mortgage are not now sufficient security to satisfy the indebtedness secured thereby, by reason of the respondent having taken therefrom its most valuable timber, and turpentine, as aforesaid. Your complainant further avers that she does not know how many trees the said respondent cut from said lands, nor how much turpentine the respondent worked from said property, and does not know, and for that reason cannot allege the value of said timber

and turpentine so taken, but that these matters are peculiarly within the knowledge of the respondent, but your complainant further says that she is informed and believes, and on such information and belief charges the fact to be that the respondent has received large sums of money from the sale of the turpentine and timber, and trees taken from said lands. Your complainant further avers that she did not know that the respondent was cutting, or had cut, the timber on said lands, or that he was turpentineing, or had turpentineed, the trees on said property until on or about, to-wit, the month of May, 1932, when said mortgage was about to be foreclosed, and hence cannot say at what dates the respondent cut said timber or turpentineed said trees, except that it was after the said mortgage was executed and recorded, and after the respondent had had notice thereof, but that these matters are within the peculiar knowledge of the respondent.

PRAYER FOR PROCESS

WHEREFORE, your complainant prays that this Court will take jurisdiction of the matters alleged herein, and that the usual process of this Court issue to the respondent, C. H. Bryars, commanding him to appear and plead, answer or demur to this bill of complaint within the time and under the penalties prescribed by law, and the practice of this Honorable Court.

PRAYER FOR RELIEF

The premises considered, your complainant prays that this Honorable Court require the respondent to make a discovery of the quantity, amount, and price received therefor, of all the turpentine taken from said above described lands, together with the dates, as near as may be, of the taking, and a discovery of the quantity, number of feet, and price received therefor, of all timber and lumber of every kind and description cut or taken, or caused to be cut or taken, from said lands, and the number and kind of all trees, as near as may be, which he has taken or cut, or caused to be cut or removed, from said lands, together with the dates so taken, cut or removed, or caused to be removed, and

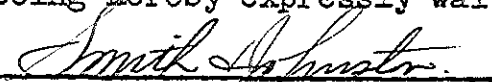
complainant prays that this Honorable Court require the respondent, C. H. Bryars, to account to your complainant for all and every amount or quantity of turpentine which he has taken, or caused to be taken or worked from the timber on said lands, together with the value thereof, and the price received therefor, and to account to your complainant for each and every tree, of every kind and description, and all timber, lumber or other property cut, taken or removed, or caused to be cut, taken or removed by the respondent, from the said lands above described, together with the value thereof, and the price received therefor; and that, upon a final hearing of this cause, this Honorable Court will render a decree fixing the amount and extent your complainant has been damaged or injured by acts of the respondent in the premises, and will render a personal decree against the respondent in favor of your complainant to compensate complainant for said damages or injuries. Complainant further prays that this Honorable Court, upon a final hearing of this case, will cause a permanent writ of injunction to issue to the respondent, restraining and enjoining him from further cutting, or attempting to cut, any trees, timber, or property on said lands, and from working, or attempting to work for turpentine purposes, any trees or timber on said lands, and from committing any further injury or trespass of any nature whatsoever upon said property; and your complainant further prays for such other, further, additional and general relief, as in equity and good conscience she may be entitled to, the premises considered.

And complainant submits herself to the jurisdiction of the Court, and offers to do whatever the Court may consider necessary to be done on her part towards making the decree which she seeks, just and equitable with regard to the other party to this suit.

  
Solicitors for Complainant.

Foot Note:

Respondent is required to answer each and every allegation of the foregoing bill of complaint, separately and severally, but not under oath, answer under oath being hereby expressly waived.

  
Solicitors for Complainant.

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 C.H. Bryars,

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 Ethel B. Mashmeyer,

against said \_\_\_\_\_

C.H. Bryars,

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 23rd, day of

August, 1932

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**

Ethel B. Mashmeyer

vs.

C.H. Bryars,

Smith & Johnston,  
Solicitor for Complainant.

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

**RECORDED**

The State of Alabama,  
BALDWIN COUNTY.

Received in office this 23rd,

day of August, 1932

*W.R. Stuart*

Sheriff.

Executed this 24th day of

August

1932

by leaving a copy of the within Summons with

*C.H. Bryars*

Defendant.

*W.R. Stuart*

Sheriff.

By \_\_\_\_\_

Deputy Sheriff.

*Original*

Serve on \_\_\_\_\_

Circuit Court of Baldwin County  
In Equity.

No. \_\_\_\_\_

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*C.H. Bryars*

Defendant.

*W.R. Stuart*

Sheriff.

By \_\_\_\_\_

Deputy Sheriff.

SMITH & JOHNSTON  
LAWYERS  
622-626 FIRST NATIONAL BANK BUILDING  
MOBILE, ALA.

HARRY H. SMITH  
SAMUEL M. JOHNSTON  
P. C. FOUNTAIN

September 13th, 1932.

Hon. T. W. Richerson, Clerk  
Chancery Court of Baldwin County,  
Bay Minette, Alabama.

Dear Sir:-

Will you please have the case of Ethel B.  
Maschmeyer vs. C. H. Bryars dismissed, and send us a  
bill for the costs?

Yours very truly,

Smith & Johnston

By

*Harry H. Smith*

VW



Filed Sept 14-32  
D. W. Williamson  
Register