

D. Z. GROVE,
Plaintiff,
vs.
SOUTHERN BULB FARMS,
a Corporation.
Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

LAW SIDE.

NO. 1288.

PLEA IN ABATEMENT

Comes Southern Bulb Farms, a Corporation, Defendant in the above styled cause, and appears solely and specially for the purpose of filing this plea in abatement to the Complaint filed against it and to each count thereof separately and severally, and for no other purpose and as grounds for said plea says as follows:-

1. That said Complaint was not served on an Agent of the Corporation, Defendant.

2. That Paul M. Elding, upon whom the Complaint was served, is not the Manager of the Southern Bulb Farms, a Corporation, Defendant.

3. That Paul M. Elding, the person upon whom the Complaint in this cause was served, is not the Manager of the Southern Bulb Farms, a Corporation, Defendant.

4. That Paul M. Elding, the person upon whom the Complaint in this cause was served, was not on January 14, 1949, and at no time has he ever been, the Manager of the Southern Bulb Farms, a Corporation, Defendant.

5. That Paul M. Elding, the person upon whom the Complaint in this cause was served, was not, on January 14, 1949, an Agent, nor has he ever been, an Agent of the Southern Bulb Farms, a Corporation, Defendant.

6. That the person upon whom the Complaint was served is not, and at no time has he ever been, an Agent of the Southern Bulb Farms, a Corporation, Defendant.

7. That the service of process in the above styled cause is insufficient in that it was not served upon an Agent or other officer of the Southern Bulb Farms, a Corporation, Defendant.

8. That the Sheriff's Return is insufficient in that it does not show that Paul M. Elding was the Manager of the Southern Bulb Farms, a Corporation, Defendant, at the time the Complaint was served.

Southern Bulb Farms, a Corporation

BY: *John Dirkmaat*

As its president.

STATE OF ALABAMA

BALDWIN COUNTY

Before me, *Tom Schuller*, a Notary Public, in and for said State and County personally appeared John Dirkmaat, who is known to me and who after being by me first duly and legally sworn doth depose and say under oath as follows:

That his name is John Dirkmaat, that he is the President of Southern Bulb Farms, a Corporation and as such is duly authorized to make this affidavit; that he signed the foregoing plea in abatement as President of Southern Bulb Farms and that all of the allegations of said plea are true and correct.

Sworn to and subscribed
before me, this 8th day of
February, 1949.

Tom Schuller
Notary Public, Baldwin County,
Alabama.

RECORDED

PLEA IN ABATEMENT

D. Z. GROVE,

Plaintiff,

vs.

SOUTHERN BULB FARMS,
A Corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

LAW SIDE.

No. 1288.

*Filed 2-9-44
Alice J. Alcock
Clerk*

LAW OFFICES

HYBART, CHASON & STONE

BAY MINETTE, ALABAMA

D. Z. GROVE,

Plaintiff,

vs.

SOUTHERN BULB FARMS,
A Corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

LAW SIDE.

NO. 1288.

Comes the Defendant in the above styled cause and demurs to the Complaint filed in said cause and each and every count thereof separately and severally and assigns the following separate and several grounds, viz:

1. That said Complaint does not state a cause of action.
2. That count one of said Complaint fails to state who entered into the agreement referred to therein.
3. That count one of said Complaint fails to state that the Defendant entered into an agreement with the Plaintiff to sell the land referred to therein.
4. That count one of the Complaint fails to state whether the agreement referred to therein was in writing.
5. For aught appearing from count one of the Complaint the Defendant was not the owner of the land referred to therein and has derived no benefit from the agreement.
6. That count one of said Complaint fails to state that the Plaintiff sold the property referred to therein.
7. That count one of said Complaint fails to sufficiently describe the land referred to.
8. That said Complaint fails to state that the Defendant promised to pay the Plaintiff the amount claimed in said Complaint.
9. That count two of said Complaint fails to state that William J. Eldering was authorized on behalf of the Defendant to enter into the agreement referred to therein.
10. For aught appearing from Count two of the Complaint William J. Eldering was not acting as an officer of the Defendant when he entered into the agreement referred to therein.
11. For aught appearing from count two of the Complaint the Defendant was not the owner of the land referred to in the agreement and derived no benefit from this sale.

12. For aught appearing from count two of said Complaint, William J. Eldering was not acting within the line and scope of his authority as an officer of the Defendant when he entered into the agreement referred to therein.

13. That count two of said Complaint fails to allege that the Plaintiff procured the sale of said property and became entitled to the commission thereby.

14. For aught appearing from count two of said Complaint, the agreement referred to therein had been terminated.

15. For aught appearing from count three of said Complaint William J. Eldering was not acting on behalf of the Defendant in entering into the contract referred to therein.

16. For aught appearing from count three of the Complaint the Defendant also had the right to sell the property described therein and the same was made by the Defendant and not the Plaintiff.

17. That the allegation in count three of the Complaint that William J. Eldering acknowledged liability of payment under and by virtue of the contract is but a conclusion of the pleader.

18. That the alleged contract appears clearly to have been an obligation of William J. Eldering and not the Defendant.

19. That the contract is an obligation of William J. Eldering and the Complaint fails to aver that Defendant became obligated in writing to the Plaintiff to pay this obligation or indebtedness of the said William J. Eldering.

20. That said agreement fails to allege any consideration for the execution thereof.

21. For aught appearing from the Complaint there was no consideration for the execution of the agreement attached thereto moving from the Plaintiff to the Defendant, Southern Bulb Farms, a Corporation.

Hubert Shannon & Stone
Attorneys for Defendant.

Defendant demands a trial of
this cause by Jury.

Hubert Shannon & Stone
Attorneys for Defendant.

RECORDED

DEMURRER

D. Z. GROVE,
Plaintiff,

vs.

SOUTHERN BULB FARMS,
a Corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA.

LAW SIDE.

No. 1288.

Filed March 9, 1949.

Reice J. Smith
Clerk.

LAW OFFICES
HYBART, CHASON & STONE
BAY MINETTE, ALABAMA

AMMENDED BILL OF COMPLAINT

D. Z. GROVE,

Plaintiff,

-VS-

SOUTHERN BULB FARMS, a
corporation,

Defendant.


IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE

- COUNT I -

The plaintiff claims of the defendant One Thousand Dollars (\$1,000.00) for, whereas, on or about the 3rd day of November, 1947, William J. Eldering, who was, at that time, President of Southern Bulb Farms, a corporation, executed a contract and agreement with D. Z. Grove wherein D. Z. Grove, the plaintiff, was granted an exclusive sale right of two hundred eighty (280) acres of land which was the property of Southern Bulb Farms, a corporation, and which said property was advertised for sale by the plaintiff in the issue of the Foley Onlooker published on the 6th day of November, 1947, and which was sold on, to-wit, the 8th day of November, 1947, and although the said contract was executed in the name of the said William J. Eldering, he was at that time President of said corporation, the benefits of said contract enured to said corporation and the act of the said William J. Eldering was ratified by the said corporation, said contract being attached to the original complaint marked Exhibit "A" and made a part thereof is specifically, by reference, made a part hereof, but payment on which has not been made, wherefore plaintiff sues.


Attorney for Plaintiff

RECORDED

no 1288

AMMENDED BILL OF COMPLAINT

D. Z. GROVE,

Plaintiff,

-VS-

SOUTHERN BULB FARMS, a
corporation,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE

CECIL G. CHASON

ATTORNEY AT LAW

FOLEY, ALABAMA

Filed 6-17-49

Alvin J. Smith

D. Z. GROVE,

Plaintiff,

vs.

SOUTHERN BULB FARM,
A Corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE.

Comes the Defendant in the above styled cause and files this its demurrer to the Amended Complaint filed in said cause and assigns the following separate and several grounds, viz:

1. That said Complaint does not state a cause of action.
2. That said Complaint is vague and indefinite.
3. That said Complaint fails to allege that William J. Eldering acted within the line and scope of his authority as President of the Southern Bulb Farm at the time he executed the contract with the Plaintiff.

4. That said Complaint seeks to vary the terms of a written instrument.

5. That the allegations of said Complaint are but the conclusions of the pleader.

6. That it is affirmatively shown that said contract was not executed by the corporation, the Defendant in this suit.

7. That it is not shown in what way the contract enured to the benefit of said corporation.

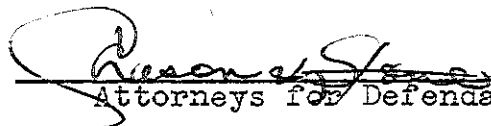
8. It is not shown in what way the act of the said William J. Eldering was ratified by the Defendant.

9. It is not shown that the Plaintiff had anything to do with selling any land for the defendant.

10. That the contract affirmatively shows that it referred to lands belonging to William J. Eldering and not to the Defendant in this cause.

11. That it is affirmatively shown that the Plaintiff is seeking to charge the Defendant with the debt of another.

12. That it is not shown that William J. Eldering was authorized by the Defendant to execute any agreement in its behalf.


Attorneys for Defendant.

RECORDED

DEMURRER

D. Z. GROVE,

Plaintiff,

vs.

SOUTHERN BULB FARM,
A Corporation,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA

LAW SIDE.

Filed August 21st, 1950


Clerk.

LAW OFFICES

HYBART, CHASON & STONE

BAY MINETTE, ALABAMA

STATE OF ALABAMA)
BALDWIN COUNTY)

IN THE CIRCUIT COURT - - - LAW SIDE

TO THE SHERIFF OF THE STATE OF ALABAMA:

You are hereby commanded to summons Southern Bulb Farm, a corporation, to appear within thirty (30) days from the service of this writ in the Circuit Court to be held for said county at the place of holding same, then and there to answer the complaint of D. Z. Grove.

WITNESS my hand this 12th day of January, 1949.

Reice J. Hirsch
Clerk

- COMPLAINT -

D. Z. GROVE,

Plaintiff,

-vs-

SOUTHERN BULB FARMS, a
corporation,

Defendant.

IN THE CIRCUIT COURT OF

BALDWIN COUNTY, ALABAMA

LAW SIDE

-COUNT I-

The plaintiff claims of the defendant One Thousand Dollars (\$1,000.00) damages for the breach of an agreement entered into on or about November 3, 1947, which said contract granted to the plaintiff an exclusive sale right on two hundred eighty (280) acres of property for thirty (30) days and until notification was given to plaintiff which said contract provided for the payment of a commission of One Thousand Dollars (\$1,000.00). And the plaintiff says, that although he has complied with all of the provisions on his part the defendant has failed to comply with the provisions as to the payment of a commission, although the property referred to has been sold.

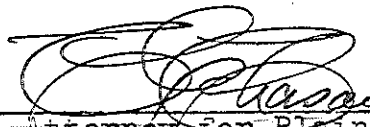
-COUNT II-

The plaintiff claims of the defendant One Thousand Dollars (\$1,000.00) damages for the breach of an agreement entered into by William J. Eldering who was an authorized officer of said corporation on or about the 3rd day of November, 1947, a copy of which

agreement is attached hereto and made a part hereof and identified as Exhibit A, and the plaintiff says that although the property has been sold, the commission of One Thousand Dollars (\$1,000.00) as provided therein remains due and unpaid.

-COUNT III-

Plaintiff claims of the defendant, One Thousand Dollars (\$1,000.00) for, whereas, on or about the 3rd day of November, 1947, William J. Eldering, who was president of Southern Bulb Farms, a corporation, executed a contract and agreement with D. Z. Grove wherein he granted to the plaintiff herein an exclusive sale right of two hundred eighty (280) acres of land which was the property of Southern Bulb Farms, a corporation, the property being described as the West Half ($W\frac{1}{2}$) of the West Half ($W\frac{1}{2}$) of Section twenty-seven (27); and the East Half ($E\frac{1}{2}$) of the Northeast Quarter ($NE\frac{1}{4}$); and the Northeast Quarter ($NE\frac{1}{4}$) of the Southeast Quarter ($SE\frac{1}{4}$) of Section twenty-eight (28), all being in Township eight (8) South, Range four (4) East and in Baldwin County, Alabama, which said property was advertised for sale by the plaintiff in the issue of the Foley Onlooker published on the 6th day of November, 1947, and which said property was sold on, to-wit, the 8th day of November, 1947, after which time, the said William J. Eldering, president of Southern Bulb Farms, a corporation, acknowledged liability of payment under and by virtue of the contract and agreement above referred to, which said contract is attached hereto, marked Exhibit A, and made a part hereof, but which said payment has not been paid, wherefore, plaintiff sues.


Attorney for Plaintiff

Received in Sheriff's Office
this 13 day of Jan, 1949
TAYLOR WILKINS, Sheriff

9-25 1288 RECORDED

SUMMONS AND COMPLAINT

Paul M. Eldering

D. Z. GROVE,

Plaintiff,

-VS-

SOUTHERN BULB FARMS, a corpora-
tion,

Defendant.

IN THE CIRCUIT COURT OF
BALDWIN COUNTY, ALABAMA
LAW SIDE

ALICE J. DUCK, Clerk

JAN 1949

FILED
CECIL G. CHASON

ATTORNEY AT LAW

FOLEY, ALABAMA

FILED

JAN 12 1949

ALICE J. DUCK, Clerk

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CECIL G. CHASON

ATTORNEY AT LAW

FOLEY, ALABAMA

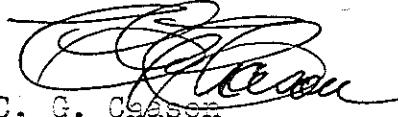
23 February 1949

Mrs. Alice J. Duck
Clerk of Court
Bay Minette, Alabama

Dear Mrs. Duck:-

There is enclosed herewith an additional copy of the bill of complaint in the case of Grove vs. Southern Bulb Farms. This case has been continued for service after a plea in abatement was filed. Please deliver the original bill of complaint and this copy to Sheriff Wilkins in order that service may be had upon John Dirkmaat, the proper official of the company.

Yours very truly,


C. G. Chason

CGC:lu

Encl: 1

cc: Taylor Wilkins,
Sheriff,
Bay Minette, Ala.

TUESDAY, MAY 2

EXHIBIT "A"

10 I hereby grant
11 exclusive sales rights
12 on my 280 acre South
1 of Road Tr. D. 7. 1/2
2 for 30 days + until I have
3 notified him in writing
4 30 days in a letter to come
5 Confide
6 Price 21000.00 To pay 1000.00
7 Com. Will grant him
8

WEDNESDAY, MAY 3

9 of 1/3 each to 7 years @ 5%
10

11 W. H. Elderling
12
1
2
3
4

A true copy: