

Opinion of the Court.

of the plaintiff's position as receiver and general manager of the railroads, his entering into the agreement sued on, and engaging in the enterprise of purchasing the bonds and thereby acquiring the railroads, were unlawful, and did not entitle him to the aid of a court of equity to enforce the agreement or any rights growing out of it, were averments of pure matter of law, arising upon the plaintiff's case as stated in the bill, and affecting the equity of the bill, and therefore a proper subject of demurrer, and not to be availed of by plea.

The result is, that the principal question considered by the court below and argued at the bar is not presented in a form to be decided upon the record before us; and that, for the reasons above stated, and as suggested in behalf of the plaintiff at the reargument, the plea was erroneously sustained, and must be overruled, and the defendants ordered, in accordance with the 34th Rule in Equity, to answer the bill.

Decree reversed, and case remanded, with directions to overrule the plea, and to order the defendants to answer the bill.

PENSACOLA ICE COMPANY *v.* PERRY.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF FLORIDA.

Submitted December 20, 1886. — Decided February 7, 1887.

It appearing by the record in this court that the verdict at the trial of an action of ejectment in the Circuit Court of the United States sitting in Florida did not state the quantity of the estate or describe the land, the judgment was reversed and the cause remanded for a new trial.

THE case is stated in the opinion of the court.

Mr. William A. Blount for plaintiff in error.

Mr. Wayne Mc Veagh for defendant in error.

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

Syllabus.

A statute of Florida, approved February 22, 1881, contains the following provisions:

“Sec. 4. The verdict in actions of ejectment shall, when for the plaintiff, state the quantity of the estate of the plaintiff, and describe the land by its metes and bounds, by the number of the lot or other certain description.

"Sec. 5. The judgment awarding possession shall, in like manner, state the quantity of the estate, and give description of the land recovered."

This was an action of ejectment, and the verdict, which was for the plaintiff, did not state the quantity of the estate or describe the land. This is assigned for error, among others, and Perry, the defendant in error, in the brief which has been filed in his behalf, confesses that the judgment in his favor is thereby vitiated. Without considering any of the other errors assigned, therefore, we reverse the judgment on this ground alone and remand the cause for a new trial.

Reversed.

SHERMAN *v.* JEROME.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR
THE EASTERN DISTRICT OF MICHIGAN.

Argued December 17, 1886.—Decided February 7, 1887.

A clause in a will gave to C the interest of \$4000 for life, "the said sum of \$4000 to be equally divided, at C's death, between M, S, and J, or so many of them as should then be living. The will appointed P executor for New York, and G and D executors for Michigan. G and D, before the death of C, executed a paper and recorded it in Michigan, by which they, as executors, "set apart for the benefit of" C and "to be held" by them "in trust for the purpose of paying" said interest, and, upon the death of C, "for distribution" among M, S, and J, a bond and mortgage for \$4000, on land in Michigan, given to the testator in his lifetime, which was overdue seventeen months when the paper was executed. None of the legatees assented to this proceeding or ratified it or waived their rights, nor was it authorized by any order of any court. C having died without the full interest on the \$4000 having been paid to him, his administrator and M, S, and J filed a bill in equity in Michigan against G and D,