

And for further plea in this behalf
the said Defendant by leave of the Court here for
this purpose first had and obtained according to the
form of the Statute in such case made and provi-
ded, says that the said Plaintiff ought not to
have or maintain his aforesaid action thereof
against him, because he says that the said Plaintiff
before, and at the time of the commencement of this suit
to wit, on the first day of January 1828 was and still
is indebted to him the said Defendant in a large
sum of money, to wit, the sum of fifteen hundred
Dollars lawful money of the United States which
said sum of money is justly due and owing
from him the said Plaintiff to the said Defendant
by reason that the said Plaintiff on the eighteenth day of April in
the year one thousand eight hundred and twenty five, at which
time the said ~~premises~~ ^{Property} ~~mentioned~~ ^{abovely} mentioned in the said Plaintiff's
Declaration was made, represented to the said Defendant
that a certain tract of land bounded as follows, to wit, joining
the Arkansas River in the County of Pulaski in the
Territory of Arkansas, being a part of the South West
fractional quarter of section thirty six of Township
five North of the Base Line in Range fifteen West
of the fifth principal meridian and divided from the
remainder of said fractional quarter section of land
by the North Eastern Boundary line of a tract of about
One hundred and five acres lately bargained and sold
by said Plaintiff to one Robert McE. Murry, contained
ninety seven acres, and that he the said Plaintiff would
pay to said Defendant the same price that the said
Defendant had agreed to pay the said Plaintiff, viz. the
sum of $9\frac{15}{100}$ Dollars per acre for each and every
acre that said tract on survey should fall short of the said
quantity of ninety seven acres; and the said Defendant
in fact saith that on survey, the said tract of land contained
no more than the quantity of fifty acres, and that it falls
short of the quantity represented by the said Plaintiff
to the said Defendant, to contain the whole of forty seven
acres, for which lack of forty seven acres represented by said