

CASES

IN THE

HIGH COURT OF CHANCERY.

ISAAC TYSON, JR.
vs.
THOMAS B. WATTS.

} MARCH TERM, 1847.

SPECIFIC PERFORMANCE—MUTUALITY—UNCERTAINTY.

A BILL for the specific performance of a contract is an application to the sound discretion of the court, which withholds or grants relief according to the circumstances of each particular case, and in the exercise of its extraordinary jurisdiction in such cases, the court, though not exempt from the general rules and principles of equity, acts with more freedom than when exercising its ordinary powers.

The contract must be fair, and just, and certain, and founded on an adequate consideration, and if deficient in either of these requisites, its performance will not be decreed; hence the plaintiff who seeks the enforcement must make out a stronger case than is required of him who resists the decree.

The contract must also possess the essential ingredient of mutuality, and in cases of inequality of obligation, it is better to leave the plaintiff to his remedy at law for damages; for if equity acts at all, it must act *ex vigore*, and carry the contract into execution with unmitigated severity.

The manifest object of the defendant in this case, (and which he believed was secured by the contract,) was to have the minerals on his farm worked as well as explored, and by the contract he gave full power to P., the assignor of the plaintiff, to make explorations and to work the mines, but the only engagement on the part of P. being limited to explorations, and he not being bound to work the mines, the contract was held deficient in reciprocity of obligation, and its specific execution refused.