

200, have been used as a right of way by the owners of the said three lots as a means of gaining access to the yards in rear and for the use of the plaintiff and all other persons requiring to use the lane and for their horses and waggons and other vehicles.

The plaintiff claims the said easement or right of way by possession, and does not pretend to have any paper title, nor does she claim to own the land occupied by the lane. No question is raised—in fact, it is admitted—that the defendants are the owners of the lot 204 on Bathurst street.

The defendants allege that they have become the purchasers of lot 204 on Bathurst street without any notice or knowledge that the plaintiff or her predecessors in title have acquired any right or title to a right of way over lot 204. Defendants also pleaded that before they purchased lot 204 on Bathurst street, they caused a search to be made in the Registry Office, and found that there had been no registered conveyance of any kind giving the plaintiff or her predecessors in title any right of way or easement over lot 204, and that there is no reference to any conveyance under which the plaintiff holds, of any kind, to any right of way or easement over the defendants' lands, or of any inchoate right to use the said lands or any part thereof.

Plaintiff has no paper title of any kind to the right of way in question. The title which the plaintiff sets up is a possessory one and that only. The right of way or lane in question was not shewn on any map or plan of the subdivision which includes lot number 204. The right of way did not arise from necessity. A perusal of the evidence satisfies me that the plaintiff did not acquire a right to use the lane by prescription. No doubt at different times parties used the lane for a short time and on isolated occasions for various purposes, such as bringing in coal, taking out ashes and garbage; but the evidence satisfies me, and I think it is abundantly clear that none of these parties used the lane with the intention of gaining a title to an easement or the right to deposit garbage in the lane, or use it for the carriage of coal or other commodities. The user was only occasional and on isolated occasions, and was not continuous and with the knowledge of the true owner. The acts of user were mere occasional acts of trespass done without any intention of acquiring title, and without the knowledge, consent or acquiescence of the defendants.