

Defendant took possession of the premises conveyed to him almost immediately after he received his deed. At that time there were buildings on the other part of the lot owned by Grace to the north of the reserved right of way.

On 29th January, 1887, Grace conveyed the part of the lot owned by him to William A. Morrison, and he on 2nd December, 1903, conveyed the same to plaintiff.

Morrison entered into possession shortly after the conveyance to him, and used the right of way for three years in bringing in his coal and wood, without any molestation or objection on the part of defendant. That would bring the time of his continuously using it down to 1890, which would be only 14 years before action brought. He states that, after the three years had elapsed, for his own convenience he had gratings put in the sidewalk on Park avenue, and generally used these for the purpose of getting in his supplies of coal and wood, although occasionally he used the right of way for the purpose of bringing in such supplies. I find that on at least two occasions since 1890 he brought his wood in over the right of way and threw it over the fence at the rear, which runs east and west from the corner of his building to the west side of the lot. He said on some of the occasions when he required to go through the right of way, both before and since 1890, he found it blocked up by the delivery waggons and oil cans of defendant, and that he never requested defendant's permission to go through the right of way, but he did request him to remove the articles blocking the way in order that he might pass, and that he always claimed to be entitled to the use of the right of way. Perhaps after 1890 he did not exercise his rights very frequently, as it was only occasionally he required to use the way, but when so doing he was on each occasion asserting his right over the easement as a means of ingress and egress to and from his premises.

Defendant stated that plaintiff desired to purchase the right of way from him. That may well be. Defendant might have been willing for a consideration to extinguish his right of way, and plaintiff was desirous of acquiring defendant's interest therein. Plaintiff is somewhat uncertain as to what his object was in asking defendant if he was willing to sell his right to the easement. That, however, cannot affect the present issue.

There will be judgment for plaintiff declaring that he is entitled to the unobstructed use in common with defendant of the right of way as described in the deed from James