

**EUGENIO RESOLME ET AL., PLAINTIFFS AND APPELLEES, VS.
ROMAN LAZO, DEFENDANT AND APPELLANT.***G.R. No. 8654. March 30, 1914*

Ponente: CARSON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-8654/>**CARSON, J.:**

Plaintiffs claiming a right of way across the lands of the defendant allege that it has been and is being obstructed by him by the erection of fences, which compel them to make a sharp turn near the boundary of his land, and to cross his land on a line parallel with and a little to the north of the ancient right of way. The evidence of record, read together with the excellent and manifestly fair and unbiased report of the commissioner appointed by the trial court, clearly establishes the existence of the ancient right of way as set forth in the complaint, and leaves no room for doubt that the defendant, for his own convenience and without the consent of the plaintiffs, has and is obstructing the ancient right of way by fencing it off and thus compelling the plaintiffs to use another and less convenient means of passage across his land. Plaintiffs' evidence and the commissioner's report tend very strongly to maintain a finding that the new right of way is not much less convenient and commodious than the old one, defendant's object in making the change being merely to move the road a little farther away from his house. The commissioner suggests that the principal objection to the new right of way could be overcome by making the turn from the old road into the new one at an angle not quite so sharp as that in actual use, and his clear and comprehensive report would appear to sustain his contentions. But it must be remembered that this is not a question of laying out a new road, in which questions of relative convenience to the public and the land owners whose property is taken for the public use may properly be taken into consideration. The question here submitted is whether the defendant is or is not obstructing an ancient right of way as alleged in the complaint; and the allegations of the complaint having been established in a proper action, the plaintiffs' right to relief cannot be defeated by proof that defendant has furnished a new right of way, nearly but not quite as convenient and commodious as the old one. Such evidence would be of much importance if plaintiffs had undertaken to establish their claim of damages, but since there is no competent proof in the record in support of their allegations as to damages it can have no controlling influence in the disposition of the real issues involved on this appeal.

We are of opinion that the trial judge correctly held that the record sustains the plaintiffs' claim of a right of way as indicated by the arrows marked number 1 on the plan of the land submitted by the commissioner and filed with the record. We think however that the form of the judgment entered by him must be modified. He directed merely that this road "be opened for the public use" and by inference imposed upon the defendant the duty of so doing. But there is nothing in the record which would justify a finding that the defendant is charged with a duty to maintain or construct a road across his land. So far as the record discloses his only obligation in regard to this right of way over his land is a negative one, that is to say, not to obstruct or hinder the free passage over it of any persons entitled to make use of it. While the prayer of the complaint does not clearly indicate the relief sought by the plaintiffs, we think that it may fairly be construed as a prayer for a permanent injunction, and as that is the relief to which the plaintiffs are entitled upon the facts alleged and proven, the trial court should have granted a permanent injunction prohibiting the defendant from obstructing, by the maintenance of fences or otherwise, the

plaintiffs' passage over the ancient right of way, which the trial court found to be in a direct line as indicated by the arrows marked No. 1 on the commissioner's plan.

Let judgment be entered reversing the judgment entered in the court below, without costs to either party.

Arellano, C. J., Moreland, Trent, and Araullo, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.