**North Negros Sugar Co.**

**v Hidalgo**

**GR No. L-42334, 31 Oct. 1936**

**Recto, *J*.:**

**ISSUE:**

Whether or not injunction should be granted in enjoining Hidalgo from passing through the road constructed by North Negros Sugar Co.

**RULES:**

**Art. 531 of the old Civil Code (Art. 614)**

Easement may also be established for the benefit of one or more persons of a community to whom the encumbered estate does not belong.

**Art. 594 of the old Civil Code (Art. 688)**

The owner of the estate may burden with with such easement as he may deem fit, and in such manner and form as he may consider desirable, provided he does not violate the law or public order.

**Art. 564 of the old Civil Code (Art. 649)**

Forcible right of way.

**Munn v Illinois, 94 US 113**

Property does become clothed with a public interest when used in a manner to make it of public consequence, and affect the community at large.

**Virginia Canon Toll Road Co. v People, 22 Col. 429**

A toll road is a public highway, differing from the ordinary public highways chiefly in this: that the cost of its construction in the first instance is borne by individuals, or by a corporation, having authority from the state to build it, and further, in the right of the public to use the road after completion, subject only to the payment of toll.

**FACTS:**

North Negros Sugar Co. (NNSC) is the owner of a site known as the “mill site” where its sugar central, with its factory building and residence for its employees and laborers are located. It also owns the adjoining sugar plantation known as the *Hacienda Begoña.* Across its properties, NNSC constructed a road connecting the mill site with the provincial highway. Through this road it allowed vehicles passage upon payment of a toll charge of P0.15 each and free for pedestrians.

Immediately adjoining the above-mentioned properties of NNSC is the *Hacienda Señga* owned by Luciano Aguirre where Hidalgo has a billiard hall and a *tuba* saloon. Like other people in and out of the place, Hidalgo used to pass through the road constructed by NNSC because it was the only means of access to *Hacienda Sañgay.* Later on, by the order of the NNSC, every time Hidalgo passed the said road driving his automobile with a cargo of *tuba*, the gatekeeper would stop him and prevent him from passing through said road. Hidalgo, in such case, merely deviated from the said road and continued on his way to *Hacienda Sañgay* across the fields of *Hacienda Begoña* through the passageway used by the carabaos.

NNSC then applied for injunction to restrain the defendant from entering and/or passing through its properties.

**CONCLUSION:**

No, injunction could not be granted to inhibit Hidalgo from passing through. For injunction to be granted, it must be established that the right sought to be protected exists, but also that the acts against which the injunction to be directed are violative of said right.

In the case at bar, NNSC failed to establish his right and that the defendant has committed or attempted to commit acts that endanger such right. The complaint does not state how and why the mere passage of Hidalgo over NNSC’s estate conveying *tuba*  to his estate has caused damage to its property rights. The real damage that NNSC seeks to avoid is the fact that *tube* is disposed of at Hidalgo’s saloon in which the NNSC’s laborers have access, and apparently, NNSC hates that his laborers are getting drunk in the *tuba* saloon of Hidalgo. This however, is nothing more than an exercise of legitimate business on the part of the defendant. What the law does not authorize to be done directly, cannot be done indirectly. If NNSC cannot enjoin Hidalgo from selling *tuba*, neither can it obtain injunction preventing him from passing over its property to transport *tuba*.

Moreover, the road was constructed by the NNSC on its own land and it made this road accessible to the public, regardless of class/group of persons/entities. This is a voluntary easement constituted in favor of the community. Indeed, NNSC may close the road at its pleasure as no period has been fixed when the easement was constituted, but while the road is still open, he may not capriciously exclude Hidalgo from its use. Having the road devoted to the public in general, the road is charged with public interest and while so devoted, NNSC may not establish discriminatory exceptions against any person.

Furthermore, there exist a forcible right of way in favor of Hidalgo and those living in *Hacienda* *Sañgay* because they have no access to the highway except through the road in question.