

CLUTE, J.

DECEMBER 14TH, 1910.

MURPHY v. TOWN OF SANDWICH.

Assessment and Taxes—Sewer Rate—Frontage Tax—By-law—Assessment of Lands not Fronting on Street Named—Confirmation by Court of Revision—Further Appeal not Taken—Sale for Taxes Illegally Imposed—Municipal Act, 1903, secs. 664, 665, 668, 669—4 Edw. VII. ch. 23, secs. 68, 78—10 Edw. VII. ch. 88, sec. 19—Property not Assessable—Setting aside Tax Sale.

The plaintiff, who was and had been since the 15th July, 1903, the owner of a lot of 50 feet in width fronting on Main street in the town of Sandwich, and running parallel with Huron street, and 8 feet distant therefrom, 280 feet to the water's edge of the river Detroit, brought this action to have it declared that her land was not liable for any part of the cost of a certain sewer drain on Huron street, and to restrain the defendant corporation from assessing the same for any part of the cost of the drain, and from executing a conveyance to the defendant Reaume, of the plaintiff's land, made in pursuance of an alleged sale thereof for taxes alleged to be due in respect of the drain.

M. Sheppard, for the plaintiff.

F. D. Davis, for the defendants.

CLUTE, J.:—A by-law No. 301 was passed on the 27th October, 1903, reciting that a sufficiently signed petition was presented to the council by the owners, praying for the construction of a sewer along that portion of the Huron Church line from the channel bank of the Detroit river to a point opposite Assumption College, and enacting that the plans and specifications of Newman, C.E., be adopted, and that the mayor be authorised to contract for the construction of the sewer, and that the cost of the sewer be met by a frontage tax, and that Newman be appointed a commissioner to ascertain and determine what real property will be immediately benefited by the construction of the sewer, and to ascertain the proportions in which an assessment is to be made on the portions of property so benefited, to meet the cost of construction.

On the 31st August, 1904, Newman made a report shewing J. L. Murphy (or Anna M. Murphy) to be owner of part of an