

Although a plan in which the lands of more than one owner are subdivided may be registered, yet the plan is the separate plan of each owner as regards his part of the lands, and, even after registration, alterations may be ordered with respect to one part without the consent or against the will of the owner of the other part: *In re Ontario Silver Co. and Bartle*, 1 O. L. R. 140; and, that being so, it was not open to the owners of the land now covered by the plan to object to the deletion made by Baird.

Then it is said that a part of the lands covered by the plan as registered was at the time of registration subject to a mortgage held by one Coursolles, and that he did not sign a consent. But this does not appear to be the state of the case. The mortgage in question was assigned to Coursolles after the registration of the plan by one Philip Holt, who held it at the time of the preparation and registration of the plan, and he signed it as one of the consenting mortgagees. The mortgage was afterwards assigned to and apparently is now held by the defendant's wife. And it appears that there is in it an exception of Bissonnette avenue and Lake or Vallee road.

No person entitled to object or to receive notice of an intended alteration has ever put forward an objection to the manner of registration of the plan, and it would be out of the question to allow any such objection to be put forward on behalf of a mere trespasser.

Objections to the purposes for which and the want of the statutory formalities with which the by-law was passed are also urged. But no person interested in or entitled to call the by-law in question by motion to quash it has done so, and it stands. It seems to have been properly passed by the council and to be quite sufficient for the purpose for which it was intended. Its effect was to bring the designated streets in as part of the system of highways to be maintained by the plaintiff municipality.

It was not a case of acquiring land for the purpose of making and establishing a new highway, but a case of assuming for public use, under sec. 39 of the Surveys Act, a highway already dedicated to the public by the owners of the land.

The appeal fails and should be dismissed with costs.

No attempt was made to sustain the counterclaim. The result is that the judgment of the Divisional Court stands.

The other members of the Court agreed; MEREDITH and MAGEE, J.J.A., each giving reasons in writing.