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APPELLATE DIVISION.

SECOND DIVISIONAL COURT.

DECEMBER 23RD, 1918.

*FLEMING v. TOWN OF SANDWICH.

Municipal Corporations—Opening Street through Land Owned by Plaintiff—Expropriation—Assessment of Cost of Opening Street—By-law Differing from Notice Given under sec. 11 of Local Improvement Act—Right of Appeal under sec. 9 (2) (4 Geo. V. ch. 21, sec. 42)—Invalidity of By-law—Necessity for Compliance with Statutory Requirements—Remedy by Appeal to Court of Revision—Sec. 36 of Act.

Appeal by the plaintiff from the judgment of FALCONBRIDGE, C.J.K.B., at the trial at Sandwich on the 5th October, 1918, dismissing the action, which was brought for a declaration that by-law No. 735 of the defendants, the Municipal Corporation of the Town of Sandwich, and a certain assessment made in accordance with the by-law, were invalid, and for an injunction restraining the defendants from enforcing the assessment and proceeding with the work authorised by the by-law.

The appeal was heard by MULOCK, C.J.Ex., CLUTE, RIDDELL, and SUTHERLAND, JJ.

J. H. Rodd, for the appellant.

John Sale, for the defendants, respondents.

The judgment of the Court was read by RIDDELL, J., who said that the plaintiff was the owner of land in the town of Sandwich—an irregular triangular block; he intended to subdivide this into lots and to put the lots upon the market. The defendants desired to connect two streets by a new street opened across the plaintiff's block, and to this the plaintiff had no objection. A committee of

* This case and all others so marked to be reported in the Ontario Law Reports.