

to his own use certain sums for the approval and passing of certain plans submitted to the corporation of the township of Gloucester for approval, pursuant to the provisions of the Registry Act.

The following resolution was passed by the Municipal Council of Gloucester on the 12th September, 1910: "Moved by C. Hardy, seconded by O. A. Mayor, that the plans submitted by Dr. Chevrier be examined by the Reeve and Clerk and compared with the original surveys and earlier plans, if any, of these lands in court-house and registry-office, and report next meeting, and, if they deem necessary, advertise in the papers, and that all costs incurred be paid by Dr. Chevrier. That in future all plans be treated in this way, examined, advertised if necessary, and reported on, and all costs be deposited by the applicant when filing plans for approval with the Clerk."

Thereafter Mr. Billings demanded and received \$20 upon each plan being submitted for the approval of the council. The fees were paid, and these actions were brought to recover back the money so paid, upon the ground that the municipal council had not authorised the exaction of the fee in question, and that, if the resolution did in fact authorise the exacting of the fee, it was ultra vires.

The learned Division Court Judge, after carefully considering the matter, determined in each case in favour of the plaintiff. It is contended that the Judge erred in all respects in which he was adverse to the defendant, and that he had no right to entertain the actions without the resolution in question having been in the first place quashed.

I do not think that I can enter into any of the questions argued. It seems to me clear that the most which can be said is that the learned Division Court Judge erred in deciding the case as a matter of law. I do not say that this is so; but I cannot entertain an appeal, where none is given by law, in the guise of a motion for prohibition. If the learned Judge has erred, he has erred in determining a matter entirely within his jurisdiction, and I have no authority to review his decision.

The Judge had jurisdiction to determine whether the money was owing, and any error of law was in the course of that inquiry; it is not the case of the Judge giving himself jurisdiction by an erroneous construction of the statute.

The motions fail, and must be dismissed with costs.