

Robert, one of the testator's sons, through whom the defendant claimed title, was immediately on the purchase put in possession by his father, and continued in possession till his death in 1892, and since his death the defendant, his widow, continued in possession. There was, therefore, more than ten years possession by the son and defendant before action, and in the absence of the mortgage, MacLennan, J.A., conceded that the Statute of Limitations would have been a bar to the action, but he said, by the 22nd section of the Real Property Limitation Act (R.S.O., c. 111), a mortgagee and any person claiming under him not being barred until ten years next after the last payment of any part of the principal money or interest accrued by his mortgage, the mortgagee in this case was not barred; and the testator, the mortgagor, by virtue of the registered certificate of discharge, is to be deemed to have thereby obtained a conveyance of the mortgagee's estate, and thus claimed under him, and therefore he was not barred either. This view of the law, it is submitted, might, in certain circumstances, result in the practical abrogation of the Statute of Limitations. It would be possible for the owner of the paper title who had been out of possession for nine years and 364 days, to make a mortgage which would serve as a new starting point for the statute, as against a person in adverse occupation of the land, and this mortgage might be kept on foot by payment of interest or principal for 10, 15, 20 years, or indeed for any indefinite period: and at any time within ten years from the last payment, the mortgagee might eject the person in adverse occupation, though he might have been in for 15 or 20, or any number of years, without any acknowledgment of title; and what is more, on the discharge of the mortgage, the owner of the paper title, although the statute had run out against him all but one day when the mortgage was made, might, on the discharge of the mortgage fifty years afterwards, eject the adverse occupant, provided the payments on the mortgage had been regularly made so as to prevent the running of the statute against the mortgagee.

The mere fact that a particular view of the law may lead