

February, 1910, paid off the principal and interest owing and obtained a statutory discharge thereof, which, on the 11th January, 1911, was duly registered in the registry office.

On the 1st April, 1895, Frank Noble, on taking possession, became tenant at will of the plaintiff: *Keffer v. Keffer*, 27 C.P. 257; and at the expiration of one year, viz., on the 1st April, 1896, the statute began to run in his favour.

From that date until the 1st April, 1906, he remained in undisturbed possession, not paying rent or in any way recognising the plaintiff's title; so that the plaintiff became barred on the 1st April, 1906, unless the circumstance of his having made payments on the mortgage prevented the statute running against him.

The language of the section of the statute relied upon by the plaintiff is as follows: "Any person entitled to or claiming under a mortgage of land, may make an entry or bring an action to recover such land at any time within ten years next after the last payment of any part of the principal money or interest secured by such mortgage, although more than ten years have elapsed since the time at which the right to make such entry or bring such action first accrued:" 10 Edw. VII. ch. 34, sec. 23.

The object of the statute was not to benefit mortgagors, but mortgagees, by making "mortgages on available security, where they were good and valid in their inception, and the mortgagee, having received payment of his interest, cannot be charged with any laches:" *Doe d. Palmer v. Eyre*, 17 Q.B. 366, 371.

In *Henderson v. Henderson*, 23 A.R. 577, Maclellan, J.A., expressed the opinion, concurred in by Burton, J.A., that a mortgagor, on the registration of a certificate of discharge, become a "person entitled to or claiming under" the mortgage, but this opinion was not adopted by the majority of the Court. With great respect, the view of Maclellan, J.A., does not commend itself to me. Where the owner of lands mortgages the same, he remains in equity the owner subject to the mortgage charge, and, when it is discharged and the certificate thereof registered, the substantial result is, that the mortgage transaction has been wiped out as effectually as if the mortgage had never existed, and the owner continues as owner by reason of his original title, the mortgage never having in fact been a link in his chain of title. I, therefore, fail to see how here the mortgagor can be said to be a person entitled to or claiming under a mortgage made by himself. The point came up for consideration in *Thornton v. France*, [1897] 2 Q.B. 143, and the view of the Court was that the owner of land who pays off a mortgage thereon does not thereby become "a person claiming under a