

fore that the plaintiffs were entitled to judgment for foreclosure in default of payment of the principal money and interest for six years prior to date of the writ; the defendant, however, claimed that the plaintiffs were liable for waste committed by the deceased tenant for life, but it was objected by the plaintiffs that after a judgment of foreclosure the defendant had no interest in the property, and that such a claim could only be set up accompanied by an offer to redeem, and that relief could only be given to a mortgagor coming to redeem on the terms of his paying the principal and all arrears of interest, which in such a case were not limited to six years' arrears before action. The contention of the plaintiffs was upheld by Byrne, J. The case therefore emphasizes the difference between a foreclosure action and an action to redeem as regards the arrears of interest recoverable by a mortgagee. While in the former he may, under the Real Property Limitation Act, be limited to six years' arrears, in the latter the mortgagor may have to pay as the price of redemption the full amount of arrears actually due. The damages assessed against the plaintiffs in respect of the waste committed by the testatrix, it was held, might be set off per tanto against the principal and interest due under the mortgage, but a debt due to their testatrix by the defendant for money lent without security, which was statute barred, it was held, could not be tacked to the mortgage debt or set off against the damages, nor could the plaintiffs retain the damages in discharge of such statute barred loan.

MORTGAGE—CLOG ON EQUITY OF REDEMPTION—NOTICE TO PAY PRINCIPAL—
WITHDRAWAL OF NOTICE TO PAY—ACCUMULATION OF PAYMENT ON DEFAULT.

Santley v. Wilde (1899) 1 Ch. 747, is a case which shows that notwithstanding what has been said in the recent case of *Biggs v. Hodkinott* (1898) 2 Ch. 307 (noted *ante* vol. 34, p. 773), the old rule as to the invalidity of agreements between mortgagee and mortgagor amounting to a clog on the right of redemption, has still some practical efficacy. In the present case the mortgagor was a sub-lessee of a theatre with an option to purchase within a limited time the reversion of the said lease for £2,000. The mortgagee agreed to advance the money to purchase the reversion, on the terms of the loan being repaid with 6 per cent. interest and secured by a legal mortgage, which was also to provide for the payment of the mortgagee of one-third of the net profits of the theatre. The