

statutory bar can commence to run only from the time when the right first arose, whereas the statute provides for the commencement from the time when the mortgagee obtained possession. *Re Metropolis and Counties Permanent Investment Building Society, Gatfield's case*, [1911] 1 Ch. 698, at 706-7.

11. ACKNOWLEDGMENT OF TITLE.

It has already been pointed out that before the passing of 3 & 4 Wm. IV., ch. 27, a slight act or admission, even oral, on the part of the mortgagee, constituted a sufficient acknowledgment of the mortgagor's title so as to preserve his right to redeem. That statute, however, required that the acknowledgment should be in writing signed by the mortgagee or the person claiming through him. See now R.S.O. (1914), ch. 75, sec. 20, *supra*.

The statute requires that the acknowledgment should be made to the mortgagor or to some person claiming his estate, or to the agent of such mortgagor or person. *Re Metropolis, etc., Society, Gatfield's Case*, [1911] 1 Ch. 698 at 705.

If a mortgagor is a party to an assignment of the mortgage, this may be a sufficient acknowledgment of his title by the mortgagee. *Bachelor v. Middleton*, (1848), 6 Hare 75. But a mere recital of the mortgage and an assignment of it, subject to the equity of redemption, by a deed to which the mortgagor or a person claiming his estate is not a party is not sufficient. The assignee is a person claiming, not the mortgagor's estate, but the mortgagee's estate. *Lucas v. Dennison* (1843), 13 Sim. 584. See also *Markwick v. Hardingham* (1880), 15 Ch.D. 339.

If a mortgagee has entered into possession, accounts of his receipt of rents are not sufficient acknowledgment, unless they are signed by him and kept for or communicated to the mortgagor or his agent. In *Baker v. Wellon* (1845), 14 Sim. 426, this question was raised but not decided; see Sugden, *Statutes Relating to Real Property*, 2nd ed., 117; *Re Alison, Johnson v. Mounsey* (1879), 11 Ch.D. 284. 19 Halsbury, *Laws of England*, 151. A letter written by the mortgagee to the mortgagor intimating that the former is willing to give an account is a sufficient acknowledgment. *Richardson v. Younge* (1870), L.R. 10, Eq. 275, L.R. 6 Ch. 478. But a mere admission by the mortgagee that he holds under a mortgage title is not sufficient. *Thompson v. Bowyer* (1863), 9 Jur. N.S. 863.

In order that the person to whom an acknowledgment is made should be the agent of the mortgagor, it is sufficient if he has acted or has been created as such by the person making the acknowledgment. *Trulock v. Robey* (1841), 12 Sim. 402. Halsbury, *op. cit.*, 151. Cf. *Re Metropolis, etc., Society, Gatfield's Case*, [1911] 1 Ch. 698, at 705.

On the other hand, an acknowledgment by the agent of the mortgagee is not sufficient. *Richardson v. Younge* (1871), L.R. 6 Ch. at 480. But the mortgagee's acknowledgment will bind his lessee. *Ball v. Lord Riversdale* (1816), Beatty 550.

It has been said that an acknowledgment given by the mortgagee after the expiration of the statutory period is sufficient. *Stansfield v. Hobson*, 1852, 3 De G. M. & G. 620, affirming 16 Beav. 236. The correctness of this construction of the statute has, however, been questioned. *Markwick v.*