

of one man's property by another, the inclination of the Court in any doubtful case should be rather in favour of the original owner than of the man who seeks the aid of the Statute to despoil him of his rights. It is hard enough that one who is *sin juris* should lose his rights by failure to assert them within a limited time, but it seems to be almost repugnant to natural justice to deprive of their rights persons who are not *sin juris* by reason of their failure to assert them while under disability. And yet it is true that under the Statute of Limitations as now framed it is possible that a person under disability when his right accrues may be barred while still an infant even in respect of legal rights inasmuch as twenty years is the utmost period of limitation now allowed as between subjects.

It must be remembered that persons under disability are debarred from bringing actions of their own volition, an infant must sue by his next friend, a lunatic by his committee; and as the law now stands it in effect says to the person not *sin juris*, "You can't sue to recover your right, and if you don't sue you shall be barred."

According to the decision now under consideration a person may be in his cradle when his right of redemption accrues, and by the time he is ten years old his right may be barred, unless he brings an action, which the law will not permit him to do, except through the intervention of a next friend, whom he may not be able to find. But there is another feature in the case under discussion which deserves notice. It appeared that one action of foreclosure was begun against the mortgagor, wherein judgment was obtained, but before the final order was pronounced the mortgagor died, and without issuing any order to continue the proceedings against the mortgagor's representatives a final order was applied for and granted; and relying on the supposed foreclosure thus obtained the mortgagee sold the property to some third party, who conveyed to some one else who was not made a party to the action.

A final order pronounced in such circumstances is nugatory. It is in effect a judgment against a non-existent person, and cannot by any possibility be binding on persons who are not