

edge than men in general. *Page v. Parker*, 40 N. H. 47; *Jones v. Tucker*, 41 N. H. 546.

*Exceptions overruled.*

CHASE, WALLACE, and PARSONS, JJ., did not sit: the others concurred.

Merrimack, }  
June, 1895. }

RICHARDSON v. BAKER.

After the foreclosure of a mortgage in which the homestead right was released, the mortgagor's offer to redeem does not entitle him to claim a homestead in the premises, as against the mortgagee to whom the equity of redemption was conveyed, subject to the homestead right.

BILL IN EQUITY, for a homestead. This is the same case that is reported *ante*, p. 43. After that decision the plaintiff amended the bill by offering to redeem. The plaintiff's petition for a homestead was not filed till September, 1893. The defendant claims that the right of redemption is barred.

*Leach & Stevens*, for the plaintiff.

*Almon F. Burbank* and *Sargent & Hollis*, for the defendant.

*Per Curiam*.\* Upon the former transfer of this case, it was held that the plaintiff was not entitled to a homestead without redeeming the premises from the mortgages. The question now presented, whether upon an offer to redeem he would be entitled to a homestead, was not then considered. The year of redemption expired July 8, 1893, and nothing occurred during that time which in equity prevented him from redeeming the land and protecting his homestead right. From June 15, 1893, to the end of the year allowed for redemption, the defendant held the property as a mortgagee in possession (*Green v. Currier*, 63 N. H. 563), subject to the right of redemption, and also as the owner of the equity of redemption, subject to the plaintiff's right to a homestead. As the latter right was not enforceable until the plaintiff had paid or otherwise discharged the mortgage indebtedness, his offer to redeem after the foreclosure was completed is immaterial, and his homestead right is barred.

*Bill dismissed.*

CLARK, J., did not sit: the others concurred.

\* See foot-note on page 22.