

advances from time to time to enable the work to be carried on. The bank were aware of the partnership agreement, and that the ties were being got out by Robinson under its terms.

It was conceded by Mr. Rowell that the writ of execution was not a lien or charge upon any of the timber embraced in the Crown timber permit until it had been severed from the soil. But he contended that the moment there was a severance the timber cut vested in E. F. Kendall, and eo instanti the execution attached, and this notwithstanding any agreements or dealings in respect of the timber, made before the severance.

While it is quite true that the nature of the property was such that it was unaffected by a writ of execution in the hands of the sheriff, it does not follow that the execution debtor could not enter into some dealings in regard to his interest. There appears to be no objection to his forming a partnership for the production of the ties with a person willing either to put in cash as capital or to provide the plant, supplies, and other materials and chattels necessary to enable the work of production to be proceeded with. It follows upon an agreement to that effect that the product would be the property of the partnership, and not that of the individual who holds the permit. Such an agreement is not in its nature either void or voidable as against creditors. The interest transferred by the debtor is not one exigible under a writ, and not affected by any lien or charge arising therefrom. There is nothing affecting the debtor's interest, and by no process could he be compelled to use it for the benefit of his creditors: *Baby v. Ross*, 14 P. R. 440, at p. 446. And if an agreement is not entered into with a colourable purpose or with an intent to defeat or defraud creditors, as by a mere pretended partnership, but is entered into with the bona fide intention of forming a partnership and carrying on a business, it is not open to attack at the instance of creditors.

In the present case it is clear that there was an actual agreement for a partnership, made in entire good faith, at the instance of Robinson, with a view to his own interests, and without knowledge of any reason preventing or interfering with Kendall's entering into partnership with him. And it is not capable of argument that the agreement did not contemplate the ties and the timber necessary to their production and transport becoming the property of the partnership. It was the very object and intention of the partnership that the product of the work for the carrying on of which the timber was essential should be the property of the partnership. And there is no reason why the product to which the partnership agreement related should not, as soon as it came into existence, vest in the partnership as its property: *Holroyd v.*