

upon the question whether the injunction should in the first instance have been granted. That question is really not before us, except perhaps incidentally. Nor need we consider the liability, if any, of the officers of the defendant company for contempt in aiding the defendants in the original action in committing a breach of the injunction. The sole question here is one of title. And I am, with deference, quite unable to see how that question is affected by the circumstance of the existence of an injunction. An injunction acts only in personam: see *Attorney-General v. Birmingham, etc., Drainage Board*, 17 Ch. D. 685, at p. 692. At the utmost, notice of the injunction might be equivalent to notice of the execution, which may indeed have been Mr. Justice Teetzel's real meaning when he speaks of notice of the injunction, for he follows up the reference to notice of the injunction with a remark as to it being also notice of the execution. What then is the legal effect, if it be assumed that the defendants had, when they acquired the timber limits from McGuire & Co., as they undoubtedly did, notice of the plaintiffs' executions? Simply none, in my opinion, for the reason that the interest of a licensee under the Crown in a timber limit is not subject to seizure or sale under execution: see *Canadian Pacific R.W. Co. v. Rat Portage Lumber Co.*, 10 O.L.R. 273. Section 9 of the Execution Act, to which reference is made in the judgment, can have no application where the goods in question are not exigible under the execution. And, if the debtors' interest is to be regarded as an interest in land, the same result would follow.

Then it is suggested, but not I think distinctly proved, that the purchase by the defendants was made in fraud of creditors of McGuire & Co.; but there can be no fraud upon creditors in dealing with property which, under the law, the creditors cannot reach. The purchase seems to have been a real transaction, in which the property passed, and was intended to pass, and was made for a valuable consideration, which, upon the evidence, was paid. Under these circumstances, I am quite unable to see any evidence of fraud, although, if the property had been exigible, the purchaser would, no doubt, have taken subject to the incumbrances by way of execution of which he had notice.

For these reasons, I would allow the appeal and dismiss the cross-appeal, both with costs.

MEREDITH, J.A.:—I am still unfortunate enough to be unable to understand why the interest in land of a licensee under a Crown lands timber license is not an interest in land liable to