

parties, it is scarcely to be doubted, that some estimate would have been put upon the lot, as that, and this money advanced, would have constituted the capital of the firm. But still, as has been said, that though these parties may not have intended to become partners, and may not bear that relation to each other *inter sese*, yet the contract between them, may be such as to make them partners *inter alios*, and it is insisted that the agreement as to dividends, is of that character. But as we have seen, the agreement, with regard to the dividends, does not extend to the corporation, and there is, therefore, no stipulation between it and the contributors for participation in the profits. My construction of this deed is, that it provides for a simple loan of money by the contributors to the corporation, to receive the payment of which the latter gave them a lien upon that lot and premises in question, and that, consequently, that they have superior rights to any creditor of the corporation, becoming such after the execution of the deed.

But assuming that these contributors and the corporation are partners, is it quite clear that Green, the judgment creditor of one of the partners, is entitled to be preferred over a partner who is, himself, a creditor of the firm? Partnership effects must be first applied in liquidation of the claims of the joint creditors before any partner can claim anything for his share, or debt; and when an account is taken between partners, after a determination of the partnership, each partner is entitled to be allowed against the other, everything he has had advanced, or brought into the concern, and nothing will be considered as the share of any one of them, but that proportion of the residue to which each, on a balance of the accounts, will be entitled. *Gow on Part.*, 258, 259. In the settlements of the accounts between these contributors and the corporation, supposing them to be partners, the joint debts are first to be paid, then the claims of either partner against the partnership, and the surplus only would be divided between the partners in just proportions. To the share of the corporation of this surplus, and to nothing more, would Green be entitled, as his claim is not against the firm, but against one