

Book III.
Title XX.

Where an action concerning an inheritance is to be tried and where the appointed heirs should demand to be put into possession.
(Ubi de hereditate agatur et ubi scripti heredes in possessionem mitti postulare debent.)

Bas. 7.5.83.

3.20.1. Emperors Valerian and Gallien to Messia.

A demand to put the heirs into possession of the property of the inheritance is to be made where you say the inheritance is situated. But the controversy must be terminated in the place where the defendant has his domicile, or in the place where the inheritance is situated, if the defendant lives there.
Promulgated April 25 (260).

Note.

Heirs who asked to be put in possession of an inheritance were required to do so in the province where the property was located. See as to heirs being put in possession C. 6.33.

So far the foregoing law is clear, but the remainder has given some trouble. It clearly provided that an action for an inheritance (considered at C. 3.31) should be brought in the jurisdiction where the defendant had his domicile. Such action was an action in rem, and the law is in that respect inconsistent with C. 3.19.3. So, too, Novel 69 seems to contemplate that all such actions should be brought in the province where the property was situated. It seems to be generally thought that such was the later rule of law. Wenger at 44 and note 65; 3 Bethmann-Hollweg at 186. The Basilica states this portion of the law as follows: "If he (plaintiff) wishes to bring an action for an inheritance, he may do so either where the defendant has his domicile or where the inheritance is situated." This clearly justifies the above interpretation of the later rule.