

Book IV.
Title XIV.

Whether a slave can, after manumission, be held responsible for his own act.
(An servus ex suo facto post manumissionem teneatur.)

Bas. 24.5.

4.14.1. Emperor Severus to Jovianus.

Although you made a contract with a slave, freed upon condition (statulibero), you ought to know that you have no right of action against him after the fulfillment of the condition upon which he was freed, for his previous transactions.

Promulgated December 10 (196).

Note.

Concerning duties owning my manumitted slaves and certain rights, see C. 6.3.8; as to fugitive slaves, see C. 6.1; as to manumissions, etc., see C. 7.1.21; as to liability of slaves for torts, see C. 3.41; as to liability of their special property (peculium) see C. 4.26.

The slave's natural obligation survived manumission. Thus, if after he was freed he promised to pay the debts, this was not a gift, but a payment, and the money so paid could not be recovered. D. 39.5.19.4; D. 12.3.13 pr.; D. 46.3.83. Still it was only a natural obligation, and he could not be sued on his contract made as a slave, even as one conditionally free (statuliber), except in some cases where he still had the peculium. Buckland, Roman law of Slavery 697. If, however, he had begun a transaction as a slave, and it was completed after manumission, and the parts could not be separated, he was liable. D. 3.5.16 and 17; Buckland, supra.

4.14.2. Emperor Antoninus to Baeticus.

The creditors who loaned you money while you were in servitude have no right of action against you, especially since you say that your special property (peculium) was not bequeathed to you.

Promulgated August 30 (215).

4.14.3. Emperor Alexander to Aurelius Herodes.

If money was promised you by your slave for his manumission, and you received no stipulation from him for the payment of such money after you manumitted him, you have a right of action against him on the special facts (in factum).

Promulgated September 13 (222).

Note.

The correctness of this is doubted, for the reason that in general a promise was not good unless confirmed after manumission. Buckland, Roman Law of Slavery, 691-692. Bas. 24.5.3, stating this law, says that no claim lay against the servant unless a stipulation was entered into by the slave after manumission.

4.14.4. Emperor Gordian to Heron.

Although the woman who is said to have stolen money from your mother could not be sued for that crime during the time of her servitude, after she has obtained her freedom she can be held in an action for theft, for the tort follows the person of the tortfeasor.

Promulgated September 13 (238).

Note.

The law speaks of theft committed, not against the master, but against someone else, and in such case, manumission did not release the slave. But no action for theft could be brought against a manumitted person for a theft committed against the master during the continuance of slavery. Law 6 of this title; C. 3.41.1; Buckland, Roman Law of Slavery, 107, 692. The property stolen, however, might be pursued by the master even after manumission. Bas. 24.5.4 note.

4.14.5. The same Emperor to Chrestus.

If, as you allege, you cultivated the property of your mistress before you were manumitted by her, and you thereafter received your freedom, and she took your special property away from you, then the property which you acquired subsequently by your own labors, cannot be molested for any arrears of debt, if any was formerly contracted.

Promulgated November 16 (243).

Note.

The peculium—special property—of a slave belonged to his master. In case of manumission by the master during the latter's lifetime, it became the property of the slave, unless expressly taken away; in case of manumission in a testament, the peculium remained the property of the decedent's successor, unless specially given to the person manumitted. C. 7.23.1. In the present case, the property of the slave was expressly retained by the mistress upon manumission, and she acted rightly in that respect; but she had no right to appropriate any property of the slave acquired after manumission, even though the manumitted person owed a debt to his mistress. C. 2.18.21; Buckland, Roman Law of Slavery, 689.

4.14.6. Emperors Diocletian and Maximian and the Caesars to Felicianus.

If those whom you mention in your petition are your slaves, deal with them at home, because no lawsuit is permissible between master and slave; if they were manumitted after the commission of an offense, no reason of law permits them, after receiving their liberty, to be summoned by their masters for antecedent transactions.¹ 1. If, of course, they have done anything unlawful after manumission, show this before the president of the province and you will receive judgment according to law.

Given at Byzantium April 12 (293).

¹ [Blume] See law 4 of this title and C. 3.41.1.