

Book V.
Title XV.

Concerning dowry received for, but not paid.
(De dote cauta et non numerata).

Bas. 29.5.41.

5.15.1. Emperors Severus and Antoninus to Dionysia.

Dowry comes into existence by payment, not by the writing of a marriage contract. And hence you cannot be unaware that you will be allowed to reclaim dowry only if you can prove that it was actually given by you.

Given July 20 (204).

Note.

Dowry documents usually recited that the dowry had been given and received. Law 3 h.t. But that was not conclusive. The contrary could always be shown. C. 5.3.1; C. 6.44.5; C. 4.31.6.

5.15.2. Emperor Alexander to Papiniana.

Whatever the husband, during marriage, shall have, in writing, added to the dowry from his own property, with intent to make a gift thereof, and he did not recall the completed gift legally made, which increased the dowry, and he died during marriage, such gift, insofar as fortified by proof, may be claimed by the heirs of the husband by the wife.¹

Promulgated December 5 (229).

5.15.3. Emperor Justinian to Mena, Praetorian Prefect.

As to dowries which are usually acknowledged in marriage contracts to have been given, if they have not in fact been given, but only a simple promise therefor was made, not only may the husband (if sued) set up the defense of “no money delivered,” against his wife, or her heirs, if she has died, or in case the marriage is dissolved by divorce, but that may also be done by the heirs of the husband, by whose death the marriage is dissolved, as well as by the father in law (of the wife) and his heirs, if he also, with his son, acknowledged the receipt of the dowry in the marriage contract,² and by every other person who, with the husband, acknowledged in writing the receipt of the dowry, and by his heirs, provided that this may be done during one continuous year computed from the time of the death of the husband or woman or of the sending of the bill of divorce.

Given June 1 (528).

¹ [Blume] See C. 5.16.14 and note.

² [Blume] That is, if the father, having the son in his power, was to receive the dowry.