

Book V.
Title LXXII.

When a decree is unnecessary.
(Quando decreto opus non est.)

Bas. 38.9.60.

5.72.1. Emperorr Antoninus to Valeus, a soldier.

If you can prove that the father of the minor, under the age of puberty, whose guardian you have sued, consented that the land (bought of you) should be returned to you and the price to the minor, the agreement will be enforced. Nor is the consent of the president necessary in this matter, to protect the guardians, if they obey the wish of the deceased.

Promulgated December 29 (205).

Note.

Bas. 38.9.60 explains the law as follows: Someone sold land to another, later deceased, under an agreement that the land should be returned upon the return of the price. The buyer died, leaving surviving as his heir a minor under the age of puberty. The vendor sued the guardian of the minor to compel him to receive the money back and return the land. The guardian received the money and returned the land without a decree of court. The law states that if it is shown that the father of the minor made this agreement, that upon the return of the price the land should be returned, the return of the land was valid on account of the wish of the decedent.

5.72.2. Emperor Aurelian to Pulchrus.

It is to be determined whether the honorable Saturninus, applied to the emperor and received a special right of sale from him. An imperial grant is equivalent to a presidential decree.

Promulgated January 13—without consul.

Note.

Saturninuys probably was the guardian in this case.

5.72.2. Emperors Diocletian and Maximian and the Caesars to Stratonicianus.

Rural or suburban land can in no manner be sold by a minor under 25 years of age without a decree of the president, unless it should be perceived that the alienation thereof was directed to be made by the last will of the father or testator, form whom the property was acquired by the minor.¹

Promulgated March 18 (295).

5.72.4. Emperor Constantine to the people.

We permit guardians and curators to sell worn-out vestments and unnecessary animals without an order of the court.

Given at Sirmium March 15 (326).

¹ [Blume] C. 2.27.1; C. 2.29.2 and note.