

Book VI.
Title XIII.

Concerning the right of possession of an inheritance contrary to a testament of a freedman, given to patrons or their children.
(De bonorum possessione contra tabulas liberti etc.)

D. 37.14; Bas. 40.7.4.

6.13.1. Emperor Gordian to Herculianus.

Although you and your sister manumitted the slave whom you mention, pursuant to a trust imposed on you by your father's testament, still if he (the former slave) appointed outside heirs, you, within the time fixed in the edict, obtain the right of possession of your portion of the inheritance contrary to the testament (in writing), or contrary to the nuncupative will, if the testament was made without writing.
Promulgated November 26 (239).

Note.

As to when a patron was entitled to anything out of his freedman's estate and to what share he was entitled, see C. 6.4.4. In general it may be said here, that a freedman might give all of his property to his children as against the patron, and might leave it to anyone else if not of the value of 100 gold pieces. In such case the patron had no right to upset the will. So, too, he was excluded in a case mentioned in the next law.

6.13.2. Emperor Theodosius to Asclepiodotus, Praetorian Prefect.

The patron of a freedman, by having chosen to have gifts given and services performed for him, is excluded from the right of possession of the inheritance contrary to a testament.
Given at Constantinople February 17 (424).

Note.

The gifts and services here mentioned do not apparently refer to those given or rendered during a lifetime of the freedmen, but those given or rendered by the testamentary heir of the freedman. The right to inherit part of the freedman's property was regarded as a partial compensation for loss of services due from the freedman during his lifetime, and if the heir instituted in the will agreed to continue these, and the patron accepted this, he could not afterwards attack the will. D. 37.14.20; D. 38.2.1.2 and 37; Buckland 89; 9 Cujacius 618.