

Book VI.
Title XLVII.

Concerning interest and income from legacies and trusts.
(De usuris et fructibus legatorum vel fideicommissorum.)

Bas. 44.22.86.

6.47.1. Emperors Severus and Antoninus to Maximus.

It is clear that interest on legacies and trusts may be demanded as of the time of joinder of issue (in a suit to recover such legacy or trust), and income from property and earnings of slaves, which are owing pursuant to a testament, are also customarily to be paid in like manner.

Given July 31 (199).

6.47.2. Emperor Antoninus to the freedmen of Cassianus.

The legal remedy against those who delay the payment of legacies under the pretence of the Falcidian law is well known. If you can furnish a bond in the form of a stipulation, with surety to the effect that you will restore whatever excess you shall have received by reason of said law, the judge who has cognizance over trusts, will order the whole of the legacies to be turned over to you. 2. But if you cannot furnish surety, an arbitrator will be appointed and a day fixed, within which the other party, if he persists in non-payment, must perform his duty. And if it is evident that the Falcidian law does not apply, you will receive interest and increase from the time of joinder of issue.

Promulgated May 17 (212).

Note.

It was the policy of the law that legacies and trust should be paid promptly. If the person charged therewith did not pay the legacy, the beneficiary might, in certain cases, be put in possession of the inheritance in order to secure himself. This subject is treated at C. 6.54. The instant rescript speaks of a personal action to recover the legacy, and in order that recovery might not be delayed, provides a remedy: the beneficiary might either put up a bond that he would repay the amount paid him, in order that the heir would not lose by the payment and might also be enabled to retain his Falcidian fourth, which was a fourth of the net estate - a subject dealt with at C. 6.49 and 50; or if the heir was unable to furnish such bond an arbitrator was appointed for the purpose of determining the condition of the estate; that is to say, whether or not the condition of the estate was such, that, considering the debts and the Falcidian fourth, the legacy could or could not be safely paid. The arbitrator reported to the court and final order was entered according to the facts shown. If it was shown that the Falcidian fourth was not endangered, the heir was compelled not only to promptly pay the legacy, but interest thereon from joinder of issue as well.

6.47.3. Emperor Alexander to Paternus.

It certain slaves were left to you as a trust, they are held, if delivery thereof is delayed, at the risk of the debtor.

Given March 21 (224).

6.47.4. Emperor Gordian to Dionysius.

Interest on legacies and trusts is paid not from the day of the death (of the leaver), but from the tie of joinder of issue (in a suit to recover them), whether an action in rem or a personal action is brought.

Promulgated September 5 (239).