

Book VII.
Title X.

Concerning slaves manumitted by one not the owner.
(De his qui a non domino manumissi sunt.)

Bas. 48.16.

7.10.1. Emperor Antoninus to Cornelianus.

It has often been stated in rescripts that a man who manumits the slaves of others as his own, must pay to the owners, if they choose to accept it, the value of the slave or of the interest which they have therein.
Promulgated March 1 (213).

Note.

We saw at C. 7.2.9, that direct liberty could not be given to another's slave, but we saw at C. 7.4.6, that indirect liberty might be so given. It is the latter manumission, perhaps, that is referred to in the present law. The owner was not, of course, compelled to accept the price, but he might do so, if he chose. The rescript, however, might refer to any other manumission made by a non-owner, and the owner might treat it as a sale, if he wished. Buckland, Roman Law of Slavery 558. Partiality for manumission is shown in this law, which states that a manumission was valid, if made by one who purchased the slave pursuant to another's mandate.

7.10.2. Emperor Alexander to Mercurialis.

If Felicissima, who, according to your statement, purchased slaves pursuant to your mandate, did not transfer the slaves whom she manumitted to you, it is useless for you to ask that liberty should be denied a man who you say, was manumitted, and that you should be given possession of him.

7.10.3. The same to Pompeius, a soldier.

A man who sold you an inheritance, remained its owner till he delivered it to you and he, accordingly gave lawful freedom to the slave of the inheritance, by manumitting him.

Promulgated July 27 (230).

7.10.4. Emperors Valerian and Gallienus to Zeilus.

If you did not transfer ownership, but simply loaned the service of a female slave, the woman who had merely the permissive use, could not prejudice your right to the slave by manumitting her. For no one can give liberty to the slave of another by manumitting him as his own.

Promulgated July 23 (260).

7.10.5. Emperors Diocletian and Maximian to Marcellina.

If slaves are, pursuant to a gift, delivered to the donee, the maker of the gift has no further right to manumit them.

Promulgated April 27 (286).

7.10.6. The same and the Caesars to Midus.

If your father manumitted your slave, he could not, though you, when less than twenty years old gave your consent, give him liberty.

Subscribed March 7 (294).

7.10.7. Emperor Constantine to Bassus.

If liberty is given to another's slave by a man not his owner, but this is done pursuant to the authority of a judge who had the right to grant permission to do so, the act is easily cancelled without penalty inflicted on the manumitter. 1. If, however, it is made to appear that a manumission was made by our order, and a non-owner is proven to have petitioned us to manumit another's slave without stating the non-ownership, then the slave, who will be shown to have received liberty in our (theoretical) presence, being immediately restored to his owner, he who in deceiving the moral sense of the emperor, manumitted another's slave shall give to the owner two slaves of the sex, age and trade as the one manumitted, as aforesaid, and for identical reasons give three additional, similar slaves to the fisc. 2. This punishment will not always be imposed, and will not be inflicted if the manumitted person can show, perchance, that the owner's right to question his status is barred by the legal period of prescription, for a man who ratifies the loss of his slave by his silence, has no one but himself to blame.

Promulgated July 15 (319).

Th. 4.9. (10) 1.

Note.

According to the general rule a slave manumitted by a person not the owner thereof, did not become free; that is to say, the manumission could be rescinded. That was true even where the manumission was made by obtaining the consent of the emperor. But, as noticed, a heavy penalty is imposed by this law, for deceiving the emperor.