Book VII.
Title XI.

Who cannot manumit and that no manumission be made in fraud of creditors.
(Qui manumittere non possunt et ne in fraudem creditorum manumittatur.)

Bas. 48.7.33; D. 40.9.

7.11.1. Emperor Alexander to Antiochus.

The law is certain that direct manumissions, made in fraud of the creditors of the manumittors, are not invalidated by the Aelian Sentian law, unless the manumittor had the intent to defraud and damage results to creditors, who want to recover what belongs to them. It is agreed that the term "creditors" includes a party to whom a trust is due. Promulgated November 11 (223).

Note.

It will be noted that where manumission was direct, the question whether it was in fraud of creditors depended both upon the intent to defraud, as well as the result - that is to say, as to whether damages resulted thereby to creditors. In other words, the manumission failed only, if the manumittor was, and knew himself to be, insolvent. Buckland, Roman Law of Slavery 544, 561, 562. Where the manumission was indirect, that is to say, left by way of trust, the intention to defraud was not taken into consideration; if the estate left by the manumittor was in fact insolvent, the manumission failed. Law 7 of this title; 9 Cujacius 884. In such case, however, the provisions of law 15 of title 2 of this book would be acceptable, so that manumissions did not necessarily fail even in such case.

7.11.2. The same to Natalianus.

It is known by (imperial) mandates that imperial slaves cannot, even by the mediation of other persons, manumit other slaves that are part of their own special property (peculium).

Note.

Imperial slaves, as many other slaves, frequently had large property as their special property (peculium). This peculium might include other slaves. Now the present rescript provides that the imperial slave cannot manumit the slaves within his peculium even by the interposition of a third person; i.e. these slaves could not be transferred by him for the purpose of being manumitted. Buckland, Roman Law of Slavery 187, 591.

7.11.3. The same to Justina.

On motion of the divine Marcus, the exalted senate decreed that no one should manumit his or another's slave at a spectacle, which might be given, and if done, the act should be considered invalid.

Note.

If such slave, participating at a spectacle, should be asked to be manumitted by the multitude, on account of approval of his conduct, it would be hard to resist, and if done would, in a manner, be done under compulsion.

7.11.4. The same to Felicissimus.

If you gave slaves, while you were less than twenty years old, in order that they might be manumitted, the transaction is, by senate decree, declared invalid.[1]
Promulgated May 13 (224).

7.11.5. The same to Priscus.

If a manumission can be shown to have been made in fraud of the debts due to the fisc, it is invalid. But if the man whom you call your father, gave money to the purchaser (with which to purchase the slave), who bought the slave (from the debtor of the fisc with such money) and then gave the slave his liberty, the property of the man who is said to be debtor of the fisc does not appear to have been diminished.

Note.

The money in this case, paid for the slave, took the place of the latter, and the estate of the owner of the slave accordingly remained the same. Hence the manumission was valid. Buckland, Roman Law of Slavery 561.

7.11.6. Emperors Diocletian and Maximian and the Caesars to Olympius.

The law is certain that a guardian of a minor female ward below the age of puberty cannot give liberty even to slaves to whom fiduciary liberty is owing from such minor. Hence if you did not give freedom to slaves whom you had been requested to manumit at a certain time of your life, the slaves remain in servitude notwithstanding the manumission made by your guardian.

Note.

In the present case the female minor had been requested in a will to manumit certain slaves at a certain time of her life. That time had evidently not yet arrived, and the manumission made by the guardian was absolutely void, and was void in any event without the minor's consent. An infant could not free at all, and a child under guardianship could not do so without the authority of the guardian. In case of an infant, however, who was requested to manumit without condition, the beneficiary of the request might be made free on application to the court. Buckland, Roman Law of Slavery 587. See C. 7.8.6.

7.11.7. The same to Zoticus.

If your master who owed a debt as a result of his acting as curator and who, while insolvent, left you, upon his death, a bequest of fiduciary freedom, his bequest can be of no advantage to you, since in connection with fiduciary manumission only the result (as to solvency) is considered.[2]

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[1] [Blume] See Headnote to C. 7.1.

[2] [Blume] See note to law 1 of this title.