

Book VIII.
Title LV.

Concerning revocation of gifts.
(De revocandis donationibus.)

8.55.1. Emperor Philip to Agilius Cosmianus.

Although a freedman has been placed in possession of a completed gift, and has held the property, no matter for what length of time, as unconditional owner, still the gift may, if he becomes ungrateful, be recalled by the patron who has changed his mind. 1. This shall apply also to the property acquired in the name of the freedman, but with the money and through the kindness of patrons. 2. For freedmen who by their respect induce patrons to extend their bounty to them, are not worthy to retain it when they cease their respect, and when the generosity extended to them should incline them to be respectful, rather than induce them to be insolent. 3. But this right (of revocation) is confined to those who made the gift, and does not extend to children or heirs. For it would not be right to disturb gifts which the giver did not recall in his lifetime.
Given June 17 (249).

8.55.2. Emperor Probus to Felix.

If it appears before the president of the province that the grandmother of your daughter stealthily took the instruments of a gift and burned them, as though she regretted the gift, you need not fear that an act which has full legal force can be put in doubt by something done thereafter.¹
Promulgated at Sirmium May 5 (272).

8.55.3. Emperors Carus, Carinus and Numerian to Januarius and Felix.

A possession of which your mother made you a gift when you were emancipated could not be sold by her upon the mere ground that she repented the gift.
Promulgated January 12 (284).

8.55.4. Emperors Diocletian and Maximian and the Caesars.

The statement that you made a gift in fraud of another contains, you understand, an acknowledgment of dishonesty. Hence, if you completed the gift, you cannot, upon the ground stated (that it was fraudulent) and under the pretence of regretting it, recall it.
Promulgated at Heraclia April 1 (293).

8.55.5. The same to Epagothus.

If you made a gift legally², it should not be rescinded by an imperial rescript.³
Subscribed at Heraclia April 27 (293).

¹ [Blume] For a similar law as to a testament, see C. 6.23.11. See C. 8.53.1 note.

² [Blume] rite ["right" intended?]- originally "by delivery." See C. 8.53.1 note; 34 Z.S.S. 226.

³ [Blume] Similar provision as to a will is made in C. 6.23.10.

8.55.6. The same to Herennia.

You were entirely at liberty, in the first place, to give lands and slaves to your son, or not. Cease, therefore, to demand the rescission of the completed gift, under the pretence that your husband and children were absent (when you made it), since, to make the gift valid, did not require their presence.

Subscribed at Vimacium September 27 (294).

8.55.7. Emperors Constantius and Constans to Philippus, Praetorian Prefect.

Only to those mothers who have not unseemly married a second time but married only once, do we give the power to revoke gifts made to their sons, if the latter show themselves ungrateful. 1. And a son, therefore, accused by his mother of want of filial devotion (and proven guilty thereof) will be compelled to return to her such part of a gift as he holds at the time when a suit is set in motion by any order of the judge. 2. But whatever was legally completed (as to any property) while the mother was at peace with him, and was sold, given away, exchanged, given in dowry or otherwise legally alienated, before the beginning and institution of the suit, cannot be recalled. 3. The right of action of the mother is a personal action, with the effect only of a real action⁴, and shall not lie against an heir or be transmissible to an heir. 4. Sufficient implied legislation exists, we think, against women revoltingly base and who have cast their virtue aside. For who would think of granting them any (such) right, when we do not grant it even to those who have entered into a second marriage, though legally?

Given September 20 (349).

8.55.8. The same to Orfitus, City Prefect.

If a patron who has no children makes a gift of all or any part of his property to his freedmen, and he subsequently has children, all that he has given shall revert to him, to remain in his control and power.

Given March 28 (355).

C. Th. 8.13.3.

8.55.9. Emperors Theodosius and Valentinian to the Senate.

Gifts made to an emancipated son, daughter, grandson, granddaughter, great-grandson or great-granddaughter, may not be revoked by a father, grandfather or great-grandfather, unless it appears by clear proof that the person receiving the gift was guilty of lack of filial devotion and ungrateful for reasons sufficient in law.⁵

Given at Ravenna November 6 (426).

C. Th. 8.13.6.

8.55.10. Emperor Justinian to Julianus, Praetorian Prefect.

We ordain generally that all gifts legally made shall remain valid and in force unless the recipient of the gift shall be found ungrateful toward the donor, in that he heaps atrocious insults (injuries) on him, or lays impious hands on him or by treacherous conduct inflicts damage on him which does not weigh lightly on the property of the

⁴ [Blume] In case of bankruptcy, the claim had preference.

⁵ [Blume] Ordinarily an unconditional gift was irrevocable. C. 2.4.25 and 34; C. 4.6.7.

donor, or endangers his life, or in that he refuses to comply with the agreements attached to the gift, either in writing or oral, and which the recipient of the gift stipulated to carry out. 1. For these reasons, but for them only, if proven in court, upon trial, by clear proof, gifts made to them may be rescinded, so that no one may have license to take another's property, and laugh at the weakness of the donor, and so that, further, the donor may not be ruined, his property wasted and the damages aforesaid inflicted on him at the hands of an ungrateful recipient. 2. We order that these provisions shall apply, however, only to the original parties, and the successors of the donor shall have no right to institute complaints of that kind. For if the man himself, who suffers these things, keeps silent, his silence shall remain permanent and shall not be interrupted by his posterity, either as against the person said to be ungrateful or as against his successors.
Given at Constantinople March 18 (530).⁶

⁶ [Blume] See Buckland 254.