

Book VII.
Title XXII.

Concerning prescription of long time which may be used in favor of, but not opposed to, liberty.

(De longi temporis praescriptione, quae pro libertate et non adversus libertatem opponitur.)

Bas. 48.24.

Headnote.

Prescription of a long time (longi temporis praescriptio) generally refers to ten years where the parties lived in the same province, and to twenty years where they lived in different provinces. But it would seem that in the present title it refers only to the period of twenty years. That appears to be the construction placed upon it by the Basilica. Bas. 48.24.1 and notes.

7.22.1. Emperors Diocletian and Maximian and the Caesars.

Lapse of time is no defense for a man who is for a long time in enjoyment of liberty in bad faith. Hence, when you acknowledge that you fled from the man whom you mention, you perceive by that alone that you are not in possession of liberty without fraud.

Given August 23 (293).

Note.

Lapse of a long time, that is to say twenty years, did not bar a claim that a person was a slave, unless the person claimed as a slave lived in liberty in good faith. In 491 A.D., however, it was provided that a man whose status had not been judicially disputed for forty years, was free in any event. C. 7.39.4; Buckland, Roman Law of Slavery 649.

7.22.2. The same to Carterius.

Possession of liberty which has a bona fide beginning and has continued for a long time furnishes a full defense. For partiality for liberty and another salutary reason led to the conclusion long ago that those who should be in possession of liberty for twenty years in good faith without being questioned, should be protected against disturbance as to their status by that period of prescription, and should become free and be Roman citizens.

Given at Antioch June 25 (300).

7.22.3. Copy of an imperial letter of the Emperors Constantine and Licinius to Dionysius, Acting Prefect.

It is in accordance with justice that no length of time alone, though exceeding a period of sixty years, should bar a claim of liberty.

Given April 29 (314).

Note.

While a claim that a man was a slave might be barred within a certain time, as we have seen, a claim by a man held in slavery that he was free was never barred. See

C. 7.14.6; C. 7.16.5. Buckland, supra 648. So a claim by a person that he was free-born was, under Justinian's enactment, never barred. C. 3.22 6, and see note to C. 7.14.1.