

Book I.
Title XVIII.

Concerning ignorance of law and fact.
(De juris et facti ignorantia.)

Bas. 2.4; D. 22.6.

1.18.1. Emperor Antonius to Maximus, a soldier.

Although, when you pledged your own cause, you omitted, in ignorance of law, on account of the artlessness of men in the military service, to plead allegations helpful to our cause, nevertheless, if you have not yet satisfied (the judgment), we permit you to use your defenses when you are sued upon the judgment.¹

Given April 25 (212).

1.18.2. The same Emperor to Sextus Juvenal.

Since you are not easily excused by reason of ignorance of the law, if while of age you renounced the inheritance of your mother, you come too late for help.

Given October 18 (243).

1.18.3. Emperor Philip to Marcella.

If, emancipated by your father, you omitted to claim the right of possession of decedent's property within a year, you can, in no manner, allege ignorance of the law as an excuse.

Given June 16 (244).

Note.

An emancipated son or daughter were outside of the circle of the family and under the statutory law were excluded from the inheritance of their father. But the praetor recognized them just the same as unemancipated children, provided that they claimed the right of possession of the inheritance as a child—that is to say, claimed their share of the estate. But they were required to make such a claim within a year, otherwise they were barred. See C. 6.9 and headnote thereto.

1.18.4. Emperors Diocletian and Maximian to Juliana.

If after division of property was made, a defect of the testament comes to light, you will not be prejudiced by what has been done in ignorance of the facts. Prove, therefore, before the honorable corrector, our friend, that the testament deserves no credit or that it cannot stand in law, so that when the document brought forth as a testament is invalidated, you may obtain the whole inheritance.²

Given July 8 (290).

1.18.5. The same Emperors and Constantius and Maximian, noble Caesar, to Mortial.

Since truth cannot be changed by a false allegation, you have accomplished nothing by answering that the property, which in fact was that of the father, was derived from your mother.

¹ [Blume] See note C. 7.52 as to suits upon a judgment. See also 1.22.4.

² [Blume] See C. 3.36.15.

Given December 31 (293).

1.18.6. The same Emperors to Taurus and Pollio.

If the rector of the province learns that you have, by stipulation, promised to Archanticus certain oil not owing, and that you did so not by way of compromise but because of an error of fact, then, when you have rendered what is due, he will hear your claim to be released from the remainder of the obligation.

Given April 27 (294).

1.18.7. The same Emperors and the Caesars to Toa.

An error of fact injures no one before the transaction is finished, but finished, it will not be reopened on such pretense.

Given July 2 (294).

1.18.8. The same Emperors and the Caesars to Dionysia.

When a testament is of no force, then the mere acknowledgement of the intestate successor, made in error, that slaves have been freed by the will, could not make the slaves freedmen either under the testator's will or of the intestate successor, unless the latter voluntarily makes them so, since the wish of one in error is of no effect.

Given August 28 (294).

1.18.9. The same Emperors and the Caesars to Gaius and Anthemius.

Since consent cannot be based on error, the heirs of Samus will not be barred to raise the question of your personal status simply because the latter erroneously accepted money from you as though owing from free persons.

Give December 8 (294).

Note.

Accepting money from a person as though from a free person would be treating such person as such, and might bar a claim that such person was a slave. If this, however, was done under an error of fact, the person who accepted the money would not thereafter be barred from claiming that the person who paid was his slave.

1.18.10. The same Emperors and the Caesars to Amphibia.

When anyone, in ignorance of the law, pays money, he cannot recover it. For you know that money paid but not owing can be recovered only when paid in ignorance of the facts.

Given December 28 (294).

Note.

The rule here stated had its exceptions. Women and minors were sometimes excused by reason of ignorance of law. See C. 4.29.9 and note. That exception was broader in the case of minors than in the case of women. Women were not protected on account of ignorance of law when a question of gain was involved, but only to protect them against loss of property which they already had. Law 11 of this title. See also law 13.

1.18.11. Emperor Constantine to the Vicar Valerianus.

Although no relief is given even to women who are ignorant of the law when a question of gain is involved, yet this is not applicable to those under age, as declared by the statutes of the former emperors.³

C. Th. 3.5.3.

1.18.12. Emperors Valentinian and Theodosius to Flavianus, Praetorian Prefect of Illyria and Italy.

We permit no one to rely, actually or by pretence, on ignorance of the constitutions of emperors.

Given at Vincentia May 27 (391).

C. Th. 1.1.2.

1.18.13. Emperors Leo and Anthenius to Erythrius, Praetorian Prefect.

Lest women be permitted to violate all their contracts by reason of neglect or of ignorance, we have decided that if they sustain any damage in their rights or substance through ignorance of the law, they should be relieved only in those cases where such relief is granted by the authority of former laws.

Given July 1 (472).

³ [Blume] See note to preceding law.