

Book XI.
Title XXXIII. (XXXII)

Concerning debtors of the Cities.
(De debitoribus civitatum.)

11.33.1. Emperor Antoninus to Diodotus.

My constitutions as well as those of my predecessors declare that no debtor of the public can receive any position of honor in the city community until he has paid what, when called on to pay, he clearly appear to owe.

11.33.2. Emperor Constantine to his Verinus, Greeting.

Money of the city should be loaned to those whom you shall find to be in possession of all their property, or to heirs who retain their patrimony undiminished, provided that they pay the interest at the proper time, since it is at once to the advantage of the city to have suitable debtors and for the borrowers not to have the amount of the principal increase. 1. And since it would be wrong that cities should be defrauded by sales of property liable to them, we have provided that if any debtor of the city community has in any manner given, sold or transferred to another any of the property, which he had, when he borrowed the public money, the person who has any of his property shall pay a part of the principal and interest in proportion to the quality of the property alienated and considering all of debtor's property which he had at the time when the money was loaned to him. 1a. And so whenever the patrimony of a city's debtor is found to be insufficient as security, the judge must, with due diligence, inquire to whom the property of the debtor has been transferred in any manner so that, after making a just appraisal of the property, each may be called upon to pay, in proportion to the property which he has, reserving to each an action in personam against the debtor, who, when they make payment, is released. 1b. Whoever has parted with the greater part of his fortune must also transfer the portion remaining in his hands to a responsible party. 2. If the property of the debtor of a city becomes forfeit to the fisc (locum fecerit), it is clear that (outside) purchasers, who purchase from our fisc, will sustain no damage, according to ancient law and the constitutions of our predecessors and of ourselves. If the debtor is unable to pay¹ or he has consumed all his property, so that no one possesses any of his property, the debt will be a loss to the city. Therefore the money should be placed with responsible men or owners of rural lands by the curator (pater) of the city.

Promulgated January 30 (314).

C. Th. 12.11.1.

Note.

The instant law gave the city the right to pursue purchasers of property of a debtor of the city, and while not exactly giving a lien, gave a right nearly the same as a lien. The former law on the subject, accordingly, which put cities in the same class with persons who took no mortgage or pledge, was profoundly modified. See C. 11.30.2 and note.

¹ Blume penciled in above this: "But if there is not debtor?" He also placed a question mark in the margin adjacent to the next line. Scott gives this as: "But if the debtor should not do this, or if he has squandered all his property..." 7 [15] Scott 189 (as C. 11.32.2).

The fisc (state) had a lien on the property of its debtor. Property sold by it for taxes became that of the purchaser free from other claims. C. 4.46.1. If an abandoned inheritance, however, fell to the fisc, and it sold it to another, the purchaser was liable for the indebtedness against it. C. 4.39.1. If property was confiscated by the fisc for some reason, and a third party had a mortgage against it, such confiscation did not extinguish the mortgage. 2 Cujacius 709 on this law. If there was no mortgage against it, the purchaser of the fisc, as stated in the instant law, took it free from any claims of a general creditor.