

Book IV.
Title XLVI.¹

If a sale has been made on account of what is due to the public.
(Si propter publicas pensationes venditio fuerit celebrata.)

4.46.1. Emperor Antoninus to Geminius Maternus.

A sale made on account of failure to pay public taxes should not be cancelled, either by the prior owner offering the price (paid at the sale) or by his creditor who claims the property under a mortgage or pledge. For taxes have the better right, to which as a superior claim, all property of the person failing to pay them is subject.

Note.

Sales of taxes and public dues were required to be made at auction and after appraisal. C. 4.44.16. If regularly made, they were valid and could not subsequently be set aside; if not made regularly, they could be set aside upon payment of the amount due. Law 2 h.t.; C. 10.2.1. See also 29 S.Z. 170.

4.46.2. Emperors Diocletian and Maximian to Atinia Plotiana.

If you bought deserted lands, honestly sold with the permission of the president² by those who must collect the taxes at their risk, on account of non-payment of public dues or on account of arrears of taxes, and you acquired the land for a just price and in the usual manner, the sale, necessarily made on account of customary dues, should not be set aside. But if the sale was made without previous, proper authority of the president, the laws so not permit it to be valid, and what was fruitlessly done must be annulled, so that the collection of the taxes will be protected in every way. But that must be done in the presence of the party whom you state to have been the purchaser.

4.46.3. Emperor Constantine to Egnatius Gausinus, President of Baetica.

If anyone has bought, at public sale, lands or slaves or other property, taken possession of on account of the failure to pay taxes or on account of dues for vestments, gold or silver, which are paid and exacted annually, after the debtor has been duly summoned, and has been called before the judge, and after the payment has remained in default, such purchase shall have perpetual validity. But if a minor is involved, the person legally representing him must be present at the sale, and it makes no difference whether the staff of an imperial procurator or of the rector of the province has given notice of what was due.³

Given December 12 (337).

¹ [Blume] Rev. 3/12/32.

² [Blume] See law 3 h.t. and 45 S.Z. 488.

³ [Blume] See C. 10.3.