

Novel 65. (Authenticum 67)

Concerning the alienation of property left
to the church of Mysia for the redemption
of captives and the support of the poor.

(De alienatione rerum ecclesiae Mysiae
relictarum pro captivorum redemptione
et pauperum alimentis.)

The same Augustus (Justinian) to the honorable
Justinianus, rector of Mysia.

Preface.

We know that we previously promulgated a law, by which
all alienations of church property were forbidden. (a) But we later
enacted another law permitting payment of debts in church property
and property of other pious houses. (b) And it further comes to
our mind that before this law we forbade Martinus, holy bishop
of Odessus to sell church-property, so that the magnates might
not force him to alienate church-property according to their
pleasure. 2. But there also comes to our mind what we did as
to sacred vessels, taking away the right from all, to sell or
put a lien on any holy vessels, unless for the redemption of
captives, because the redemption of souls is more valuable than
anything else. (c)

- (a) Novel 7;
- (b) Novel 46;
- (c) Novel 7. c. 8.

c. 1. These things were done before, and the narration was
necessary for the history of this present, special law. For now
the holy man above mentioned has come to this holy city and has
shown us that many pieces of land, without any definite return,
or houses or vineyards have been left for the redemption of
captives or the support of the poor, and that the mentioned
acts, though pious, are prevented by the prohibited alienation

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(of such property). He now asks that this be permitted him by a special law. We therefore ordain that if any one has left immovable property for the redemption of captives or the support of the poor, and a definite income may be obtained from the property so left, the legacy, or inheritance or gift shall remain intact and shall not be alienated, since the redemption or support may be made or furnished out of the income. 2. But if there is no definite income, or the house is almost fallen down and is far away from the church or the vineyard does not yield the same but various fruits and is perchance subject to the incursions of the barbarians, in these cases we permit by this special law, the sale (of such property) in that province to be made, provided that the house is not within the confines of the church or the vineyard not near the wall of the city, and provided that the instruments of sale shall state the very words of the testator, in and whereby he wanted the sale to be made, and the captives redeemed or the poor supported. And if it is done this way, the sale shall be valid and the stewards of the church and the holy bishop may sell without fear of another law, and the purchasers shall have the property in full right. But the stewards of the church will be guilty before God, if they consume the price which they receive for another purpose, though pious, and not for the aforesaid two purposes, in pattern of the law enacted concerning the alienation of sacred vessels. A necessary sale, may therefore, proceed in this way, so that pious acts may not be hindered and souls of men may not perish, since the possession of lands and (other) immovable property are not of the importance and are not so necessary as the redemption of captives and the

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life of the poor, by which souls are saved, and which is pleasing to God.

Epilogue.

Your Gravity will see to it that the orders made by this special law by Our Eternity is carried into effect and is observed.

Given at Constantinople April 1, 538, ^{A.D.} in the 11th year of the reign of the emperor Justinian.