

Book II.
Title XXIV (XXV).

If restitution of rights is sought when the guardian when the guardian or curator have consented to a transaction.

2.24.1. Emperor Antoninus to Marciana.

If you entered upon the inheritance of your parents of both sexes while you were above the age of puberty, but you are still of the age that you should receive the aid of restitution of rights against you obligating yourselves to your paternal inheritance, go before the president of the province through your procurators (agents). If, however, you are of legal age and the time that you could be restored to your rights has passed, sue your curators according to the rule of law, if you have not yet tried a lawsuit against them.

Promulgated April 4 (215).

Note.

Until Justinian's time, the entering upon or acceptance of an inheritance might prove to be serious, making the heir liable for the debts of the inheritance in the same proportion that he became heir, whether the property inherited was equal to the amount of the debt or not. Justinian modified the rule. C. 6.30.20.

A guardian and curator might be liable for bad advice. See C. 5.37.26.

2.24.2. Emperor Alexander to Marciana.

It is accepted as the rule that restitution of rights remains to those under twenty-five years of age, even in those matters which were transacted in the presence of their guardians or curators, in or out of court, if they have been defrauded.

2.24.3. Emperors Diocletian and Maximian to Nicomedes.

It has long been accepted as the rule that restitution of rights will be granted to minors even as to those matters which their guardians or curators are shown to have badly managed, although the minors are able to recover their rights from the guardian or curator in a personal action.

Given May 4 (286).¹

2.24.4. The same emperors and the Caesars to Isidorus.

It is manifest that a creditor who, not looking to you but to your curators, made a contract with them and received a stipulation from them, has no right of action whatever against you.²

Given at Heraclea, April 27 (293).

2.24.5. The same emperors and Caesars to Valentinus.

It is the accepted rule that when guardians or curators have made sales or have otherwise contracted (for them), minors may have their property restored as well as claim damages (not otherwise satisfied) caused by their guardians or curators without being prejudiced by any election of remedies made by them.

¹ [Blume] See C. 5 headnote.

² [Blume] See C. 4. 26. 7 note.

Given December 8 (294).

Note.

This rescript and law 3 h.t. and D.4.4.45 show that while ordinarily the proceeding for restitution of rights was not applicable, when satisfaction could be obtained by ordinary means, minors might have a cumulative remedy. See C. 5.71.2 pr.