

Book V.
Title LVII.

Concerning sureties of guardians or curators.
(De fidei jussoribus tutorum seu curatorum.)

Bas. 38.7.13; D. 27.7.

5.57.1. Emperor Alexander to Felix.

You should elect whether you want to litigate with the guardians or curators themselves and their heirs or with those who are sureties for them, or whether you prefer to divide the action. For you cannot at the same time legally sue both the principal and sureties for the entire amount due.

Promulgated January 23 (224).

Note.

The subject of suits against principals and sureties is treated at length in C. 8.40.

5.57.2. The same Emperor to Priscus.

The law is not doubtful that if a principal is sued and pays the surety is released. And, therefore, if a surety is taken merely for what a guardian or curator might owe, and you say that the guardian or curator was condemned and paid, how is there any doubt that the surety is released? Of course, if a stipulation was entered into that any loss of yours should be made good (by the surety) or he agreed to pay what could not be recovered from the guardian or curator, the surety must make up any deficiency due you.

Promulgated July 25 (225).