Book VII.
Title XLVI.

Concerning a decision rendered without naming a definite amount.
(De sententia quae sine certa quantitate prolata est.)

Bas. 9.1.83.

7.46.1. Emperors Severus and Antoninus to Aeliana.

Since you state that the judge fixed the conditions of payment of interest, until the sum embraced in the judgment should be satisfied, it is clear that the decision was not contrary to law.

Note.

If the amount for which judgment was rendered was indicated anywhere in the record, even though only by the complaint, and the decision was such that by comparing it with the record, the amount might be ascertained, it was definite enough. D. 42.1.5.1. Formerly every judgment was for an amount of money replacing a still older system.

7.46.2. Emperor Alexander to Marcellinus.

Although not sum of money is mentioned in the decision of the curator of the city, his decision is, nevertheless, valid, since he ordered indemnity to be furnished to the city.

Note.

According to 9 Cujacius 1004, the judgment rendered in this case would not have bee sufficiently definite, if the suit had been between private individuals, and that an exception was made in cases in which a municipality was interested. Bethmann-Holweg, 2 C.P. 623, note 20, seems to hold that the decision was valid, because the details to perform it could be referred to and settled by an arbitrator.

7.46.3. Emperor Gordian to Aemilius.

A decision: "Pay the whole amount of the debt with proper interest," (without more) cannot give rise to an action on the judgment (actio judicati), since a condemnation without fixing an amount is considered an adjudication only when a definite sum is named somewhere in the record.

Note.

The law postulates that the amount could not be ascertained from any part of the record, for, as seen in note to law 1 of this title, the judgment was definite enough, if the amount could be so ascertained. See D. 42.1.59.2.

7.46.4. The same to Saturnina.

A decision: "Pay what you received in good faith," does not have the force of an adjudication, since it was uncertain what he (the man condemned) had received and how much was claimed from him. Particularly is this true, since the judge himself who tried the case, under the extraordinary procedure, stated in an interlocutory decree that it was not clear as to what was the amount of the dowry which was claimed. And since, therefore, the judge subsequently sitting in the case gave judgment against you for a

definite amount and you did not appeal from his decision, you ratified the judgment by your own act.

Note.

In this case the judgment first entered was null and void; the case was therefore tried a second time and anew, and the judgment rendered in the second case was definite and was binding in the absence of an appeal.