

Book VII.
Title L.

That a final decision cannot be rescinded.
(Sententiam rescindi non posse.)

7.50.1. Emperor Gordian to Secundus.

It is not doubtful that no one may revoke his own decision or that of his predecessor in office, and the law is clear that it is not necessary to resort to an appeal from a decree of that kind.¹

7.50.2. Emperors Diocletian and Maximian and the Caesars to Alexandra.

The perpetual (praetorian) edict clearly declares that when peremptory defenses are omitted in the beginning, they may be set up before the decision is given. 1. If that is not done, restitution to former rights is granted (only to minors under twenty-five years, however).² For a judgment against a man who is more than twenty-five years old cannot be rescinded, without the remedy of appeal, under the pretense that such defenses were not set up.

December 26 (294) at Nicomedia.

Note.

Peremptory defenses were, under the Roman law, defenses in bar, and, as is shown in note to C. 8.35.4, the law, peculiarly enough, permitted such defenses to be set up at any time before a decision, although it was usual to set them up at the time that issues were joined. But if they were not set up, they were barred, unless an appeal was taken, or unless judgment was against a minor who would be entitled to restitution of rights. See Bas. 9.1.93.

7.50.3. Emperor Constantine to Proculus.

Rescripts obtained shall have no force, if the cases have once been disposed of by a judicial decision, which is not suspended by appeal. And persons who have received such a rescript shall be expelled from the very threshold of courts.³

¹ [Blume] See C. 7.45.9; C. 7.44.2; C. 7.64.1.

² Blume put a question mark in the adjacent margin and wrote “42 Z.S.S. 377.” Scott translates this as: “If this has not previously been done, complete restitution will be permitted; 6 [14] Scott 193.

³ [Blume] To the same effect see C. 2.9.3.