

Book VII.  
Title LVI.

Whom an adjudication does not injure.  
(Quibus res judicata non nocent.)

Bas. 9.3.91 et seq.

Headnote.

Privies to judgment.

This title and 7.60 deal with the well known subject that the result of an action carried on between other parties - inter alia - is not binding to a stranger to the suit. But this had its exception in Roman law, as well as under the common law. If a lien creditor knowingly let his debtor carry on a suit with reference to the property on which the lien existed, or a man let his wife or his father-in-law carry on an action with reference to the property which he received as a dowry, or a purchaser let his vendor do it, the judgment in such action was binding on him. D. 42.1.63. But if a suit was carried on by collusion between a mortgage-debtor and a third party, whereby the property was adjudged to the latter, such judgment was not binding on the mortgage-creditor who was not a party thereto and who did not direct it or participate therein. D. 20.1.3. See also C. 8.35.2, and C. 7.60.<sup>1</sup>

7.56.1. Emperor Alexander to Masculinus.

If you gave no mandate to your brother to defend your property, and did not ratify what he did, the claim of res judicata is not good against you. And hence you are not forbidden to prosecute your cause without prejudice from such a claim.  
Promulgated May 7 (222).

7.56.2. Emperor Gordian to Athenius.

An adjudication between others gives no advantage to those not in the case, nor can it ordinarily injure them. Hence, it cannot prejudice your granddaughter that a judgment was rendered against her coheir, if there was no decision against herself.  
Promulgated July 11 (239).

7.56.3. Emperors Diocletian and Maximian to Honoratus.

The law is very clear that even in criminal actions, nothing can injure parties who are not in court, even though something done therein seems to be prejudicial to them.  
Promulgated August 19 (239).

7.56.4. The same and the Caesars to Saterianus.

It has often been determined that litigation among third persons cannot even in a similar transaction prejudice an absent person (not a party to the suit).  
Subscribed November 29 (294).

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<sup>1</sup> Blume wrote in the margin of this headnote "Enlarge note, Buckland 691-2; D. 42.2."