

Book VII.  
Title VIII.

Concerning the manumission of a slave held as a pledge.  
(De servo pignori dato manumisso.)

Bas. 48.5.

7.8.1. Emperors Severus and Antoninus to Proculus.

Although a solvent husband may manumit a slave given to him as a dowry, there is no doubt that if it appears that you were also pledged to the wife, you cannot obtain liberty without her consent.  
Promulgated April 20 (205).

Note.

While a great many changes were made up to an including the time of Justinian as to the rights of a husband over dowry, his right to manumit a slave which he received as a dowry was never taken away, and he might make the manumission by will. C. 5.12.3. He might, however, have to account for the value of the slave. Buckland, Roman Law of Slavery 583-584. See law 7 of this title.

7.8.2. The same to Abascentus.

Liberty bestowed by a debtor of the fisc upon a slave who is not pledged to the fisc by special agreement, but upon whom it, by reason of its privileges, has only a general lien, is not invalid unless it is shown that such liberty was granted with intent to defraud.

Note.

The fisc had a general lien on the property of a debtor. But that manumissions were favored is shown by the fact that a general lien did not prevent it. This general lien of the fisc was one existing by operation of law; but the principle applied as well when the general lien existed by contract as shown by the next law. It must be borne in mind that a man might give a general mortgage, or lien, on all of his property, and also give a special lien or mortgage. C. 8.13, etc. Where the latter was given, manumission could not be made so as to destroy such lien. An exception to the general statement here made is found in law 6 of this title.

7.8.3. The same to Antonius.

It is certain that liberty can be given to slaves by a master who pledges all his then and future property. The law is not the same if they were especially delivered or obligated by way of pledge (i.e. if a lien exists against the slaves by virtue of a special pledge).  
Promulgated December 30 (209).

7.8.4. Emperor Alexander to Sabinianus.

If, as you state, you were manumitted by the debtor with the consent of the creditor to whom you were pledged along with other slaves, you were able to obtain your liberty.

Promulgated May 10 (222).

7.8.5. The same to Extricationus.

If the creditors are paid, the female slaves, who were manumitted by the debtor, became free though pledged to such creditors. For neither the manumitter nor his heirs can be heard to say in such case, in order to revoke the manumission, that the slaves were manumitted in fraud of creditors.

Promulgated May 30 (223).

7.8.6. The same to Auctoris.

If your guardian manumitted slaves who had been bought with your money, such slaves did not become free, since they, just as other property bought with the money of minors, are bound by the right of pledge, in favor of the minors, according to the constitution of my living parents.

7.8.7. Emperor Gordian to Juliana.

Whether you gave slaves as a dowry when you were married, or whether, after the dowry was given, your husband purchased some (slaves) with the money given as dowry, he was owner of them according to the rules of law. You attempt, therefore, in vain to question the status of the slaves who were manumitted, who, becoming the property of him who purchased them or received them as a dowry, could, therefore legally be manumitted by him.

Note.

The title to dowry money was in the husband. C. 5.12. A slave purchased therewith also belonged to him according to the general rule. C. 4.50.1 note. Justinian gave a wife a lien on property purchased with dowry money. C. 8.17.12.5. Still the right of the husband to manumit does not seem to have been taken away (C. 5.12.3), unless he was insolvent, or unless the slave was specially pledged. Law 1 h.t.