

Novel 36.

That Africans have five years in which to sue to recover property belonging to them and derived from relatives up to a certain degree.

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Emperor Justinian to Soloman, praetorian prefect of Africa. Considering that everything not held within proper bounds and confines is unjust and disorderly, we have thought it best to fix definite limits to our actions. So we recently promulgated in our Africa, which God, through our vigilance, put under the Roman sway, an imperial pragmatic sanction, which provides that all those who lost their property in the time of the Vandals should have the right to take and recover it from those who unjustly detain it and should have five years in which to do so. This sanction shall remain in force but with certain limitations and restrictions, so that Africans may not, after the lapse of a great length of time, and when families have almost entirely disappeared, revive ancient wrings, create trouble for each other and carry on interline war in the midst of such great peace. **1.** So we ordain by this law that if anyone alleges that certain property belongs to himself or to his father or grandfather, and that it is unjustly detained by others contrary to our laws, it may be recovered in an action that is brought and tried, upon producing adequate legal proof, either by means of legal documents or by suitable witnesses whose dignity is acceptable to the judges. Our constitution, however, shall extend (its force) only as far as the time of fathers and grandfathers, but not beyond that degree of relationship. **2.** And we ordain this to both sexes, so that if any one, male or female, shows that property belonged to himself or to his or her father or mother or grandfather or grandmother, it may be recovered from those who unlawfully detain it, but the search shall not extend further back, and no one may add to the misery of posterity by an unjust lawsuit, based on the claim that great grandparents, great-great grandparents, or great-great-great grandparents, male or female (owned certain property). The limitation shall also apply to collateral lines, and parties may go back to the third degree, that is to say, to brothers and sisters and to uncles and aunts on the father's and the mother's side, but to no agnate or cognate relatives of remoter degree. **3.** And if anyone is ready to present a case of that kind, he shall

produce his proof in a strict legal manner (*stricto iudicio*) before the court of Your Sublimity or before that of one of the presidents of the provinces and islands and no other place; it shall not be done *ex parte* or in other provinces or in this city, but only in the African diocese and in the presence of opposing parties. Only then shall he receive the assistance of ourselves and of our constitution. **4.** For we do not permit proof of family connection to be presented one-sidedly, and no one may rely upon records of proceedings of that kind that took place in this city or in some other place, although that was formerly permitted. **5.** For finding that deceit was (*inventa summa calliditate*) perpetrated in connection with such investigation, such fraudulent proceedings (*concinnitates*) must be rejected, lest, while we wish to return to everyone what belongs to him, we may permit men to fraudulently acquire property that belongs to others. Claims of that kind must, accordingly, be made in the manner aforesaid before Your Sublimity or before one of the presidents of the provinces within the time states; that is to say, within five years, the year that has passed since the issuance of the first pragmatic sanction to be computed as part of that period, so that a plaintiff has four years left to make a claim of that kind, unless defenses (of prescription) are admitted by reason of (the lapse of) time. We do not permit (such actions to be brought) after the period of four years, so that the courts may not be crowded indefinitely. **6.** Your Sublimity will hasten to make these provisions for the protection of Africa known to all the citizens of that country by publishing edicts in every portion thereof, so that all, knowing what rule must be observed as to the past years, may hasten to observe it. In other respects, successions and periods of limitation, shall, if any such case arises, be governed by the same laws that govern in other portions of the empire, and all rules as to descendants and ascendants and collateral relatives and periods of limitation shall be the same here as mentioned in the general laws of Our Majesty on those subjects. Given January 1, 535.