

- 54 PAULUS libro primo ad edictum aedilium curulium. Res bona fide uendita [E. 19.1.54] E propter minimam causam inempta fieri non debet.
- 55 Idem libro secundo ad edictum aedilium curulium. Nuda et imaginaria uen- [E. 19.1.55] E ditio pro non facta est et ideo nec alienatio eius rei intellegitur.
- 56 Idem libro quinquagesimo ad edictum. Si quis sub hoc pacto uendidit [E. 19.1.56] E ancillam, ne prostituatur et, si contra factum esset, uti liceat ei abducere, etsi per plures emptores mancipium currerit, et qui primo uendit abducendi potestas fit.
- 57 PAULUS libro quinto ad Plautium. Domum emi, cum eam et ego et uenditor [E. 19.1.57] E combustum ignorarem. Nerua Sabinus Cassius nihil uenisse, quamuis area maneat, pe- cuniarumque solutiam condici posse aiunt. sed si pars domus maneret, Neratius ait hae quae- stione multum interesse, quanta pars domus incendio consumpta<sup>2</sup> permaneat, ut, si quidem amplior domus pars exusta est, non compellatur emptor perficere emptionem, sed etiam quod forte solutum ab eo est repetet: sin uero uel dimidia pars uel minor quam dimidia exusta fuerit, tunc coartandus est emptor uenditionem adimplere aestimatione uiri boni arbitrata habita, ut, quod ex pretio propter incendium decessere fuerit inuentum, ab huius 15 praestatione liberetur. Sin autem uenditor quidem sciebat domum esse exustam, emptor autem ignorabat, nullam<sup>3</sup> uenditionem stare, si tota domus aute uenditionem exusta sit: 1 si uero quantacumque pars aedificii remaneat, et stare uenditionem et uenditorem emptori 2 quod interest restituere. Simili quoque modo ex diuerso tractari oportet, ubi emptor qui- dem sciebat, uenditor autem ignorabat: et hic enim oportet et uenditionem stare et omne 20 pretium ab emptore uenditori, si non depersum est, solui uel si solutum sit, non repeti.
- 3 Quod si uterque sciebat et emptor et uenditor domum esse exustam totam uel ex parte, nihil actum fuisse dolo inter utramque partem compensando et iudicio<sup>4</sup>, quod ex bona fide descendit, dolo ex utraque parte ueniente stare non concedente.
- 58 PAPIANUS libro decimo quaestionum. Arboribus quoque uento detectis uel [E. 19.1.58] P absumptis igne dictum est emptioem fundi non uideri esse contractam, si contemplatione illarum arborum, ueluti oliueti, fundus comparabatur, siue sciente siue ignorante uenditore: siue autem emptor sciebat uel ignorabat uel uterque eorum, haec optinent, quae in sup- 30 rioribus casibus pro aedibus dicta sunt.
- 59 CELSUS libro octauo digestorum. Cum uenderes fundum, non dixisti ita ut [E. 19.1.59] E optimum maximumque: uerum est, quod Quinto Marcio placebat, non liberum, sed qualis esset, fundum praestari oportere. idem et in urbanis praediis dicendum est.
- 60 MARCELLUS libro sexto digestorum. Comprehensum erat lege uenditionis [E. 19.1.60] E dola sexaginta emptori accessura: cum essent centum, in uenditoris fore potestate respon- sum est quae uellet dare.
- 61 Idem libro uicesimo digestorum. Existimo posse me id quod meum est [E. 19.1.61] E sub conditione emere, quia forte speratur meum esse desinere.
- 62 MODESTINUS libro quinto regularum. Qui officii causa in provincia agit uel [E. 19.1.62] E militat, si praedia comparare in eadem provincia non potest, praeterquam si paterna eius i. 260<sup>1</sup> a fisco distaliantur. Qui nesciens loca sacra uel religiosa uel publica pro priuatis com- parauit, licet emptio non teneat, ex empto tamen aduersus uenditorem experietur, ut con- 35 F[P(VU)]
- 1 uendidit (u. i.)? 2 sit, quanta ins. 3 nullo modo (= nullo mō)? 4 iudicium (u. i.)?
- 2 fieri] esset. P<sup>2</sup> esse P<sup>3</sup>. 3 aedilium om. P<sup>2</sup> iudicium PU, quam lectionem tuentur etiam B: ó δὸς ἐπινοήζει τῆς κυράει τῶν βόων φῆλε ἀρεσίον 24 des'c'ndit P<sup>2</sup> 25 delectus P<sup>2</sup> 28 ignorauit F. 30 libro uiii P 31 maxi- musque FPV<sup>2</sup>, maximumque esse VPV] uni- tatis P<sup>2</sup> pars domus P | perficere F<sup>2</sup>, 32 fun- dibus P | oporteret P<sup>2</sup> 33 compr' a'ensum F<sup>2</sup> potestorem uend. F<sup>2</sup> 19 quoque F<sup>2</sup> 20 igno- rauit F<sup>2</sup> 21 emptore. m. F<sup>2</sup> | deprehensum V<sup>2</sup>, rephensum P<sup>2</sup> | uel sit' F<sup>2</sup> 23 iudicium] 5;
- 54 PAUL, *Curule Aediles' Edict*, book 1: A thing sold in good faith is not to become unsold for some trivial cause.
- 55 PAUL, *Curule Aediles' Edict*, book 2: A wholly colorable sale is no sale at all and so property will not pass.
- 56 PAUL, *Edict*, book 50: If someone should sell a slave-woman with a proviso that she is not to be put to prostitution, then, in the event of a breach of this term, the original vendor will be entitled to take her back, regardless of the number of purchasers through whose hands she may have passed.
- 57 PAUL, *Plautius*, book 5: I bought a house, both the vendor and I being unaware that it had been burned down. Nerua, Sabinus, and Cassius say that even though the site remains, there is no sale and the price, if paid, can be recovered by *condictio*. But where part of the house is still standing, Neratius says that the issue is largely dependent on how much of the house remains, if the greater part of it has been destroyed, the purchaser will not be obliged to perform the contract and can recover anything which he may have paid; if, however, half or less has been consumed by fire, then the purchaser will be required to honor the contract, an estimate being made, on the stand- dard of an honorable man, to relieve him of payment of the amount by which the fire has reduced the value of the house. 1. Now if the vendor knew of the fire but the purchaser did not, no sale exists, if the whole house was destroyed before the contract was made; but if any part of the building remains, the contract stands, and the vendor must make good his damages to the purchaser. 2. Similar considerations apply in the opposite case of the purchaser's knowing when the vendor does not. Here again the sale will stand and the whole price, if not already paid, must be paid by the purchaser to the vendor; and if it has been paid, it cannot be recovered. 3. But where both ven- dor and purchaser know that the house has been burned, whether in whole or in part, there is no contract because the fraud of each is set off against that of the other and the fraud of both bars the grant of an action grounded in good faith.
- 58 PAPIANUS, *Questions*, book 10: Further, where trees have been blown down or de- stroyed by fire, one cannot hold that a valid sale has been made, if the purchase was made because of those trees, as in the case of an olive grove, and that, whether the vendor knew or not. But knowledge or ignorance of the purchaser or of both leads to the same results as in the preceding cases of the burned house.
- 59 CELSUS, *Digest*, book 8: If you sell land without declaring it to be free from all encumbrances, the view of Quintus Mucius is correct that you have only to convey the land as it is and not as being unencumbered. The same holds good for urban properties.
- 60 MARCELLUS, *Digest*, book 6: A term of a sale of land provided that sixty jars would go with it to the purchaser; there being a total of a hundred jars, the reply was that the vendor had the choice of those that he would give.
- 61 MARCELLUS, *Digest*, book 20: I think that it is possible for me to make a conditional purchase of my own thing, since there may be an expectation that it will cease to be mine.
- 62 MODESTINUS, *Rules*, book 5: One serving in a province as an administrator or a soldier cannot buy land in that province, unless it be ancestral property being sold by the imperial treasury. 1. If a person unwittingly buys sacred, religious or public land as being private, then, although there is no valid purchase, he can nonetheless have the action on purchase against his vendor for the damages he has suffered through being deceived. 2. Where there is no bad faith on the vendor's part, a thing pur- chased at a global sum is at the purchaser's risk, although it has not yet been trans- ferred to him.