

- 25 IDEM libro trigesimo quarto ad Sabinum. Si ita distrahatur illa aut illa [E. 19.1.25 S] res, utrum eliget venditor, haec erit empti. Qui vendidit necesse non habet fundum emptoris facere, ut cogitur qui fundum stipulantur spondit.
- 26 POMPONIUS libro septimo decimo ad Sabinum. Si sciens emam ab eo cui [E. 19.1.26 S] bonis interdictum sit uel cui tempus ad deliberandum de hereditate ita datum sit, ut ei s deminuendi potestas non sit, dominus non ero: dissimiliter atque si a debitor sciens creditorem fraudari emerit.
- 27 PAULUS libro octavo ad Sabinum. Qui a quolibet rem emit, quam [Uat. 1. E. 19.1.27 S] putat ipsius esse, bona fide emit: at qui sine tutoris auctoritate a pupillo emit, uel falso tutore auctore, quem scit tutorem non esse, non uidetur bona fide emere, ut et Sabinus 10 scripsit.¹
- 28 ULPIANUS libro quadragesimo primo ad Sabinum. Rem alienam distrahere [E. 19.1.28 S] quem posse nulla dubitatio est: nam emptio est et uenditio: sed res emptori auferri potest.
- 29 IDEM libro quadragesimo tertio ad Sabinum. Quotiens seruus uenit, non [E. 19.1.29 S] cum peculio distrahitur: et ideo sine non sit exceptum, siue exceptum sit, ne cum peculio 15 ueneat, non cum peculio distractus uidetur. unde si qua res fuerit peculiaris a seruo subrepta, condici potest uidelicet quasi furtiua: hoc ita, si res ad emptorem peruenit.
- 30 IDEM libro trigesimo secundo ad edictum. Sed ad exhibendum agi posse [E. 19.1.30 S] nihil minus et ex uendito puto.
- 31 POMPONIUS libro uicesimo secundo ad Sabinum. Sed et si quid postea [E. 19.1.31 S] accessit peculio, reddendum est uenditori, ueluti partus et quod ex operis uicarii perceptum est.
- 32 ULPIANUS libro quadragesimo quarto ad Sabinum. Qui tabernas argentarias uel ceteras quae in solo publico sunt uendit, non solum, sed ius uendit, cum istae tabernae publicae sunt, quarum usus ad priuatos pertinet.
- 33 POMPONIUS libro trigesimo tertio ad Sabinum. Cum in lege uenditionis [E. 19.1.33 S] ita sit scriptum: 'flumina stillicidia uti nunc sunt, ut ita sint', nec additur, quae flumina uel stillicidia, primum spectari oportet, quid acti sit: si non id² appareat, tunc id accipitur quod uenditori nocet: ambigua enim oratio est.
- 34 PAULUS libro trigesimo tertio ad edictum. Si in emptioe fundi dictum [E. 19.1.34 S] sit accedere Stichum seruum neque intellegatur, quis ex pluribus accesserit, cum de alio emptor, de alio uenditor senserit, nihil minus fundi uenditionem ualere constat: sed Laebo ait eum Stichum // deberi quem uenditor intellexerit. nec refert, quanti sit accessio, siue t. 253 plus in ea sit quam in ipsa re cui accedat an minus: plerasque enim res aliquando propter accessiones emimus, sicuti cum domus propter marmora et statuas et tabulas pictas 95 1 ematur. Omnium rerum, quas quis habere uel possidere uel persequi potest, uenditio recte fit: quas nero natura uel gentium ius uel mores ciuitatis commercio exuerunt,² 2 earum nulla uenditio est. Liberum hominem scientes emere non possumus. sed nec talis emptio aut stipulatio admittenda est: cum seruus erit, quamuis dixerimus futuras res

F[P(VU)]

¹ [Qui a muliere] sine tutoris auctoritate sciens rem mancipi emit uel falso tutore auctore quem scit non esse, non uidetur bona fide emisse: itaque et veteres putant et Sabinus et Cassius scribunt Uat. ubi sequuntur alia: locus similitis magis quam idem ² id del. ³ exemerunt (Hal.)?

² eligeret PU 5 datur sit F^o (em. F^o) | batos F^o | pertinet tenet pertinet P^o 26 libro eidem dimuendi P^o 9 at qui? F^o atque P^o om. P 27 flumina uel stillic. P(VU) ut ita 13 quem] P(VU) quam F 15 non s'it F^o | sint] PU, ut ita sunt F: fuit fortasse ita sunt | ad dicitur P 28 spectari] expectari F^o, ex- om. P^o 16 non cum F^o | qua] quae P^o spectari F^o (ex non uidetur delatum) P(VU) | 17 peruenit] peruenit Taur. 18 sed] sed act] actum F^o P^o 33 uen' ditor F^o et P | exhibendum F^o (em. F^o) 20 si quis F^o 21 reddendum] reddendum P^o | uendi- t'ori F^o | uelut P^o 24 uendit non] F^o pactas F 37 natura s' F^o 38 possumus P^o uendit non F^o, uendit non P(VU) 25 pri-

- 25 ULPIAN, *Sabinus*, book 34: If a sale be made of "this or that," the thing, in fact, sold will be that which the vendor chooses. 1. One selling land does not have to make the purchaser owner of the land as would one who promised land by stipulation.
- 26 POMPONIUS, *Sabinus*, book 17: If I knowingly buy from one banned from dealing with his property or from one who has been allowed time to deliberate whether he will accept an inheritance, subject to the proviso that he does not diminish it in the meantime, I will not become owner of the thing; the case is different from my knowingly buying from a debtor defrauding his creditor.
- 27 PAUL, *Sabinus*, book 8: One who buys a thing from someone, whoever it might be, thinking it to be the vendor's, makes a valid purchase; but if a man buy from a *pupillus* without the endorsement of the ward's *tutor*, or with the endorsement of one whom he knows to be in truth the *tutor* of the *pupillus*, he is not regarded as buying in good faith; and this is what Sabinus also wrote.
- 28 ULPIAN, *Sabinus*, book 41: There is no doubt that one can sell a third person's property; there is a valid sale and purchase, even though the thing may be taken away from the purchaser.
- 29 ULPIAN, *Sabinus*, book 43: Whenever a slave be sold, he is not sold with his *peculium*; hence, whether or not the *peculium* be expressly reserved, he is sold without his *peculium*. In consequence, if a thing, part of the *peculium*, be purloined by the slave, a *condictio* will lie in respect of it, as if it had been stolen—obviously, in the event that the thing comes into the hands of the purchaser.
- 30 ULPIAN, *Edict*, book 32: For my part, I think that the action for production is no less possible than that on sale.
- 31 POMPONIUS, *Sabinus*, book 22: Still, if there be some subsequent accretion to the *peculium*, say, the offspring of a slave-woman or the remuneration of a *vicarius*, it must be delivered to the vendor.
- 32 ULPIAN, *Sabinus*, book 44: Suppose a banker sells his premises or someone else whose business premises are on public land; he sells simply his right to trade there, not the land as such; for such premises are public property, even though their utilization is a matter of private concern.
- 33 POMPONIUS, *Sabinus*, book 33: Let us put the case that a provision of a sale runs as follows: "Let flows and eaves-droppings be as they now are" and no specification is made of the flows and the eaves-droppings; the first thing to consider is what the parties intended; should that be not manifest, the term is to be interpreted adversely to the vendor, for the statement is ambiguous.
- 34 PAUL, *Edict*, book 33: Suppose again that when land is bought, it is said that the slave Stichus will go with the land, but it is not clear which of several slaves is to be the accessory, the purchaser envisaging one and the vendor another, the sale of the land as such is nonetheless valid; Laebo, incidentally, says that the Stichus intended by the vendor is the accessory to the sale; and it does not matter whether the accessory be worth more or less than the principal object of sale; for we often buy something by reason of what goes with it, say, a house by reason of its marbles, statues, or pictures. 1. There can be a valid sale of anything which one may have, possess, or sue for; but there can be no sale of anything which is excluded from *commercium* by natural law, the law of nations, or the observances of the state. 2. We cannot knowingly buy a freeman, nor is a sale or stipulation allowed with the provision, "when he shall become a slave," even though we have said that the sale of future things is possi-