

- teria et qualitate ambo errarent? ut puta si et ego me vendere aurum putarem et tu emere, cum aes esset? ut puta coheredes¹ uiriolam, quae aurea dicebatur, pretio exposito uni heredi uenditisset eaque inuenta esset magna ex parte aenea? uenditionem esse constat ideo, quia auri aliquid habuit. nam si inauratum aliquid sit, licet ego aureum putem, ualeat uenditio: si autem aes pro auro ueneat, non ualeat.
- 15 **PAULUS** libro quinto ad Sabinum. Et si consensus fuerit in corpus, id tamen [E. 19, 1, 15] *S* in rerum natura ante uenditionem esse desiderat, nulla emptio est. Ignorantia emptori prodent, 2 quae non in supinum hominem cadit. Si rem meam mihi ignorant uendidit et iussu meo alii tradideris, non putat Pomponius dominum meum transire, quoniam non hoc mihi propositum fuit, sed quasi tuum dominum ad eum transire: et ideo etiam si donaturus mihi 10 rem meam iussu meo alii tradas, idem dicendum erit.
- 16 **POMPONIUS** libro nono ad Sabinum. Suae rei emptio non ualeat, siue sciens [E. 19, 1, 16] *S* siue ignorans emi: sed si ignorans emi, quod soluero repetere poterit, quia nulla obligatio 1 fuit. Nec tamen emptio obstat, si in ea re usus fructus dumtaxat ementis sit: 14
- 17 **PAULUS** libro trigensimo tertio ad edictum. officio tamen iudicis pretium [E. 19, 1, 17] *S* minuetur.
- 18 **POMPONIUS** libro nono ad Sabinum. Sed si communis ea res emptori cum [E. 19, 1, 18] *S* alio sit, dici debet scisso pretio pro parte emptioem ualere, pro parte non 1 ualere. Si seruus domini iussu in demonstrandis² finibus agru uenditit uel errore uel dolo plus demonstrauerit, id tamen demonstratum accipi oportet, quod dominus senserit: et idem 20 Alfenus scripsit de uacua possessione per seruum tradita.
- 19 **IDEM** libro trigensimo primo ad Quintum Mucium. Quod uenditit non aliter [E. 19, 1, 19] *E* fit accipientis, quam si aut pretium nobis solutum sit aut satis eo nomine factum uel etiam fidem habuerimus emptori sine ulla satisfactioe.
- 20 **IDEM** libro nono ad Sabinum. Sabinus respondit, si quam rem nobis fieri [E. 20, 1, 2] *S* uelimus etiam³, ueluti statuum uel uas aliquod [E. 19, 1, 19] *E* siue uestem, ut nihil aliud quam pecunia 25 daretur, emptioem uidetur, nec posse ullam locationem esse, ubi corpus ipsum non detur ab eo cui id ferret: aliter atque si aream darem, ubi insulam aedificares, quoniam 29 tunc a me substantia proficiat.
- 21 **PAULUS** libro quinto ad Sabinum. Labeo scripsit obscuritatem pacti nocere [E. 19, 1, 21] *S* potius debere nenditorit qui id dixerit quam emptori, quia potuit re integra aperitiam diceret.
- 22 **ULPIANUS** libro uicesimo octauo ad Sabinum. Hanc legem uenditionis si [E. 19, 1, 22] *S* 'quid sacri uel religiosi est, eius uenit nihil' superuacuum non esse, sed ad modica loca pertinere. ceterum si omne religiosum uel sacrum uel publicum uenerit, nullam esse 35 emptioem,
- 23 **PAULUS** libro quinto ad Sabinum. (et quod soluerit eo nomine, emptor con- [E. 19, 1, 23] *S* dicere potest)
- 24 **ULPIANUS** libro uicesimo octauo ad Sabinum. in modicis autem ex empto esse *S* actioem, quia non specialiter locus sacer uel religiosus uenit, sed emptio maioris partis 40 accessit.
- F[P(VU)]*
- 1 eum coheredes? 2 in demonstrandis domini iussu? 3 nobis etiam fieri uelimus?
- 1 et] e *P*^a | errarent *F*¹ | ut puta *F* | 17 pomponius *om. F* | communes *F*¹ (*em. F*³) et ego] *F*¹ *U* | ego *F*¹ *P* | putarem] *F*¹ | 2 es- 18 pr¹ a etio *F*¹ | 19 dolo *om. F*¹ : κατὰ δὲ σε] *F*¹ | seget *F*¹ | uiriolam] *F*¹ *P*¹ ? | auriolam NON H. ἀνολιαν *B* (*T*¹ *P*¹) | 20 demonstrauerit *P*¹ *V* *U* | quae] que *F* | 3 eam] a *F* | aenea] *F* (*suppl. F*) | 21 scribit *P* | 22 idem *om. F* | gerencia *P*¹, aerea *U*¹ | 4 nam] na *P* | pr- 23 pr¹ a etiam] *F*¹ | 24 emptoris *P*¹ | 25 idem *em. F*¹ | 5 ualeat *F*¹ | 6 paulus *om. F*¹ | *om. F*¹ | 26 etiam *om. P* *V* *U* | ut *om. P* | 9 alia *P*¹ | 10 etiam] eam *P*¹ | 12 pompo- 28 aream] aliam aream *P*¹ | insulam] *F* *T* *U* | nius *om. F*¹, paulus *suppl.*, postea pomponius insularem *F* | 30 scribit *P* | necere *F* *em. F*¹ | libro xi *P* | 13 sed si] sit siue *P*¹ | 31 dixerit *F* | 33 et] esset *P*¹ | ne- putero *F*¹ (*em. F*¹) | 14 o] b] stat *F*¹ | 15 pau- ni] uenit *F*¹ | 34 uenit *P*¹, uendidit *P*¹ | *ins om. F*¹ | 16 minuetur] non minuetur *P*¹

over both the material and its quality? Suppose that I think that I am selling and you that you are buying gold, when it is, in fact, copper, or, again, that co-heirs sell to one of their number, for a substantial price, a bracelet said to be gold which proves to be largely copper? It is settled law that the sale holds good because there is some gold in it. Even if a thing be of gold alloy, though I think it solid gold, the sale is good. But if copper be sold as gold, there is no contract.

15 **PAUL, Sabinus, book 5:** Even though there is agreement on the thing, if the thing ceases to exist before the sale, the contract is void. 1. The purchaser can profit only by such ignorance as does not reveal negligence on his part. 2. Pomponius says that if you sell me what, in fact, belongs to me although I do not know it and, at my behest, deliver it to someone else, my ownership does not pass to him, because the intention was that not my but your ownership should be transferred to him. It follows that the same holds good if, intending a gift to me of what is really mine, you, on my instructions, deliver the thing to someone else.

16 **POMPONIUS, Sabinus, book 9:** Regardless of the purchaser's state of knowledge, purchase of one's own property is void; but if he bought in ignorance, he can recover the price he paid, because he was under no obligation. 1. There is, though, no bar to the purchaser when the purchaser presently has only a usufruct in the thing,

17 **PAUL, Edict, book 33:** though the price will be reduced at the judge's discretion.

18 **POMPONIUS, Sabinus, book 9:** Again, if a thing which he owns in common with someone else should be sold to the purchaser, it must be said that, the price being apportioned, the purchase is valid in part, in part invalid. 1. If a slave, on his master's orders, should, whether by mistake or deliberately, indicate confines of the land sold which are greater than is really the case, it is to be accepted that what the vendor intended is what has been pointed out. Alfenus adopted the same view over vacant possession transferred through a slave.

19 **POMPONIUS, Quintus Mucius, book 31:** When I sell something, it becomes the property of the recipient only if I have received the price or have accepted security in respect thereof or the purchaser has been given credit without security.

20 **POMPONIUS, Sabinus, book 9:** It is the view of Sabinus that if I ask that something be made for me, a statue, say, or some vessel or garment, I doing nothing except pay money, the contract is one of purchase and that there can be no question of letting and hiring where there is no provision of the materials from which the thing is to be made; it would be a different matter if I provided the site on which a building is to be erected, because then the principal thing does come from me.

21 **PAUL, Sabinus, book 5:** Labeo writes that where a term of the contract is obscure, it should be construed against the vendor who stated it rather than against the purchaser, because the vendor could have declared his will more explicitly before the contract was entered into.

22 **ULPIAN, Sabinus, book 28:** A term to the effect, "if any of the land be sacred or religious, it is not included in the sale," is not superfluous because it pertains to minor tracts. But if the whole of what was sold was religious or sacred or public property, there would be no purchase.

23 **PAUL, Sabinus, book 5:** (And the purchaser could recover what he paid for it by a *condictio*.)

24 **ULPIAN, Sabinus, book 28:** In the case of minor tracts, however, the action on purchase will lie, because the sacred or religious plot is not sold as such but is part of the overall sale.