

Rafał Taubenschlag

"Untersuchungen zur Tiermiete und Viehpacht im Altertum", S. von Bolla, "Münch. Beitr. z. Papyrusforschung und antiker Rechtsgeschichte", XXX, 1940 : [recenzja]

The Journal of Juristic Papyrology 1, 96

1946

Artykuł został zdigitalizowany i opracowany do udostępnienia w internecie przez Muzeum Historii Polski w ramach prac podejmowanych na rzecz zapewnienia otwartego, powszechnego i trwałego dostępu do polskiego dorobku naukowego i kulturalnego. Artykuł jest umieszczony w kolekcji cyfrowej bazhum.muzhp.pl, gromadzącej zawartość polskich czasopism humanistycznych i społecznych.

Tekst jest udostępniony do wykorzystania w ramach dozwolonego użytku.

H. J. WOLFF, *The praxis-provision in papyrus contracts*. American Philological Association LXXII (1941), p. 418ff.

In the Greek conception the right to the *πρᾶξις* was a separate element within the obligatory relation created by a contract, capable of being the object of special agreement and not restricted to the promisee or inseparably linked up with the right to collect the debt. This was an effect of the separation of liability and duty, first discovered in Greek law by Partsch.

F. PRINGSHEIM, *Systasis, Trust and Purchase with someone else's money*. Tulane Law Review, vol. XIX, No. 1, Oct. 1944, p. 132-139.

In Hellenistic law the agent is something like a trustee of the principal; he has an authorized but independent position; he acts *ἰδίᾳ πίστει*, within his own authority and responsibility; if, therefore, the agent purchases some goods in the name of the principal but advances the purchase money, both the principal and the agent would acquire some title; the principal because the contract was concluded in his name, is the legal owner; the agent who has advanced the price is the beneficial owner. If therefore the principal does not return the advanced money to the agent, the latter could seize the purchased goods; he could claim their transfer from the principal, as the beneficial owner can claim the goods from the legal owner. Generally speaking, the title of the person with whose money goods have been purchased can be compared with the title of a beneficial owner. It is surprising to find that the sale with somebody else's money is just one of the two ways in which under English law resulting trusts may arise. The trust of a legal estate, taken in the name of the purchaser, results in the man who advances the purchase money. The nominal purchaser holds the goods as a trustee for the actual purchaser who has provided the money. This holds good also if the nominal purchaser advances the money on account of the actual purchaser. The doctrine applies to pure personality as well as to land.

S. VON BOLLA, *Untersuchungen zur Tiermiete und Viehpacht im Altertum*. Münch. Beitr. z. Papyrusforschung und antiker Rechtsgeschichte XXX, 1940.

In the ancient Greek and Hellenistic law the term *μίσθωσις* designates a series of contracts which differ as to the manner in which the usage of the hired thing takes place; namely, whether profits derive from it or not. If profits don't derive from the thing, the contract is considered to be a lease (Miete) and the compensation is called *μισθός* or with immovables *ἐνοίκιον*; if the profits derive from the thing, the contract is a "Pacht" and the payment is called *φόρος*. In the latter case the liability of the lessee may be extended by an additional agreement. A third group form the s.c. cases of *colonia partiaria*. The second part deals with neo-Babylonian law.