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Auction as a way to conclude a contract in Roman law

Abstract

The purpose of this study is to deepen the existing research on the auction in Roman law by examining the legal aspects of the conclusion of the contract as a consequence of the auction.

The choice of the topic was related to relatively small interest currently associated with issues related to the bid submitted during the Roman auction, such as the length of validity of the bid, as well as the auctioneer's competence regarding the cancellation of the auction, postponement of the auction, or awarding a contract to a bidder whose offer was not the highest one. Although many authors dealt with the significance of the auction in Roman trading practice, or the participation of bankers in auctions, the issues regarding the auctioneer's and the bidder's legal situation during the auction have not been comprehensively studied. Considerations on these issues were only conducted on the margins of the analysis of other issues. This study is an attempt to comprehensively develop this matter.

Without counting the introduction, the conclusion, the list of sources and references, and four attachments, the dissertation is divided into three chapters.

The first chapter is devoted to issues related to the genesis of the Roman auction and its history. It also contains an analysis of the occurrence of the auctions in the sources. Subsequently, individual types of public auctions are presented. This chapter also discusses the *addictio in diem* – an institution with a similar economic purpose to the auction. At the end of the chapter a short history of the auction in the post-Justinian period is presented.

The second chapter was devoted to the course of the auction process, starting from its announcement, through the opening of the auction, bidding (submitting bids), the closing of the auction, to the awarding of a contract (*addictio*). In addition to discussing these stages, the chapter also covers issues related to the place of the auction, documentation of the auction, guaranteeing the proper performance of a contract, functions performed by various persons as part of the auction process, as well as the regulations regarding the taxation of auctioning.

The third chapter contains an analysis of the key research problems posed in this dissertation, which concern the legal aspects of submitting an offer and concluding an

agreement within the auction. In this respect, the dissertation is an attempt to answer the following questions: (1) Could the auctioneer postpone the date of the auction or cancel it? (2) Could he enter into a contract with a bidder whose offer was not the highest one? (3) Was the bidder bound by his offer? And finally, (4) Could the offer submitted at the auction be canceled?