



**Sixth International Roman
Law Moot Court Competition**

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IOHANNES v UGOLINUS; UGOLINUS v IOHANNES

Libellus

1. Ugolinus owns a plot of farmland in the mountains near Rhegium, in the province of Bruttium. Adjacent to Ugolinus's property, on the side lower down the slope, is a farm belonging to Marcellus. Whereas the position of Ugolinus's farm on the mountain ensures that it receives plenty of rainwater (i.e., as a result of run-off from further up the slope), the terrain is such that Marcellus's farm receives virtually no rainwater at all. However, Marcellus's farm has the advantage of a spring that gushes forth on his side of the boundary with Ugolinus's land. Like their respective fathers before them, Marcellus and Ugolinus both know that, while the spring is on Marcellus's land, the water flows from an underground stream that has its source somewhere under Ugolinus's land. Ugolinus has always been careful not to dig too close to the boundary, so as not to interfere with the water system.
2. In March of the year AD 540, Ugolinus begins to cultivate dianthus flowers on his farm, as he believes these will fetch a high price at the market in Rhegium. The plants flourish in the full sun of Ugolinus's farm, with its plentiful rain and good drainage, and his prediction of a viable – indeed, lucrative – crop of flowers is amply fulfilled. Keen to expand his new floral enterprise, Ugolinus approaches Marcellus in November 540 with an offer to buy the adjacent land but Marcellus refuses to sell.
3. One day at the start of December 540, a hot-headed young nephew of Ugolinus, who hopes to get closer to his uncle now that the latter's fortunes appear to be rising, gets into an argument with Marcellus about his refusal to sell his farm to Ugolinus. Marcellus makes some unflattering remarks about the supercilious manner in which members of Ugolinus's family carry on their affairs and the arrogance of the nephew's demand that Marcellus reconsider his position. The insult provokes a physical altercation in which Marcellus is killed.

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4. Ugolinus feels no particular remorse on learning of his neighbour's untimely death. Instead, he senses an opportunity. Ugolinus knows that, since he had never married, Marcellus's heir must be his only nephew Iohannes, who was born, and still lived, in Locri, where Marcellus's late sister Flora had moved when she married. After Marcellus's funeral, Ugolinus returns to his farm and begins digging at the source of the underground watercourse that feeds the spring. After clearing away the rubble to expose the source, Ugolinus plugs the hole and fills it with cement. He recovers the area with earth and gets on with tending his dianthus plants.
5. Iohannes is, indeed, Marcellus's heir. After his mother and father died, Iohannes had taken over his father's rabbit fur farming in Locri. News of his uncle's demise and the associated inheritance reaches Iohannes just after his protracted courtship of the local Locresi beauty, Manona, ended with her marrying another suitor. It seems that, while Manona adored the fur coats and stoles with which Iohannes had furnished her during their courtship, she preferred the prospect of the regular pay and frequent absences of a husband in the Imperial Army to Iohannes's hunched back. Iohannes decides that a change of scenery might be the cure for his heartache and decides to take a half a dozen of his best rabbits and relocate to the farm near Rhegium.
6. By the time he winds up his business in Locri and settles most of his other affairs – he leaves only a stock of tools in storage in the town – Iohannes does not arrive to take possession of the farm until the end of March 541. He hopes he has left both the literal and emotional winter behind and is looking forward to the promise of a new life near Rhegium. Iohannes soon has occasion to introduce himself to his new neighbour, Ugolinus, who proves very friendly, inviting Iohannes to dine with him to express his embarrassment that Marcellus had died in a fight with one of his relations and to discuss Iohannes's plans for the farm. Iohannes explains his plan to establish a rabbit fur farm on the property and asks Ugolinus if he objects to Iohannes's improving the fences along their common boundary. Ugolinus readily consents to Iohannes's erection of a kind of palisade that will prevent his rabbits' escaping and eating Ugolinus's valuable dianthus crop.
7. Ugolinus looks in on Iohannes frequently over the ensuing weeks to see how he is settling in. He is particularly interested in the green melons Iohannes has planted on the farm; these, Iohannes tells him, are a special dietary supplement for his rabbits, which give their

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fur a special sheen. On one occasion when Ugolinus visits, Iohannes asks him if it had been a particularly dry winter in Bruttium: in the course of constructing his fence and cultivating his melons – which required frequent watering – Iohannes had found the soil to be dryer than he expected for the time of year. Ugolinus tells Iohannes that the winter had been entirely typical but explains how the terrain meant that Marcellus's farm received less rainfall than his own. Iohannes is a little dismayed by this news but Ugolinus reassures him that there is a public stream only two miles away from which he might obtain extra water for his rabbit farm if he needs to do so.

8. Two miles may be only ten thousand feet but, in the hilly terrain in which the property is located, Iohannes soon finds that the effort of carrying enough water from the public stream to sustain his rabbits and melons is exhausting. Still, he struggles on, reflecting that these are challenges he will be stronger for meeting. All the same, the work places additional strain in his deformed spine, and Iohannes decides that he should buy a mule to carry the water instead. Unfortunately, no-one at the market is selling mules when Iohannes next visits Rhegium, since a local magistrate has bought every last one to assist in the construction of a new theatre he is building in the town.
9. When he returns to his farm, Iohannes is met by Ugolinus, who invites him to dinner after his journey to Rhegium. Over their evening meal, Iohannes expresses his surprise, frustration and disappointment that he was unable to purchase a mule to help alleviate the strenuous work involved in carrying water from the stream to his farm. Ugolinus thinks to himself for a moment and then offers to hire a mule of his own to Iohannes for a few days each week: he explains that, now that his farm is almost entirely devoted to dianthus plants, he only really makes use of his mule to transport flowers to town on market day. Moreover, Ugolinus proposes only a modest hiring fee, well below the market rate: he tells Iohannes that he could hardly allow his neighbour to suffer for want of water. Iohannes expresses his gratitude for Ugolinus's generosity and for the sustained warmth of the welcome he has received since his arrival, all the more valuable since he had feared that there might be bad blood between the families as a result of Marcellus's insults and his unfortunate death.
10. The following day, Iohannes collects the mule. It is a weak and sickly animal that looks as though it would struggle to carry anything heavier than the baskets of flowers with which Ugolinus burdened it once a week. Still, having been so effusive in his thanks the previous

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evening, Iohannes could hardly balk on seeing the mule, so he decides to try it out with a trip to the river to fill a couple of buckets of water. The mule collapses and dies barely a third of the way through the return journey. Hiding his growing despair in relation to his water situation behind his embarrassment at this turn of events, Iohannes informs Ugolinus that the mule has died. Ugolinus takes the news well and tells Iohannes not to worry, because the magistrate in Rhegium is a friend of his and will surely let him buy one of the mules from the theatre construction team if he asks. He also tells Iohannes not to be concerned about reimbursing him the cost of the mule for the time being: he knows that Iohannes has other issues to face.

11. Iohannes struggles on for several more months but the scorching summer sun only exacerbates his predicament. While he has managed to keep his rabbits and their melons alive, the constant water-carrying is crushing him, physically and emotionally. Ugolinus, who has let Iohannes toil on during this period without offering the loan of his new mule, calls on Iohannes at the end of a particularly warm day at the start of August. He says how sorry he has been to watch Iohannes struggle against the elements and against his disability but that he nonetheless remains convinced that Iohannes is a gifted rabbit fur farmer. Ugolinus suggests that Iohannes might, after all, be happier and more successful back in Locri and offers to buy Marcellus's land from him. He offers a price that Iohannes appreciates is commensurate with the fact that the land is so dry.
12. Iohannes, however, declines Ugolinus's offer. He tells Ugolinus that he is not prepared to abandon his inheritance and his new life after less than a year. He explains that he thinks the solution to his problem lies in building a cistern to store water on his land. After all, fur farming is only a little more water-intensive than the farm his uncle had run successfully on the site for several decades, so the construction of a cistern to collect and store what little rainwater did fall on the property, instead of allowing it to flow further down the mountain, might be all that he needs. He had started the year without a store of winter rainfall: this, Iohannes opines, was his mistake. If he could have a cistern built by the end of the autumn, the following year would surely see his situation improved markedly. Iohannes confesses to Ugolinus that the only problem is that constructing a cistern will be expensive: Iohannes fears that he may not have sufficient capital – it will need to be properly lined with bricks if it is to last. Ugolinus expresses sympathy and declares that he will think on this problem for a while.

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13. A few days later, Ugolinus visits Iohannes and tells him that he has a proposal. Ugolinus's dianthus business has had another successful year, and he has a certain amount of money that he could afford to lend to Iohannes to facilitate the construction of a cistern. Of course, it would only be proper for him to charge Iohannes interest but this would be no higher than the law and the financial markets dictated. Ugolinus proposes to take a hypothec over Marcellus's land by way of security for the loan and the interest but the repayments could be made at three-monthly intervals over two years, by which time, with the cistern providing the necessary store of additional water, the fur farm ought to be operating comfortably.
14. Iohannes is taken aback by this offer, which goes far beyond the courtesy one might expect of a neighbour. He asks Ugolinus for a few days to think it through. A few more days of carrying water from the river, however, and Iohannes is decided. He considers that his situation really is desperate: a cistern needs to be in place before next summer, and he is unlikely to find a money lender prepared to offer terms as lenient as those Ugolinus proposes. Accordingly, he accepts the offer and Ugolinus and Iohannes agree the terms by stipulation. The local harvest having been gathered, Iohannes is able to find a team of workers to build a suitable cistern, and the work is complete by the end of November 541.
15. All through the winter, Iohannes prays for rain. Rain comes but little of it is deposited on his land. It seems Ugolinus was not lying: if anything, he had understated the limiting effect of the terrain. Some rainwater had gathered in his cistern but not nearly enough to last through the spring and the summer, especially not if the summer proved to be as hot as the previous year's. However did his uncle manage to survive on this farm, Iohannes wondered? The soil was even drier in February 542 than it had been when he arrived in March 541.
16. Iohannes manages to meet his repayments to Ugolinus in November 541 and February and May 542 but, as spring warms into summer, he finds he still needs to make several trips to the river for additional water each day. As a result, he is not able to devote the time to developing, operating and expanding the fur farm according to his plan. Disaster looms and another scorching summer leaves him bereft of hope and contemplating default.
17. Alas, Iohannes cannot make the August repayment. He is hopeful that, having been such a friendly neighbour over the last eighteen months, Ugolinus will allow a brief extension, so

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that Iohannes can sell off the tools he had left in storage back in Locri to raise some additional capital. It turns out, however, that Ugolinus is not willing to do any such thing. In fact, when he learns that Iohannes cannot meet his August repayment, Ugolinus immediately announces that he intends to begin proceedings to realise the hypothec and have Marcellus's farm sold. Iohannes pleads with Ugolinus on the strength of their friendship and by appeal to Christian charity but the pleasant and helpful neighbour he knew has been replaced by a cold and aloof creditor.

18. Iohannes is distraught to see his life collapse around him for the second time. He berates God for having made him a hunchback and then further inflicting upon him the premature deaths of his parents and uncle, the disillusioning heart-break caused by Manona, the unrelenting harshness of the climate at the farm and now this cruel abandonment at the hands of someone he had counted his friend and neighbour. Iohannes leaves his rabbits to fend for themselves for an afternoon and decides he might as well spend what little remains of the money Ugolinus had lent him by drowning his sorrows in a local tavern.
19. Iohannes buys a drink for the only other customer in the tavern that early in the afternoon, in the hope that the old man will listen to his tale of woe and save Iohannes from the further ignominy of drinking alone. The old man, Furo, listens sympathetically to his story but seems increasingly puzzled by Iohannes's account. When Iohannes has finished relating his misery, Furo reveals that he had been a friend of Marcellus and had often visited the farm. What he couldn't understand, he said, is why Iohannes hadn't been able to make use of the spring that burst forth near the boundary with Ugolinus's land. Iohannes said he had noticed a spot where there might once have been a spring as Furo described but that it had certainly never flowed since he had lived on the land. Since Ugolinus had never mentioned it, either, Iohannes had just assumed that the flow of water from the spring had dried up.
20. Furo shook his head ruefully and began to weep. He said that the spring produced such a stream that it could only have stopped flowing if someone had blocked it up at the source, and he knew exactly who that must have been. Furo told Iohannes that he had visited Marcellus's farm on the day of his funeral, to ensure that the farmhouse was properly secured against thieves. From the house, he had seen Ugolinus digging on his land and mixing concrete. At the time he had assumed that Ugolinus was simply repairing a wall but it was now clear to him that Ugolinus had been pouring concrete into the watercourse

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on his land, so as to stop the flow and cause the spring on Iohannes's land to dry up, ruining Iohannes before he even arrived.

21. His eyes opened, Iohannes storms back up the mountain to confront Ugolinus. His neighbour denies the accusation, calling it yet another deranged insult inflicted on the honour of his house by Marcellus's family. He tells Iohannes that, since he'll see him in court to recover his loan anyway, he might as well recover the value of the mule, for whose welfare Iohannes had blatantly failed to care, seeing as he had killed the animal by greedily overloading it with buckets of water on the very first day Ugolinus had loaned it to him.

22. Iohannes realises that Ugolinus has carefully planned his moves and manipulated him at every stage. He decides he will not allow Ugolinus to control the now inevitable legal proceedings between them. Accordingly, Iohannes gets in first and initiates:

(a) a *vindicatio servitutis* to obtain a declaration in relation to the flow of water feeding the spring and also an *interdictum de fonte* to require Ugolinus to unblock the source of the watercourse or to allow Iohannes to access the land in order to unblock it; and

(b) an *actio damni iniuriae* to recover damages arising from Ugolinus's blocking of the source.

Ugolinus, however, does not allow Iohannes to have everything his own way. For his part, he initiates:

(c) an *actio quasi Serviana* to obtain possession of Iohannes's land in order to sell it to discharge Iohannes's outstanding debt under the loan agreement; and

(d) an *actio locati* to recover damages for the loss of the mule that died while on loan to Iohannes.

23. The claims of Iohannes and Ugolinus are heard together in the court at Rhegium.