



Ulpus c. Sulpicius

Ulpus c. Baricham

1. It is the year 540 CE. Three slaves—Antigon, Faustus and Cyrus—get into a brawl. Antigon and Faustus are both owned by Sulpicius; Cyrus is owned by Ulpus. Cyrus delivers a forceful uppercut that sends Faustus to the ground. Faustus’s head lands on a sharp stone, which cracks his skull. Antigon and Cyrus are shocked.
2. Cyrus rushes off and quickly returns with his master Ulpus. Antigon, Cyrus and Ulpus decide to settle the matter and, after some negotiation, agree to create an obligation with two alternatives. They procure a scribe, who drafts an instrument recording that Antigon asked Ulpus whether he promises to deliver to Sulpicius either the slave Julia—known throughout the city as a stunningly beautiful woman—or the sum of 5 *aurei*. Ulpus is recorded as having so promised. A final sentence states that all claims between the parties are settled by this agreement. The experienced scribe makes sure to comply with the necessary formalities.
3. A copy of the instrument is delivered to the household of Ulpus, where it is inspected by Ulpus’s procurator, Petros. Realising that Julia has a market value of 2 to 3 *aurei*, Petros speedily arranges a meeting with Sulpicius in the forum, at which he hands Julia over, to make good on the promise.
4. Meanwhile, Ulpus decides that, on balance, he would rather retain Julia. At the same time that Petros meets Sulpicius in the forum, Ulpus visits Sulpicius’s home and pays 5 *aurei* to Sulpicius’s son, who handles his father’s finances.
5. Seven months later, during a routine audit, Ulpus finds out that Sulpicius had received both Julia and 5 *aurei*. He asks Sulpicius to give Julia back. However, Sulpicius had let Julia go a week before.

6. It turns out that Julia, whom Ulpus had acquired a few years earlier, had, unbeknownst to all involved, been a *statulibera*: she had been freed by a previous owner on the condition that she bear a child. Julia had been in Sulpicius's household for about a week when her pregnancy became apparent. Once the baby was born, Julia presented evidence of the conditional *manumissio* and Sulpicius, realising that Julia was now a free woman, had let her go. Sulpicius had, however, insisted that the child stay with him; Julia had no choice but to leave the child in his custody.
7. Informed about all of this, Ulpus instructs a lawyer to list the potential losses that he might claim from Sulpicius: e.g., the market value of Julia; the value of patronage rights, should they accrue to Sulpicius; the expectation of becoming Julia's heir; and the baby. The lawyer advises that these losses would easily amount to 7 *aurei* but cautions that Sulpicius might argue about the loss of Julia and counterclaim for the considerable costs of the midwife, as serious birthing complications had threatened both the mother and the child. Hearing about this hair-splitting, as Ulpus calls it, he wonders if it might not be easier to reclaim 5 *aurei*; he thus authorises his lawyer to claim either 5 or 7 *aurei*, as the lawyer thinks best.
8. Hearing that Ulpus is preparing to sue him, Sulpicius sends his son to hand the baby over to Ulpus, since, in Sulpicius's eyes, the infant is nothing more than a noisy and stinking nuisance. Sulpicius's son tells Ulpus that his father hopes this will settle the matter for good.
9. Meanwhile, Ulpus is upset that he had paid for a *liberta* whose legal status made her practically worthless. When Ulpus approaches the seller, Baricha, a renowned slave-trader, the latter asserts his good faith and argues that Ulpus has suffered no damage. Ulpus counters that, had he known about the conditional *manumissio*, he would have found ways to prevent Julia from falling pregnant. Baricha insists that he is not liable to return the price to Ulpus but says that, were he found liable to do so, he would deduct the value of the "chubby cherub", since the child must have been conceived while Julia was in Ulpus's household.
10. Ulpus brings:
 - (a) a *condictio* against Sulpicius; and
 - (b) an *actio empti* against Baricha.