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Adjudicatio in Roman land law

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Abstract. The relevance of the research is determined by the insufficient study in Russian historiography of the judicial process in Roman land law. Using a comprehensive method of historical research, the author reconstructs the formulary process and the appearance of a part of the *adjudicatio* (compensation) formula from the archaic period to the classics. The purpose of the study is to trace how *adjudicatio* has become an essential element of balancing the results of land disputes. The study concluded that during the trial, the determination of compensation for lost property was extremely important. The decisive role in the establishment of *adjudicatio* was played by *agrimensores* — field surveyors. Their expertise was the decisive argument in the dispute. On this basis, Guy considered their role as judges in the process. The author points out that *agrimensores* remained only experts, not assuming the functions of judges in the formal process.

Keywords: compensation, border limit, *finis*, site location, *locus*, *agrimensores*, Guy

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Adjudicatio в римском земельном праве

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Аннотация. Актуальность исследования обоснована недостаточным изучением в российской историографии судебного процесса в римском земельном праве. Используя комплексный метод исторического исследования, автор реконструирует формулярный процесс и появление в нем части формулы *adjudicatio* (возмещения) от архаического периода до классики. Цель исследования — проследить, как *adjudicatio* стала обязательным элементом уравнивания результатов земельных споров. Выводы: в ходе судебного процесса определение компенсации утраченной собственности было чрезвычайно важным; решающую роль в установлении *adjudicatio* играли агрименсоры — межевщики полей; их экспертиза была решающим аргументом в споре, на этом основании Гай рассматривал их роль как судей в процессе. Показано, что *agrimensores* оставались лишь экспертами, не присваивая себе функции судей в формулярном процессе.

Ключевые слова: возмещение, граница, *finis*, место участка, *locus*, агрименсоры, Гай

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Introduction

Roman agrarian law was based on the protection of *finis* (border) — a fundamental boundary category [1. P. 15]. As early as in the Archaic period, the agrimensores insisted that boundary disputes should not be tried in isolation from *locus* — the location of the plot. *Locus* was the very element defined by *finis*. Land ownership rights were effected via land claims — *controversia*. Such claims primarily analyzed the condition of *locus*, a matter of considerable importance as *loci* principally retained the status of *publicus*. The claim itself (*controversia*) was not so much an action as merely a confrontation between the parties in the legal proceedings [2. P. 92]. Besides, under Roman agrarian law, *locus* was defined as a plot of land with a natural boundary (*finis*), but without specifying its size [3. S. 17]. This indeterminacy constituted the principal distinction between *locus* and *fundus* — a designated plot of land (Ulp. Dig. L. 16, 60). (Ulp. Dig. L. 16, 60). No wonder, O. Behrends emphasizes that *locus* has no dimensions [1. P. 224].

Pomponius believed that *locus* embodied the concept of land ownership (Dig. L. XLI, J, 26; Pomp. I, 26). The concept of *locus* as a prerequisite for *possessio* persists even when it is subsumed within *fundus*. That *locus* was part of *fundus* is evidenced by the Venafrum Edict: “*Qui locus ager in fundo est*” (CIL. X. 4847; Dessau 5743; Bruns Font., Jn7 77). *Locus* was defined by a boundary of the *arcifinius* type (based solely on natural landmarks) (CAR. S. 40) [4].

Since *locus* retained its *publicus* status and in the classical period was defined by *arcifinius*, *controversia de loco* of that era could be tried as a boundary dispute. However, since the issue concerned the area — albeit unmeasured — of a plot of land, many authors, notably A. Rudorff, have treated *de loco* as a claim *in rem* [5. P. 252]. Nonetheless, F. Hinrichs in his works convincingly demonstrates that *de loco* constitutes a category of boundary disputes [6. P. 193]. Indeed, even Frontinus likewise classified *de loco* as a boundary dispute: “*de positione terminorum... et ab intergo alius forte de loco alius de fine litigat*” (CAR. p. 41). At the same time, it is public knowledge that Paulus regarded *de loco* as an action *in rem* and saw in it no signs of a boundary dispute (Dig. 10, 1, 4.5/6). R. Knütel, however, associates this stance of Paulus (Dig. 10, 1, 4 pr. Paulus 23 ad edictum) solely with *vindicatio* [7. P. 303].

Controversia de loco within *actiones per formulas* contributed to the emergence of an *adjudicatio* clause: when one party to the dispute receives the claimed item, while the other receives a corresponding equivalent in the form of property or a legal right. At the same time, the archaic designation — *controversia* — lingered for good. But what is this? After all, if there is *adjudicatio*, then, consequently, there are boundary elements in *de loco*. If there is no *adjudicatio*, then the dispute remains *in rem*. Thus, O. Behrends believes that *adjudicatio* is not, after all, related to *fines regere* [1. P. 245].

Adjudicatio as Mechanism for Property Transfer in Pre-Classical and Classical Periods of Roman Agrarian Law

In the pre-classical period, *adjudicatio* (compensation) indicated the transfer of private property (*dare, assignare*) in formalizing property rights; therefore, *adjudicatio* is also possible in claims *in rem*. Thus, Cicero saw it as a manifestation of the ownership rights (Cic. De re publ. 81). Gaius believes that part of the formula in *de loco* could well have been composed according to *modus* (Gai. IV. 42). But should there be *adjudicatio* with *modus*? F. Hinrichs generally doubts that *adjudicatio* can apply in the classification of claims [6. S. 201–203]. R. Knütel believes that through *adjudicatio* Gaius (Dig. II. 1. 11. 2) defines *actiones finium regundorum* [7. P. 300–301].

Under *actiones per formulas*, land disputes were being settled in line with the praetorian formula [8]. Given the history of land disputes in the archaic period, the

question of compensation to the other party in the claim was addressed in a special part of the formula, namely, *adjudicatio*. This is specific of boundary disputes *per se*. This raises the question of what shall be considered in boundary claims. After all, in the archaic period, the matter of dispute was the width of *finis*. But in the pre-classical period, *controversia de loco* — the analysis of area without its precise calculation — was also tried as a boundary claim.

The question arises whether *de loco* can even count as a boundary claim (*actiones finium regundorum*). The matter of awarding ownership to the other party was now set out in a separate part of the formula — *adjudicatio* — especially in disputes involving indivisible property.

However, *de loco* is also close to *actiones communi dividundo*, the ones that addressed issues specifically regarding the possibility of partition (compensation) from *ager publicus* or from neighboring property. Essentially, the issue at hand was the transfer of the collective right to the land (*ager*) to the sole ownership of one person, but only with respect to a portion of that land. Now, part of the *adjudicatio* formula figuratively transferred a portion of *publicus*. Should the proprietor forfeit a portion of *publicus*, they could count on compensation.

Throughout the imperial period, *de loco* gets a broader interpretation with lesser boundary elements and more of those *in rem*. Claims for partition (*communi dividundo*) and inheritance (*familiae herciscundae*) are equally related to the issue of boundaries and the location of the plot itself, with both mentioned in *condemnatio*. According to Gaius, agrimensores — experts in boundary disputes — could exert a decisive influence on the verdict, a factor that allowed him to regard them as judges (IV. 42 = Dig. II. 1. 11). Gaius puts great value on *adjudicatio*, but no longer considers the verdict an obligatory element (IV. 42). Legal prerequisites for claims grow wider. After all, in the imperial period, one could just as well cite the rescript of the princeps (Dig. X. 1. 7). Both parties had to learn to understand that if *controversia* was not only about the boundary, but the thing itself in its status of *publicus* was in dispute, then *condemnatio* should be accompanied by *adjudicatio*.

When in the imperial period cadastral data assumed a decisive role in adjudicating boundary disputes, the focus was not on the width of the *finis* but on *confinium* — the angle at which the boundaries intersected, as defined by the Lex Mamilia [9. P. 79–80; 10. Pp. 89–90]. In the provinces, the question often came down not to *finis* (its line and width), but to the precise *modus* of the plot. Therefore, claims *de modo* gradually replaced more ancient claims *de fine*, and became the embodiment of those *in rem* [6. P. 125; 10. Pp. 89–90].

Agrimensores, such as Frontinus in particular, did not limit boundary disputes solely to *de loco* actions (CAR. S. 5, 8). It was easier to adjudge on land titling in a *de fine* action than in a *de loco*. O. Behrends believes that *iudicatio* served as a mere instrument to establish boundaries (Inst. Iust. IV. 17.b) [1. P. 267]. If an agrimensor were to assume the function

of a judge in such a proceeding, classical tradition would hold it that the lease or inheritance terms be enclosed, but this is not the case even in Gaius works (Dig. II. 1. 11. 2). F. Hinrichs believes that Gaius merely alludes to the status of a judge who determined the level of the claim [11. P. 268]. In partition suits, the connection between *adjudicatio* and *condemnatio* is more clearly discernible with regard to large and indivisible objects, but in the classical period, this connection had not yet been extended to *actiones finium regundorum*.

Conclusion

In the post-classical period, *adjudicatio* was directly related to *condemnatio* in *actiones finium regundorum*, although agrimensors did not consider arguments on *controversia de loco* in full. Boundary elements also came to predominate in *in personam* actions, and the essence of *rei vindicatio* manifested itself in disputes *de loco*. Agrimensors handled the selection of arguments on *de loco* with caution. In cases where the proceedings were conducted under *rei vindicatio*, the type of controversy, formally *de loco*, was closer to *de modo* in essence. If the proceedings were conducted solely *in personam*, the focused was totally on boundary elements. Consequently, within the classical period, it was not customary to extend the connection between *adjudicatio* and *condemnatio* to *actiones finium regundorum*; all indivisible assets were considered in *in personam* actions, while divisible assets were adjudged as *de loco*.

Gaius demonstrated that in the classical period, *adjudicatio* aligned with the praetor's edict, and that in the provinces these regulations spread much more rapidly than the norms of the *Ius Civile*. Furthermore, in claims on the size, *adjudicatio* was based on cadastral records. In the classical period, this allowed for the possibility to reinterpret the *de loco* claim and bring it closer to a boundary claim.

The question arises whether it was possible to determine the actual area of the plot based on *adjudicatio*? This was the issue assigned specifically to agrimensors. According to Frontinus and Hyginus the Elder, it was not always possible to restore the old boundary even when a plan — *forma* — was available. This limitation precisely reflects contemporary conceptions of *dominium*.

All of Gaius's remarks concerning the involvement of agrimensors as adjudicators in the *adjudicatio* pertain to a period subsequent to the establishment of agrarian cadasters in the imperial era. However, as land surveying was declining, the function of boundary judges was acquiring particular importance. Indeed, the very conception of *adjudicatio* was transformed; it came to be employed alongside *condemnatio* in actions relating both to the partition of property and to boundary controversies.

References

1. Behrends O. Bodenhoheit und privates Bodeneigentum im Grenzwesen Roms. In: *Die Römische Feldmeßkunst: interdisziplinäre Beiträge zu ihrer Bedeutung für die Zivilisationsgeschichte Roms*. Göttingen; 1992. S. 192–280.
2. Gvozdeva TB, Gvozdeva IA. Controversia as a category of Roman land law. *Sovremennyyi yurist*. 2017;(1):91–101. (In Russ.). EDN: YJYGON
3. Burdese L. *Studi sull'ager publicus*. Torino: Giappichelli, 1952.
4. Gvozdeva IA. Ager arcifinius and the beginning of Roman land law. *Drevnii Vostok i Antichnyi mir*. 2018;(9):340–355. (In Russ.). EDN: YVBJAD
5. Rudorff A. Gromatiche Institutionen. In: Blume F, Lachmann K, Mommsen Th, Rudorff A. *Die Schriften der römischen Feldmesser*. Bd. 2. Berlin; 1852. S. 227–464.
6. Hinrichs FT. *Die Geschichte der gromaticchen Institutionen*. Wiesbaden; 1974. 252 s.
7. Knütel R. Die actio finium regundorum und die ars gromatica. *Die Römische Feldmeßkunst: interdisziplinäre Beiträge zu ihrer Bedeutung für die Zivilisationsgeschichte Roms*. Göttingen; 1992. S. 285–308.
8. Gvozdeva IA. The evolution of legal proceedings in the Roman land registry. *RUDN Journal of World History*. 2025;17(3):275–285. (In Russ.). <https://doi.org/10.22363/2312-8127-2025-17-3-275-285> EDN: TQJUIX
9. Gvozdeva I.A. Controversia de positione terminorum in Corpus Agrimensorum Romanorum. *Drevnii Vostok i Antichnyi mir*. 2000;(3):74–81. (In Russ.). EDN: VJQOFJ
10. Gvozdeva IA. Controversy de modo in the treatises of Roman surveyors. *Drevnii Vostok i Antichnyi mir*. 2001;(4):84–92. (In Russ.). EDN: YYWVRJ
11. Hinrichs FT. Zur Geschichte der Klage finium regundorum: eine Kontroverse mit Rolf Knütel. *Zeitschrift der Savigny-Stiftung für Rechtsgeschichte*. 1994;111(1):242–279.

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