Types of interdicts

Gai 4.142-143
Principalis igitur diuisio in eo est, quod aut prohibitoria sunt interdicta aut restitutoria aut exhibitoria. (143) Sequens in eo est diuisio, quod uel adipiscendae possessionis causa conparata sunt uel retinendae uel reciperandae.

> The principal division of interdicts is that they are either prohibiting or commanding restitution or exhibition. (143) The next division is into interdicts created either for obtaining or retaining or for recovering possession.

Gai 4.148-150
Retinendae possessionis causa solet interdictum reddi, cum ab utraque parte de proprietate alicuius rei controuersia est et ante quaeritur, uter ex litigatoribus possidere et uter petere debeat. cuius rei gratia comparata sunt *uti possidetis* et *utrubi*. (149) Et quidem *uti possidetis* interdictum de fundi uel aedium possessione redditur, *utrubi* uero de rerum mobilium possessione. (150) Et si quidem de fundo uel aedibus interdicitur, eum potiorem esse praetor iubet, qui eo tempore, quo interdictum redditur, nec ui nec clam nec precario ab aduersario possideat; si uero de re mobili, eum potiorem esse iubet, qui maiore parte eius anni nec ui nec clam nec precario ab aduersario possederit; idque satis ipsis uerbis interdictorum significatur.

> An interdict for retaining possession is usually issued when two parties are disputing over ownership of an object and it has first of all to be investigated which of the litigants is in possession of the object and which has to demand it; it is for this purpose that the interdicts *uti possidetis* and *utrubi* have been created. (149) And the interdict *uti possidetis* is issued with regard to the possession of houses and unbuilt property, the interdict *utrubi* with regard to possession of movables. (150) When an interdict refers to houses and unbuilt property, the praetor declares the one to be better entitled who at the time of the issuance of the interdict is in possession without having obtained it from the opponent either by violence or clandestinely or precariously. When an interdict refers to a movable thing, he declares the one to be better entitled who has been in possession during the greater part of that year without having obtained it from the adversary either by violence or clandestinely or precariously. The wording of the interdicts sufficiently demonstrates this.

Gai 4.154
Reciperandae possessionis causa solet interdictum dari, si quis ex possessione ui deiectus sit. nam ei proponitur interdictum, cuius principium est *unde tu illum vi deiecisti*, per quod is, qui deiecit, cogitur ei restituere rei possessionem, si modo is, qui deiectus est, nec ui nec clam nec precario ab eo possideret. namque eum, qui a me ui aut clam aut precario possidet, inpune deicio. (155) Interdum tamen etsi eum ui deiecerim, qui a me ui aut clam aut precario possideret, cogor ei restituere possessionem, uelut si armis eum ui deiecerim. nam propter atrocitatem delicti in tantum patior actionem, ut omni modo debeam ei restituere possessionem. …

> An interdict for recovering possession is granted to a person forced off his possession. For in his favour, there is promulgated an interdict with the beginning: *'from where you have been expulsed by violence'* which compels the ejector to restore possession, provided that the person

forced off did not obtain possession from the other party either by violence or clandestinely or precariously. For I may force off someone unpunished, if he has obtained possession from me either by violence or clandestinely or precariously. (155) Sometimes, however, even though I have ejected someone who obtained possession from me either by violence or clandestinely or precariously, I can be compelled to restore possession to him; for instance, if I eject him using weapons. For, on account of the atrocity of the crime, I have to endure the lawsuit for the purpose of restoring the possession to him under any circumstances. …

D 43.17.1.4 Ulp 69 ed
Est igitur hoc interdictum, quod volgo *uti possidetis* appellatur, retinendae possessionis (nam huius rei causa redditur, ne vis fiat ei qui possidet) et consequenter proponitur post interdictum *unde vi*. illud enim restituit vi amissam possessionem, hoc interdictum tuetur, ne amittatur possessio, denique praetor possidenti vim fieri vetat: et illud quidem interdictum obpugnat possessorem, hoc tuetur. et ut Pedius ait, omnis de possessione controversia aut eo pertinet, ut, quod non possidemus, nobis restituatur, aut ad hoc, ut retinere nobis liceat quod possidemus. restitutae possessionis ordo aut interdicto expeditur aut per actionem: retinendae itaque possessionis duplex via est, aut exceptio aut interdictum. exceptio datur ex multis causis ei qui possidet.

So this interdict, generally called *uti possidetis*, is granted for retaining possession (for it is granted to prevent the possessor from suffering violence) and therefore consequently promulgated after the interdict *unde vi*. For that interdict restores possession lost by violence, but this interdict prevents that possession is lost and therefore the praetor forbids any violence be done to the possessor. While that interdict affronts the possessor, this one protects him. And, as Pedius said, every dispute on possession is either about the restitution of what we do not possess or about legally retaining what we possess. Restitution of possession is effected either by interdict or by action. The way of retaining possession is twofold, either by exception or by interdict. And an exception is granted to the possessor for many reasons.

D 43.16.1.6 Ulp 69 ed
Illud utique in dubium non venit interdictum hoc ad res mobiles non pertinere: nam ex causa furti vel vi bonorum raptorum actio competit: …

There is no doubt at all that this interdict does not apply to movable property; for there are actions available on the grounds of theft or robbery …

Gai 4.156
Tertia diuisio interdictorum in hoc est, quod aut simplicia sunt aut duplicia. (157) Simplicia sunt, [uelut] in quibus alter actor, alter reus est, qualia sunt omnia restitutoria aut exhibitoria. namque actor est, qui desiderat aut exhiberi aut restitui, reus is est, a quo desideratur, ut exhibeat aut restituat. (158) Prohibitoriorum autem interdictorum [interdum] alia duplicia, alia simplicia sunt. (159) Simplicia sunt, uelut quibus prohibet praetor in loco sacro aut in flumine publico ripaue eius aliquid facere reum. nam actor est, qui desiderat, ne quid fiat, reus is, qui aliquid facere conatur. (160) Duplicia sunt uelut *uti possidetis* interdictum et *utrubi*. ideo autem duplicia uocantur, quod par utriusque litigatoris in his condicio est, nec quisquam praecipue reus uel actor intellegitur, sed unusquisque tam rei quam actoris partes sustinet; quippe praetor pari sermone cum utroque loquitur …

A third division is into simple and double interdicts. (157) Simple interdicts are, for instance, those in which one party is plaintiff and the other defendant, and those are all for the purpose of restitution or exhibition; for who demands exhibition or restitution is the plaintiff, and he from whom the exhibition or restitution is demanded is the defendant. (158) Of prohibiting interdicts,

some are simple, others double. (159) Simple interdicts are, for instance, those by which the praetor forbids a defendant to carry anything out on consecrated ground or in a public river or on its bank; for who demands that it shall not be carried out is the plaintiff, and the defendant is who attempts to carry it out. (160) Double interdicts are, for instance, *uti possidetis* and *utrubi*. They are called double because the condition of both litigants is the same, and neither is considered to be defendant or plaintiff in the first place, but both of them sustain the role of defendant and plaintiff, for the praetor addresses both with the same words …

A system of complementary elements?

	interdictum prohibitorium	**interdictum restitutorium**
locus sacrus	In loco sacro religiosove facere inve eum immittere quid veto.	Quod in loco sacro religiosove factum habes, restituas.
flumen	Ne quid in flumine publico ripave eius facias neve quid in flumine publico neve in ripa eius immittas, quo statio iterve navigio deterior sit fiat.	 Quod in flumine publico ripave eius factum sive quid in id flumen ripamve eius immissum habes, quo statio iterve navigio deterior sit fiat, restituas.
possessio fundi	Uti nunc eas aedes qubibus de agitur nec vi nec clam nec precario alter ab altero possidetis, quo minus ita possidetis, vim fieri veto.	Unde in hoc anno tu illum vi deiecisti … cum ille possideret quod nec clam nec precario a te possideret, eo illum quaeque ille tunc ibi habuit restituas. ∅ *(clam)* Quod precario ab illo habes aut dolo malo fecisti ut desineres habere, qua de re agitur, id illi restituas.
possessio rei mobilis	Utrubi vestrum hic homo quo de agitur, nec vi nec clam nec precario ab altero fuit, apud quem maiore parte huiusce anni fuit, quo minus is eum ducat, vim fieri veto.	∅ *(vis, clam)* Quod precario ab illo habes aut dolo malo fecisti ut desineres habere, qua de re agitur, id illi restituas.

D 43.17.1.3 Ulp 69 ed
Inter litigatores ergo quotiens est proprietatis controversia, aut convenit inter litigatores, uter possessor sit, uter petitor, aut non convenit. si convenit, absolutum est: ille possessoris commodo, quem convenit possidere, ille petitoris onere fungetur. sed si inter ipsos contendatur, uter possideat, quia alteruter se magis possidere adfirmat, tunc, si res soli sit, in cuius possessione contenditur, ad hoc interdictum remittentur.

> Whenever there is dispute between litigants on ownership, it is either agreed between them who is the possessor and who is the claimant, or it is not agreed. If it is agreed, the matter is finished. The possessor has the advantage of possession, the other one has the burden to bring the claim. But if there is a controversy between them about who is in possession, because it is claimed by both, then they are referred to this interdict, if the dispute is on real estate.

Gai 4.140
Vocantur autem decreta, cum fieri aliquid iubet, uelut cum praecipit, ut aliquid exhibeatur aut restituatur, interdicta uero, cum prohibet fieri, uelut cum praecipit, ne sine uitio possidenti uis fiat, neue in loco sacro aliquid fiat. …

> They are called decrees, when the praetor commands that something be done; for instance, that something be exhibited or something be restored: and they are called interdicts, when he prohibits something being done; as when he forbids the violent disturbance of possession acquired without any defect or to carry out anything on consecrated ground …

Gai 4.139, 141
Certis igitur ex causis praetor aut proconsul principaliter auctoritatem suam finiendis controuersiis interponit. quod tum maxime facit, cum de possessione aut quasi possessione inter aliquos contenditur; et in summa aut iubet aliquid fieri aut fieri prohibet. … (141) Nec tamen cum quid iusserit fieri aut fieri prohibuerit, statim peractum est negotium, sed ad iudicem recuperatoresue itur et ibi editis formulis quaeritur, an aliquid aduersus praetoris edictum factum sit uel an factum non sit, quod is fieri iusserit. …

> In certain cases, the praetor or proconsul, in order to put an end to controversies, makes principally use of his authority. So he does especially, if there is a dispute between parties about possession or quasi-possession; in general he commands or forbids something to be done … (140) But the command or prohibition to do something does not bring an end to the matter, but one goes to a single judge or a panel of judges, and after formulas having been issued, it is observed whether anything has been done contrary to the praetor's edict or omitted what he commanded. …

Gai 4.139
Certis igitur ex causis praetor aut proconsul principaliter auctoritatem suam finiendis controuersiis interponit. quod tum maxime facit, cum de possessione aut quasi possessione inter aliquos contenditur; et in summa aut iubet aliquid fieri aut fieri prohibet. … (140) Nec tamen cum quid iusserit fieri aut fieri prohibuerit, statim peractum est negotium, sed ad iudicem recuperatoresue itur et ibi editis formulis quaeritur, an aliquid aduersus praetoris edictum factum sit uel an factum non sit, quod is fieri iusserit. et modo cum poena agitur modo sine poena: cum poena, uelut cum per sponsionem agitur, sine poena, uelut cum arbiter petitur; et quidem ex prohibitoriis interdictis semper per sponsionem agi solet, ex

restitutoriis uero uel exhibitoriis modo per sponsionem, modo per formulam agitur, quae arbitraria uocatur.

> In certain cases the praetor or proconsul, in order to put an end to controversies, makes use of his authority in the beginning. So he does especially, if there is a dispute between parties about possession or quasi-possession; in general he commands or forbids something to be done … (140) But the command or prohibition to do something does not bring an end to the matter, but the go to a single judge or a panel of judges, and after formulas having been issued, it is observed whether anything has been done contrary to the praetor's edict or omitted what he commanded. And this proceedings sometimes involves a penalty, namely when it is done by promises, sometimes not. Prohibiting interdicts are always implemented by way of promises; orders of restitution or exhibition sometimes by promises, sometimes by means of an arbitrary formula.

The proceedings

Gai 4.161-162
Expositis generibus interdictorum sequitur, ut de ordine et de exitu eorum dispiciamus; et incipiamus a simplicibus. (162) Si igitur restitutorium uel exhibitorium interdictum redditur, uelut ut restituatur ei possessio, qui ui deiectus est, aut exhibeatur libertus, cui patronus operas indicere uellet, modo sine periculo res ad exitum perducitur, modo cum periculo.

> After having explained the different kinds of interdicts let us next consider their order and effects, and we shall begin with those that are simple. (162) If an interdict for the restitution or exhibition of property is issued, for instance, for the restitution of possession to one who has been ejected by force or for the exhibition of a freedman to whom a patron wants to indicate the owed services, the proceedings are sometimes brought to an end without a risk, and sometimes with a certain risk.

Gai 4.140
… et modo cum poena agitur modo sine poena: cum poena, uelut cum per sponsionem agitur, sine poena, uelut cum arbiter petitur; et quidem ex prohibitoriis interdictis semper per sponsionem agi solet, ex restitutoriis uero uel exhibitoriis modo per sponsionem, modo per formulam agitur, quae arbitraria uocatur.

> … and these proceedings sometimes involve a penalty, namely when they are carried out by promises, sometimes not, namely when the appointment of an arbiter is requested. Prohibiting interdicts are always implemented by way of promises; orders for restitution or exhibition sometimes by promises, sometimes by means of an arbitrary formula.

Gai 4.163-164
Namque si arbitrum postulauerit is, cum quo agitur, accipit formulam, quae appellatur arbitraria, et iudicis arbitrio si quid restitui uel exhiberi debeat, id sine periculo exhibet aut restituit et ita absoluitur; quod si nec restituat neque exhibeat, quanti ea res est, condemnatur. sed et actor sine poena experitur cum eo, quem neque exhibere neque restituere quicquam oportet, praeterquam si calumniae iudicium ei oppositum fuerit decimae partis. quamquam Proculo placuit non esse permittendum calumniae iudicio uti ei, qui arbitrum postulauerit, quasi hoc ipso confessus uideatur restituere se uel exhibere debere. sed

alio iure utimur et recte; potius enim ut modestiore uia litiget, arbitrum quisque petit, quam quia confitetur. (164) Ceterum obseruare debet is, qui uult arbitrum petere, ut statim petat, antequam ex iure exeat, id est antequam a praetore discedat; sero enim petentibus non indulgetur.

> For, if the defendant should demand an arbiter, he receives the formula which is called 'arbitrary', and if, according to the order of the judge, he must restore or exhibit something, he either exhibits or restores it without any risk, and thus is discharged; or if he does not restore or exhibit it, he is condemned to compensate the plaintiff for his interest. But also the plaintiff can, without incurring a penalty, bring an action against someone who does not have to exhibit or restore anything, unless an action for vexatious litigation is brought against him to recover the tenth part of the matter in question; although Proculus held that an action for vexatious litigation should not be granted to someone who demands arbitration, because he is regarded as having confessed that he is obligated to restitution or exhibition. We, however, apply a different rule, and rightly so; for one demands an arbiter rather to litigate in a cheaper way, than with the intent to confess. (164) It should be noted that he who wants to demand an arbiter must do so before leaving the hearing before the praetor, because no consideration is given to those who apply for it too late.

Gai 4.165

Itaque si arbitrum non petierit, sed tacitus de iure exierit, cum periculo res ad exitum perducitur. nam actor prouocat aduersarium sponsione, quod contra edictum praetoris non exhibuerit aut non restituerit; ille autem aduersus sponsionem aduersarii restipulatur; deinde actor quidem sponsionis formulam edit aduersario, ille huic inuicem restipulationis. sed actor sponsionis formulae subicit et aliud iudicium de re restituenda uel exhibenda, ut si sponsione uicerit, nisi ei res exhibeatur aut restituatur. sed actor sponsionis formulae subicit et aliud iudicium de re restituenda uel exhibenda, ut si sponsione uicerit, nisi ei res exhibeatur aut restituatur, quanti ea res erit adversarius condemnetur …

> Hence, if he does not demand an arbiter, but leaves the tribunal silently, the matter is brought to an end at risk. For the plaintiff challenges his adversary by a promise on the condition that he did not exhibit or restore the object contrary to the edict of the praetor; and the defendant restipulates in opposition. The plaintiff then indicates the formula of the promise to his adversary, and the latter in his turn indicates that of the restipulation. But the plaintiff adds to the formula of the promise another one for the restitution or exhibition of the thing in dispute, in order that if he is successful with the promise and the object is not restored or exhibited, the opponent is condemned to pay the interest …

Gai 4.166

… fructus licitando, is tantisper in possessione constituitur, si modo aduersario suo fructuaria stipulatione cauerit, cuius uis et potestas haec est, ut si contra eum de possessione pronuntiatum fuerit, eam summam aduersario soluat. haec autem licendi contentio fructus licitatio uocatur, scilicet quia … *(illegible)* … postea alter alterum sponsione prouocat, quod aduersus edictum praetoris possidenti sibi uis facta sit, et inuicem ambo restipulantur aduersus sponsionem [vel stipulationibus iunctis duabus] una inter eos sponsio itemque restipulatio una [tantum] ad eam fit [quod et commodius ideoque magis in usu est.]

> … by way of auction he is placed in the interim possession, provided that he gives his opponent security by the fructuary promise, whose effect is that if judgment on possession is rendered against him, he has to pay to the opponent this sum. This auction is called the bidding for the fruits, because … Later each party challenges the opponent to a promise on the condition that there has occurred violence against him contrary to the praetor's edict and lets the other make a counter-promise to him, or both promises are combined and only one promise and a counter-promise are made between them, which is less cumbersome and therefore more common.

Gai 4.166a
Deinde ab utroque editis formulis omnium sponsionum et restipulationum, quas fieri placuit, iudex, apud quem de ea re agitur, illud scilicet requirit, quod praetor interdicto conplexus est, id est, uter eorum eum fundum easue aedes per id tempus, quo interdictum redditur, nec ui nec clam nec precario possideret. cum iudex id explorauerit et forte secundum me iudicatum sit, aduersarium mihi et sponsionis et restipulationis summas, quas cum eo feci, condemnat et conuenienter me sponsionis et restipulationis, quae mecum factae sunt, absoluit; et hoc amplius si apud aduersarium meum possessio est, quia is fructus licitatione uicit, nisi restituat mihi possessionem, Cascelliano siue secutorio iudicio condemnatur.

> When the formulas of all promises and counter-promises to be rendered have been designated by both of them, the judge before whom the case is tried examines what the praetor has included in the interdict, namely which of the parties was in possession of the house or unbuilt property at the time of the issuance of the interdict and did not obtain possession neither by violence nor clandestinely nor precariously. When the judge has investigated this, and has, perhaps, decided in my favour, he condemns my opponent to pay the sums mentioned in the promise and the counter-promise which I made with him, and in consequence discharges me from liability for the promise and counter-promise which were made with me. In addition, if my adversary had possession of the property because of having won the auction and does not restore possession to me, he is condemned in the action named Cascellian or subsequent.

Gai 4.168
Ille autem, qui fructus licitatione uictus est, si non probauerit ad se pertinere possessionem, tantum sponsionis et restipulationis summam poenae nomine debet.

> If the one who has lost at the auction does not prove that possession belonged to him, he is only condemned to pay the sum of the promise and the counter-promise as a penalty.

Gai 4.167
Ergo is, qui fructus licitatione uicit, si non probat ad se pertinere possessionem, sponsionis et restipulationis et fructus licitationis summam poenae nomine soluere et praeterea possessionem restituere iubetur et hoc amplius fructus, quos interea percepit, reddit; summa enim fructus licitationis non pretium est fructuum, sed poenae nomine soluitur, quod quis alienam possessionem per hoc tempus retinere et facultatem fruendi nancisci conatus est.

> So that if the one who has won the auction does not prove that he is entitled to possession, he is ordered to pay the sums of the promise and counter-promise and, as a penalty, the sum offered for the interim profits in the auction and, furthermore, to restore possession and any profits gained in the meantime; for the sum by the auction is not the price of the interim profits, but has to be paid as a penalty for attempting to retain the possession belonging to another temporarily and for obtaining the possibility of gaining profit.

Gai 4.168
Ille autem, qui fructus licitatione uictus est, si non probauerit ad se pertinere possessionem, tantum sponsionis et restipulationis summam poenae nomine debet.

> If he, who has lost at the auction, does not prove that possession belonged to him, he is only condemned to pay the sum of the promise and the restipulation as a penalty.

Gai 4.169
Admonendi tamen sumus liberum esse ei, qui fructus licitatione uictus erit, omissa fructuaria stipulatione, sicut Cascelliano siue secutorio iudicio de possessione reciperanda experitur, ita similiter de fructus licitatione agere. in quam rem proprium iudicium conparatum est, quod appellatur fructuarium, quo nomine actor iudicatum solui satis accipit. dicitur autem et hoc iudicium secutorium, quod sequitur sponsionis uictoriam; sed non aeque Cascellianum uocatur.

> We shall remember, however, that the unsuccessful bidder, leaving beside the promise for the profit, is free to bring an action for the fruits similar to the Cascellian or subsequent action for recovering possession. For this purpose, a special action has been created which is called fructuary by which the plaintiff gets a security for the fulfilment of the judgement: this action is also called subsequent, because it succeeds the victory on the basis of the promise, but not also Cascellian.

intedicta restitutoria

Gai 4.162
Si igitur **restitutorium** … interdictum redditur, uelut ut restituatur ei possessio, qui ui deiectus est … modo **sine periculo** res ad exitum perducitur, modo **cum periculo**.

Gai 4.163
Namque si arbitrum postulauerit is, cum quo agitur, accipit **formulam**, quae appellatur **arbitraria**, et iudicis arbitrio si quid restitui … debeat, id **sine periculo** ... restituit et ita absoluitur; quod si nec restituat neque exhibeat, **quanti ea res est**, condemnatur.

Gai 4.165
Itaque si arbitrum non petierit, sed tacitus de iure exierit, **cum periculo** res ad exitum perducitur. nam actor prouocat aduersarium **sponsione**, quod contra edictum praetoris … non restituerit; ille autem aduersus sponsionem aduersarii **restipulatur**; deinde actor quidem sponsionis formulam edit aduersario, ille huic inuicem restipulationis. …

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Gai 4.165
… sed actor sponsionis formulae subicit et aliud **iudicium de re restituenda** …, ut si sponsione uicerit, nisi ei … restituatur, quod iudicium appellatur **secutorium** …

intedicta prohibitoria duplicia

Gai 4.166
… fructus licitando, is tantisper in possessione constituitur, si modo aduersario suo fructuaria stipulatione cauerit, cuius uis et potestas haec est, ut si contra eum de possessione pronuntiatum fuerit, eam summam aduersario soluat. haec autem licendi contentio **fructus licitatio** uocatur …

Gai 4.166a
… iudex, apud quem de ea re agitur, illud scilicet requirit, quod praetor interdicto conplexus est, id est, uter eorum eum fundum easue aedes per id tempus, quo interdictum redditur, nec ui nec clam nec precario possideret. cum iudex id explorauerit et forte secundum me iudicatum sit, aduersarium mihi et **sponsionis et restipulationis summas**, quas cum eo feci, condemnat et conuenienter me sponsionis et restipulationis, quae mecum factae sunt, absoluit ...

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Gai 4.166a
… et hoc amplius si apud aduersarium meum possessio est, quia is fructus licitatione uicit, nisi restituat mihi possessionem, **Cascelliano siue secutorio iudicio condemnatur**.

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Gai 4.169
Admonendi tamen sumus liberum esse ei, qui fructus licitatione uictus erit, omissa fructuaria stipulatione, sicut Cascelliano siue secutorio iudicio de possessione reciperanda experitur, ita similiter **de fructus licitatione agere**. in quam rem proprium iudicium conparatum est, quod appellatur fructuarium, dicitur autem et hoc **iudicium secutorium**, quod sequitur sponsionis uictoriam; sed non aeque

Gai 4.167
Ergo is, qui fructus licitatione uicit, si non probat ad se pertinere possessionem, … et fructus **licitationis summam poenae nomine soluere** … summa enim fructus licitationis non pretium est fructuum, sed poenae nomine soluitur, quod quis alienam possessionem per hoc tempus retinere et facultatem fruendi nancisci conatus est.

Effectiveness

Gai 4.170
Sed quia nonnulli interdicto reddito cetera ex interdicto facere nolebant atque ob id non poterat res expediri, praetor in eam rem prospexit et comparauit interdicta, quae secundaria appellamus, quod secundo loco redduntur. quorum uis et potestas haec est, ut qui cetera ex interdicto non faciat, uelut qui uim non faciat aut fructus non liceatur aut qui fructus licitationis satis non det aut si sponsiones non faciat sponsionumue iudicia non accipiat, siue possideat, restituat aduersario possessionem, siue non possideat, uim illi possidenti non faciat. itaque etsi alias potuerit interdicto *uti possidetis* uincere, si cetera ex interdicto fecisset … tamen per interdictum secundarium uincitur. … *(illegible)*

> Since sometimes, after the issue of an interdict, one of the parties declines to take one of the subsequent steps and, therefore, the matter cannot be brought to an end, the praetor has provided interdicts which are called secondary, because issued only in second line. These interdicts' effect is, that if someone declines to take a subsequent step in the interdict procedure, such as to use violence or to bid in the auction for the profits or to give a respective security or to give a promise or to accept litigation on these grounds, he shall, if in possession, convey it to the opponent or, if out of possession, shall not take it by force. Although he, taking the subsequent steps, might have been successful using the interdict *uti possidetis* … he is defeated by the secondary interdict …

D 6.1.68 Ulp 51 ed
… haec sententia generalis est et ad omnia, sive interdicta, sive actiones in rem sive in personam sunt, ex quibus arbitratu iudicis quid restituitur, locum habet.

> … This is a general rule and takes effect in all kinds of proceedings in which something has to be restored on the judge's order, whether in an interdict or an action pertaining to a thing or a personal claim.

D 43.17.1pr. Ulp 69 ed
Ait praetor: '… neque pluris, quam quanti res erit: intra annum, quo primum experiundi potestas fuerit, agere permittam.'

> The praetor says: '… I will not allow an action for more than the object is worth nor after one year from the moment when the action could have been brought for the first time.'

D 43.17.3.11 Ulp 70 ed
In hoc interdicto [*uti possidetis*] condemnationis summa refertur ad rei ipsius aestimationem. ‚quanti res est' sic accipimus ‚quanti uniuscuiusque interest possessionem retinere'. Servii autem sententia est existimantis tanti possessionem aestimandam, quanti ipsa res est: sed hoc nequaquam opinandum est: longe enim aliud est rei pretium, aliud possessionis.

> In this interdict the condemnation sum is determined by the estimated value of the object. The clause 'how much it is worth' we understand as 'how much is anyone's interest in retaining possession'. There is, though, the opinion of Servius who thought that the possession is to be estimated in accordance to the value of the object. But this is by no means to be accepted. For the value of an object is far from being the value of possession.

D 43.16.6 Paul 17 ed
In interdicto *unde vi* tanti condemnatio facienda est, quanti intersit possidere: et hoc iure nos uti Pomponius scribit, id est tanti rem videri, quanti actoris intersit: quod alias minus esse, alias plus: nam saepe actoris pluris interesse hominem retinere, quam quanti is est, veluti cum quaestionis habendae aut rei probandae gratia aut hereditatis adeundae intersit eius eum possideri.

> In case of the interdictum *unde vi* condemnation is to be made in accordance with the plaintiff's interest in possession; Pomponius writes that we follow this practice, which means that the subject matter of the dispute is estimated by the interest of the plaintiff, which sometimes falls short of the value of the object, sometimes exceeds it; for the interest of retaining a slave is often higher than his value, for example if one has an interest in questioning him, proving something or accepting inheritance.