

JOHN SHELTON

A RENUNCIATION OF HEREDITARY LEASE AT PAKERKE

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Lines 19-25 of P.Harris I 138 seem to have received no critical attention, but they record a very interesting transaction: one Taysiris, who held some sacred land on hereditary lease, renounced while still alive her claim thereto in favour of her grandson Horos. With the help of a photograph from the Central Library of the Selly Oaks Colleges I believe I have been able to clarify some points which were obscure in Powell's edition.

Transfers of property to prospective heirs during the lifetime of the owner are reasonably well known and take various legal forms.¹ This is the second to take that of ἔκστασις; the other is P.Münch. III 85. Ἐκστασις may have been particularly appropriate for a leasehold: the lack of full possession no doubt limited the legal ways of transferring title, and in this case the hereditary nature of the lease will have been an additional complication. It is this exotically rare type of landholding which presents the chief interest of the text: only two other published papyri of Roman date mention land that was μεμισθωμένη εἰς τὰ πάτρια.² Here and (presumably) in a still unpublished text seen by Wilcken³ the land is described as ἱερά, so the lessor was a temple. The land in P.Petaus 44.13 appears in a list of ἱεροτικά, which I suppose indicates the same thing; and there may be a few more occurrences in the Thmouis papyri.⁴ Only here do we possess an actual transfer of the leasehold on such land. One notes that it goes to a linear descendant of the leaseholder, but we do not know whether other persons than the grandson named could also have a claim on the inheritance. No sort of payment or other consideration is mentioned.

I give here my proposed new readings, citing enough context to show the flow of thought. The hand belongs to the first century AD. The persons are apparently known only from this text, see Jones and Whitehorn, Register of Oxyrhynchites s. nn. The contract is preserved only in this extract, but the extract is virtually complete.

¹ I assume because of the nature of the leasehold and the relationship of the parties that the principles of inheritance are relevant here. Admittedly the papyrus itself says nothing about it. It seems obvious that sale cannot be involved, and a datio in solutum should have mentioned the extinction of the debt; but a desire to be free of the taxes could theoretically have been a motivating factor. See in general H. Kreller, *Erbrechtliche Untersuchungen* 207-215; Montevicchi, *Papirologia* 207; P.Neph. 31.

² P.Oxy. XLII 3047.32f. and 39; P.Petaus 44.13. COP 53.12 and the parallel COP 34 show that hereditary leasing occurred in the Ptolemaic period, but P.Oxy. 3047 suggests that it was not limited to that time, see the note to lines 32-33 there. It is plainly related to Byzantine leasing in perpetuity, likewise a practice which is hardly attested in the papyri; see most recently P.Oxy. LV 3803.10 n.

³ Grdz. p. 301 n.4. There is no point in guessing at the identity of the temple. The few other texts from Pakerke of the Oxyrhynchite Central Toparchy (see Calderini - Daris IV 21) do not mention temples.

⁴ See P.Thmouis I p.21. The land there (assuming that it is legitimate to unify the references) was temple land, and taxed at 2 artabs per arura. That the leases were hereditary is not expressly stated, but it seems probable enough, as the land is treated as the private possession of individual persons.

- 19 Date, Location (Pakerke). ὁμολ(ογει) Ταυσίρις Πετοσίριος μητ(ρὸς)
 20 Ταποντῶτος Κολλούθου τῶι ἐαυτῆς υἰωνῶι Ὡρωι
 - - - - -
 22 [πάντες] ἄμφό(τεροι) ἀπὸ τῆς α(ὕτης) Πακερκῆ ἐξεστᾶσθαι τὴν Ταυσίριν
 23 ἀπὸ τοῦ νῦν τῶν ὑπαρχο(υσῶν) αὐτῆι - - - - -
 24 - - ἱερᾶς γῆς μεμισθ(ωμένης) εἰς τὰ πάτρια
 25 τῆς (διαρτάβου) ἀρο(υρῶν) βγ'.

«Taysiris, daughter of Petosiris and Tapontos, granddaughter of Kollouthos, agrees with her own grandson Horos ..., both of them from the same Pakerke, that Paysiris has given up, effective immediately, the $2\frac{1}{3}$ aruras of sacred land taxed at 2 artabs per arura which she holds ... on hereditary lease.»

- 19 The diaeresis in Ταῦσίρις in the ed. princ. is an editorial addition, not in the papyrus.
 20 ed. princ. reads Κολλού[θου τῆς] αὐτ[ῆς κόμ]ης before υἰωνῶι.
 22 ed. princ. omits the interlinear words. ἀμφό(τεροι) must be meant as a correction to πάντες, though the latter was not crossed out. The construction is not altogether grammatical: the scribe writes as though the contract had begun ὁμολογοῦσιν ἀλλήλοις with both names in the nominative.
 Πακερκῆι: the photograph allows reading a superfluous iota adscript rather than the sigma of ed. princ., and I prefer this, as the name is not usually inflected. In l.23 the ending is altogether unclear, so I would suggest -ηι there too.
 ἐξεστᾶσθαι is clear enough. The writing after τὴν is almost totally obliterated; but only Ταυσίριν, or α(ὕτην) Ταυσίριν, makes sense, and there is no palaeographic objection to either text.
 23 ὑπαρχο(υσῶν) rather than ed. princ. ὑπαρχό(ντων) now that the new reading ἐξεστᾶσθαι has explained the construction. Note that ὑπάρχειν can be used of land that is μεμισθωμένη εἰς τὰ πάτρια.
 24 τῆς (διαρτάβου): τῆς (δευτέρας) without explanation in ed. princ. Two artabs per arura is also the tax rate for the other certain instances of land on hereditary lease and for the suspected instances in Thmouis, see introd. nn. 2 and 4. The word διάρταβος in reference to land is uncommon and thus far limited to parcels from the Oxyrhynchite nome (Youtie Festschrift 65 = P.Oxy. XLVII 3365.51; P.Oxy. XLII 3047.32 and 39; XXVII 2473.19; VII 1031.12) and Thmouis (index p. 183, s.v.); but one could express the same idea with ἀνὰ πυροῦ ἀρτάβας β. That is naturally hard to find in indexes, but I believe it is not unusual. It was high for essentially private land, see P.Oxy. XLIV 3170.24 n. (The conditions and rates discussed in P.Cair. Isid. pp. 103ff. are too late to be directly relevant). τῆς, not γῆς, is certain.