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## 7.4 The Byzantine era: Greek, Coptic, and Arabic leases

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From a wealth of evidence, eight documents have been chosen for presentation below. The collection starts with two Coptic examples of leases of house property, *CPR* IV 114 (7.4.1) from Ashmunein and *O.Crum Ad.* 15 (7.4.2) from the Theban area. Like the Roman concept of *locatio-conductio*, the Greek notion of *misthōsis* included the leasing of objects both for simple use (*usus simplex*), as in the leasing of houses or apartments, and for yielding earnings (*usus fructus*), as in the leasing of land. While the designation of the documents themselves is always *misthōsis*, the designation of the rent varies in accordance with the different sorts of leasing (see Table 1). The rent to be paid for the leasing of house property was called *enoikion* in Greek and *shgor* in Coptic; in contrast, the rent to be paid for land-leasing was called *phoros* or *ekphorion* in Greek documents (see 7.4.3), while its Coptic designation varied according to the document's provenance: In Coptic leases from the Fayyum (no example here), the old term *shom*, already attested in Demotic leases of this region (*šmw*), is preserved. Coptic leases from Ashmunein had borrowed the Greek term *phoros* (see 7.4.4), and Theban documents used the Greek term *pakton* (7.4.5), which

<sup>157</sup> If this reading is correct, it is a mistake for "you."

<sup>158</sup> The lease does not specify the crop to be grown, but does this mean that the only crop of the year is to be a fallow crop (grass or legume), or that there is to be a second crop in the year, after wheat? The low rent perhaps suggests the former.

Table 1

MISTHŌSIS					
≈ <i>locatio conductio rei</i>			≈ <i>locatio conductio operis</i>		
<i>usus simplex</i> lease		<i>usus fructus</i> usufructuary lease		Contract for material and labor	
Term for "rent"		Term for "rent"		Term for "hire"	
Greek	Coptic	Greek	Coptic	Greek	Coptic
<i>enoikion</i>	<i>shgor</i>	<i>phoros</i> , <i>ekphorion</i>	Fayyum: <i>shom</i> Ashmunein: <i>phoros</i> Thebes: <i>pakton</i>	<i>misthos</i>	<i>beke</i>

was confined to a particular type of long-term agreement called *emphyteusis* (no example here) within the terminological system of Hermopolite documents.

One of the earliest datable Coptic lease documents, *BKU* 1 48 (7.4.6) is a specimen of a particular Theban type of Coptic land lease, the so-called *epitropê* lease, which often contained a sharecropping arrangement instead of a fixed rent amount. By far the latest known Coptic lease, *P.Lond.Copt.* 1 487 (7.4.7), issued in AD 900, is strongly influenced by Arabic documents, as can be seen by comparison with *Chrest.Khoury* 11 29 (7.4.8, an Arabic lease of AD 938).<sup>159</sup>

#### 7.4.1 Coptic *misthōsis*-lease of a part of a house

*CPR* IV 114 (= Vienna, papyrus collection of the National Library, inv. K 2569, Krall 1895, no. 125; re-ed. Till 1958: 108–09, no. 114 and Richter 2002c: 122–24, no. 3) (Ashmunein [Hermopolis], seventh century AD)

A papyrus 9 cm in height and 33 in width; text written in eight lines plus the docket on the verso. Both lessor and lessee are women. The Coptic clauses and phrases used to establish the agreement are renderings from the Greek *misthōsis*-scheme current in Hermopolis. The text starts with the introduction of the issuing party, the lessee, and the address to the lessor.

<sup>159</sup> In the translations below the spellings of the month names are given as they appear in Coptic; though different from, they will be easily identified with their Egyptian equivalents as transliterated through the Greek.

The entire body of the contract depends on the initial phrase, "I lease from you," recording the starting term of the lease (its duration was not fixed), the lease object, its appurtenances and location, the purpose of the leasing party, the amount of the rent (*shgor*), and the mode of its payment. The text closes with a stereotyped guarantee clause, the issuing date, and the lessee's stipulation.

*Recto*

*Address form:* † I, Kouper, the wife of the farmer John, I write to Lia, the daughter of [blank], the inhabitant of Shmoun:

*Deed corpus:* I lease from you as from today, the twentieth of the month Pakhons of this current eleventh year of indiction, your *exedra*-hall located on the first floor of the house, which opens westwards in the Street of Apa Gabriel, the street entrance opening westwards (too), and the joint use (*lit.*: share) of the cistern and of the stable and of the roof and of the remaining rights, and I will stay with you, and I will give you for the rent (*Coptic, amount in words:*) three *keratia* a year according to the exchange value, (*Greek, abbreviated, in figures:*) makes (in total) *k(eratia)* 3; and I give you that rent at the end of my year<sup>160</sup> as long as I will be staying with you.<sup>161</sup>

*Closing form:* As surety now, I have issued this *misthōsis*-deed. (*Greek, abbreviated:*) Wr(itten) (in the month) P(a)kh(ons), (day) 20, 11th ind(iction year) + + + (This is) Kouper's mark. † I, Kouper, I assent. I [...] son of [...], I have written for her, [...]

*Docket on verso:* The *misthō(sis)*-deed of K[ou]per; the rent is *k(eratia)* 3 †

#### 7.4.2 Coptic lease of a house, written on an ostrakon

*O. Crum Ad.* 15 (= Leipzig, Egyptian Museum of the University, inv. 504; Crum 1902, no. ad. 15, p. 23 (translation); re-ed. Richter 2002c: 136–37, no. 11, and Richter 2004) (probably Theban area, eighth century AD)

Written in ten lines on a reddish smooth potsherd of 9 cm in height and 12 cm in width. The lessee, being the issuing party, is a woman. She mentions an earlier conversation and gives an amazingly terse account of

<sup>160</sup> "my year," i.e., a year counted from the starting term of the lease, the 20th of Pachon.

<sup>161</sup> I.e., the duration of this lease was not specified, but left to the lessor's discretion. Other Byzantine leases had an explicit clause stating a term *eph' hoson chronon boulei* "as long as you like" (see Comfort 1934a).

the lease object, a house, which is referred to only by the expression "this house." Unlike the Greek and Coptic lease documents from Hermopolis, one of the larger towns of Byzantine and early Islamic Egypt, *O. Crum Ad.* 15 had a village background. Parts of the agreement could therefore have easily been settled in oral conversation and seemed unnecessary to put in writing. The details about the house as well as its location remain unstated. In the following clauses, likewise extremely short, the starting date and duration of the tenancy and the amount of rent (*shgor*) are fixed. The occurrence of the Arabic silver currency, the *dirham*, gives reason to date the piece to the eighth century, in conformity with the palaeography.

*Invocation and address form:* In the name of God! It is I, Kyra,<sup>162</sup>  
(daughter of) Iethit,<sup>163</sup> who writes to Kometos:

*Deed corpus:* Since I have spoken with you, you gave me this house, so that I dwell in it one year as from day twenty-four of (the month) Mechir up to day twenty-four of (the month) Mechir, and I give you its rent in the manner we have settled with each other, namely one *dirham* less two (corns of) barley.<sup>164</sup>

*Closing form:* Kyra assents. (As for me,) Severos (son of) Mena, <she> asked me, I am writing for her.

### 7.4.3 Greek *misthōsis*-lease of arable land

*P.Lond.* III 1012 (cf. Herrmann 1958 and Hennig 1967) (Hermopolis, 7 September AD 633)

London, British Library, text written in forty-seven lines plus one line of the docket on the verso; from Hermopolis (Ashmunein); dated to the 23rd regnal year of the Emperor Herakleios, i.e., AD 633, which is a rather late date for a private legal document in Greek. The tenant, who is the issuer of the lease, and the lessor, its addressee, are identified as *geōrgoi* "farmers," and, in keeping with Byzantine custom, both bear the status designation Aurelius, pointing to Roman citizenship ultimately derived from the *Constitutio Antoniniana*, which is scarcely ever found in Coptic documents. In the deed corpus, introduced by

<sup>162</sup> In Coptic contexts, the Greek word *kyra*, literally meaning "mistress," does often occur as a proper name.

<sup>163</sup> A form of the Old Testament name Judith.

<sup>164</sup> The mode of counting in "corns of barley" is inspired by the Arabic weight unit *hābba*.

and subordinated to the verb *homologô* "I declare" (cf. above, 2.7), the starting day and duration of the lease, the sort, size, and location of the lease object – a plot of arable land – the agricultural work to be done by the lessee, and the amount as well as the quality of the rent (*phoros*) to be paid in kind in the month of Epeiph (June/July) are all recorded. The rights of use appertaining to the lease object include access to a cistern, a waterwheel, and an ox stable (no reference to whether with or without inhabitants), showing that this tenancy was not entirely dependent on the Nile flood but could be irrigated artificially by means of a waterwheel fed by a cistern driven by oxen (cf. also below, 7.4.4 and 7.4.5).

*Invocation:* † In the name of the holy and vivifying and consubstantial Trinity, of the Father and of the Son and of the Holy Spirit!

*Date:* In the twenty-third year of the reign of our most divine, most gentle, god-crowned rulers Flavii Herakleios and Herakleios Neos Konstantinos, the eternal Augusti, the *imperatores* and greatest benefactors, in (the month) Thoth the 10th, in the seventh (year of) indiction †.

*Address of the lessor and self-introduction of the tenant:* † To Aurelius Daniel, the farmer, son of the late Christodoros, of Hermopolis †. From Aurelius Joseph son of Paul, of the mother Martha, farmer (as well), of the same city.

*Deed corpus:* I declare that I have willingly and voluntarily leased from you for one year, that means, (for) the crops of the – with God's will!<sup>165</sup> – coming eighth (year of) ind(iction),<sup>166</sup> and only that!<sup>167</sup> the three arouras of arable land belonging to you, corresponding to (*lit. filling*) 64 *hammata* according to the right measure(?) per each aroura, situated in the field called Tbôte in the landmark of the village Thynis under the protection of the Hermopolite nome, together with their right of use (*lit. their share*) of the cistern and of the waterwheel and the ox stable there, and of every right (of use), for sowing and planting of whatever produce I may choose,

<sup>165</sup> A phrase due to the subsequent reference to future time, expressing a religious feeling of cautious reservation, just like the Latin *Dei voluntate*.

<sup>166</sup> The expression "crops of an indiction" makes a statement as to the fiscal liability; see Comfort (1934b).

<sup>167</sup> This expression stands in contrast to phrases like "and so forth" and "and from then forwards." It means the present tenancy cannot possibly be extended beyond the stipulated term of one season.

the rent being fifteen artabas of wheat, total, wheat art. 15; which rent I shall pay to you (in) new, clean, unadulterated, sifted (wheat), (measured) by your "Athenian" measure, and (which I) shall deliver for you to your house in Hermopolis by my own private beasts of burden and at my expense, in the month Epeiph of this same indiction year.

*Kyria clause:* The (present) lease is valid and guaranteed.

*Stipulation clause:* And in answer to the formal question I have given my consent. † (I,) Aur(elius) Joseph, so[n of Paul, have taken the lease as set forth.]

The expected witness signatures and the completion note of the notary are lost. On the verso are traces of the docket, mentioning the tenant's name.

#### 7.4.4 Coptic *misthōsis*-lease of a "waterless aroura" of land

CPR IV 117 (Vienna, papyrus collection of the National Library, inv. K 3122; Till 1958: 112-13, no. 117) (Ashmunein [Hermopolis], seventh century AD)

Papyrus, 35.5 cm in height and 12 cm in width; text written in twenty-nine lines plus traces of the docket on the verso. The Coptic clauses and phrases are rendered from the Greek *misthōsis* scheme of Ashmunein. After the common opening formulas (a trinitarian invocation, the dating, and the introduction of the parties), the deed corpus, introduced by the Coptic equivalent of the Greek *homologō*-formula, gives the business details in the stereotyped order: first, the duration and starting date of the lease are fixed; thereafter the lease object is designated and specified as to its size, quality, and location, then the agricultural work to be done by the tenant is mentioned, and last, the amount of the rent (*phoros*) and the mode of payment are recorded. The plot of land is specified as a "waterless aroura," which means that it was located outside the inundated area. But as it was lying amidst an artificially irrigated field and surrounded by such fields, it may have been connected to water-lifting devices.

*Opening form: Invocation, issuing date, self-introduction of the tenant and address of the lessor:* [† In the name] of the Father a(nd) the Son [and the Holy Spi]rit! Written in the month [. . ., day x of the] current ninth year of indiction. [I,] the deacon [. . .] son of the late Mēna who has been deacon too, the inhabitant of Schmūn, [I am writing to the] *dikaion* of

my Lord, the Saint Theodore [of Pawôr]e,<sup>168</sup> (represented) by the most reverent deacon and estate manager Apa Viktor:

*Deed corpus:* I am glad and I agree, [being willing, without] regret, that I lease from you for three [consecutive] years, the space of time counted from the sowing [of this] current ninth [year] of indiction, the harvest however from – with God’s will!<sup>169</sup> – the tenth indiction, the belongings of the *dikaion* of this very monastery, (namely) one waterless aroura [...], located in Tsenoshîsh in the (artificially irrigated) field [which they call] “the field at the dike,” according to its neighbors, [adjacent to its four sides] as follows: its southern side – the canal, its northern side – [the ...] of the “field at the dike,” its eastern side – the fields [...], its western side – the fields of the (artificially irrigated) field [...], and its neighboring etates are bordering on its four sides; [and that I shall] sow it with whatever produce I may choose, and shall harvest it, and that I shall [give you] for its cash-rent<sup>170</sup> five *keratia* a year; [(as to) this] cash-rent now, I am ready to give it [to you every] year in the month Hathor without any ambiguity.

*Closing form and witness signatures:* [For your surety now, I] issued this *misthōsis*-deed for you, honestly swearing [by God that I shall be watch]ful for you in accordance with its validity. (*2nd hand*) [I, ...], this most humble deacon, son of the late Mena [who too has] been deacon, inhabitant of Shmoun, I assent † (*3rd hand*) [I, ...]emon son of the late Kollouthe, inhabitant of Shmoun, [I am witness ...] ...

*Traces of the docket on the verso*

#### 7.4.5 Coptic *misthōsis*-lease with waterless clause

*O.CrumVC* 33 (British Museum EA 44717, Crum 1939b, no. 33; tr. Crum 1939b: 17, Till 1964: 240–41; the *abrochos*-clause is dealt with by Richter 1998: 61) (Theban area [Taut], seventh/eighth century AD)

<sup>168</sup> The landlord is a monastery, acting by its legal department, the so-called *dikaion*, which is represented by the person of an estate manager (*phrontistēs*) in the rank of a deacon. Interestingly enough, the tenant, saying “the *dikaion* of my Lord the Saint Theodore,” addresses not the monastery but its patron saint himself.

<sup>169</sup> A phrase due to the reference to future time, expressing a religious feeling of reservation, just like the Latin *Dei voluntate*.

<sup>170</sup> Literally, “rent in gold,” as opposed to rent in kind. While the due date of the latter used to fall in a time shortly after the harvest, the payment of cash-rent was not terminated in such a manner. There are cases attested where the rent total was composed of an amount of money and an amount in kind, with two different due dates.

Text written in sixteen lines on a potsherd; from the *castrum* Taut in the area of Thebes. From the third century BC, the invention and improvement of water-lifting devices had made steady progress, but only in Byzantine times did the most effective watering machine, the waterwheel (called *mêchanê* or *kykleutêrion* in Greek, in Coptic *khoi*, nowadays in Arabic *sakîyah*) become increasingly widespread, lessening the risk of failure for the parties to agricultural leases. But in the present case, the tenancy is explicitly said to be lying “outside the artificially irrigated field,” so that the success of agricultural work was entirely dependent on the height of the Nile flood. This might have caused the insertion of a so-called *abrochos*-[waterless, not inundated]-clause, setting a reduced rent amount to be paid in the case of a low flood (corresponding to the *remissio mercedis* “rent discount” of Roman law; cf. De Neeve 1983). When the agreement was issued at the first day of the month Thot, corresponding to 29 August, the irrigating and fertilizing waters of the Nile had just started to fill the artificial storage basins along the riverbanks. Despite an elaborate system of water-level measuring, there seem to have been residual doubts about whether or not the flood would reach certain areas in the region. For the first case, a sharecropping agreement was settled, otherwise, a low fixed rate of crops per aroura was to be paid by the tenant.

† We, Azarias son of Konon, in (the town of) Taut, and Iakob son of Isaak, inhabitant of the same *castrum*, are writing to the heirs of Tsia daughter of Tagia:

We have made a *misthōsis*-document for you concerning your fields which are located outside the artificially irrigated field of Mena, (son) of Kale, in the north of the ditch; and we sow them in the sowing of this eleventh indiction year at our expense and with our cattle and with our laborers; and we give you their rent (*pakton*), (being) one and a half artabas of [wheat] per aroura in the “small year,” (or otherwise,) if they receive (inundation) water, the half (of the yield) [for you, the] (other) half for us. As a guarantee for you, we issued this *misthōsis*-document for you; it is secure. (Greek:) Written (in the month) Thoth the 1st, 11th (year of) indiction.

(Coptic:) [† We,] the afore[mentioned Az]arias and Iakob, [we] assent to this *misthōsis*-document as it stands.

#### 7.4.6 Coptic *epitropê*-lease with sharecropping agreement

BKU 1 48 (= Berlin, Papyrus Collection inv. P 865; Stern 1878: 19, no. 2; Revillout 1914: 23, no. 67; tr. Till 1964: 16; Hasitzka in *SBKopt.* 11, no. 951) (Theban area, c. AD 600)

Text written in twenty-four lines on both sides of a slab of limestone; from the Theban area; around AD 600 (written in a third indiction year, such as 584, 599, or 614). The scheme is related to the Theban type of Coptic lease document called *epitropê* "commitment," but it differs from them by its particular societal attitude. Although the text starts with a common unilateral address formula and the usual promise by the tenant "that I sow your part of the fields," it continues, "and we work on it." Eventually the closing formulas are properly bilateral, saying: "we have drawn up this declaration together as an *epitropê*, we assent." Consequently, not only is a sharecropping agreement settled, as often in the Theban *epitropê* type of leases (and likewise in the Theban *misthōsis*-lease, e.g., 7.4.5 above), but any expenditure, from the seed to the land-tax, shall be paid for by both parties. The monk David who has written the ostrakon is a well-known personality of early seventh-century Djême; he was one of the secretaries of Apa Abraham, the abbot of the local monastery of Phoibammon and at the same time the bishop of Hermonthis. For Abraham's dossier, see 3.4.3 (Ex. 2).

† It is I, Azarias son of Kyrikos, inhabitant of Ramow, who writes to Iakob son of Daniel, the monk.

After we agreed with each other that I shall sow your share of the fields (named:) "the clay<sup>171</sup> soil of the herdsmen," I am now ready to work on it without negligence; and we will work on it for half (of the yield) for each (of us); and the seed and the whole expenditure shall be paid in full from the common (i.e., the unshared crops), and (as for) the land-tax, we will pay it together, and (as for) the chaff, we will share it between us.

Together we issued this *epitropê*-declaration; we, Azarias and Iakob, we assent. I, David, this most humble monk, I have written this *epitropê* with my own hand on day five of (the month) Thot of the third year of indiction.

#### 7.4.7 Late Coptic lease of a tenancy "without survey"

*P.Lond.Copt.* 1 487 (= London, British Library, Or. 5287(I), Crum 1905; re-edited by Richter 2003) (probably Ashmunein, AD 900)

Written on a narrow, vertical piece of papyrus, 22.6 (H) × 6.5 (W) cm, which had been folded fourteen times in width and twice in length.

<sup>171</sup> "Clay soil" (in Coptic *ome*) as a sort of arable land is a peculiarity of Theban documents from the New Kingdom onwards.

Provenance presumably from Ashmunein. Dated 287 *hijra* = AD 900. This latest attested Coptic lease document is more than terse, it is almost telegraphic. Its scheme and its terminology are borrowed from contemporary Arabic leases. The text is issued by the lessor, as was usual in Arabic leases. It mentions nothing but the first names of the parties and of a third, unspecified person (perhaps a witness), the location of the tenancy (specified as one “without survey,” cf. below, introduction to 7.4.8), and the issuing date. Obviously, some important bits of information remain untold: we do not even learn anything about the term of this tenancy (which may have been one season) or the amount of rent to be paid. The use of Coptic as a language of legal documents was limited at that time to the narrow confines of Coptic village communities and their networks; the effectiveness of a document like the present one may have been small, not much above the oral agreements that seem to have been common in the case of the annual lease business (cf. Eyre 1997 and 2004).

//In the name of God! I, Anoup, I am writing to Phakeu:

After you asked me, I have given to you a tenancy without survey beneath the canal that carries water from the “dike of the Amîr” northwards. I, Anoup, I assent in this current year 287.

Papostolos (being witness), a tenancy.

#### 7.4.8 Arabic lease of a tenancy “without survey”

*Chrest. Khoury* II 29 (= Vienna, papyrus collection of the National Library, Inv. Chart.Ar. 11314, *PERF* no. 955; descr. Karabacek, Krall, and Wessely 1894: 253, no. 955; ed. Grohmann 1950: 82–84, no. 1 + Plate II; re-ed. Grohmann and Khoury 1995: 101–03; for the scheme and its terminology cf. Frantz-Murphy 2001) (Ashmunein, AD 938)

Text written in nineteen lines on a leaf of paper, 21.3 cm in height and 10.5 cm in width. From Ashmunein. Dated 326 *hijra* = AD 938. Just like the late Coptic lease 7.4.7, this Arabic document concerns a “tenancy without survey,” an expression referring to certain irregularities in the official annual surveying of arable land on the banks of the Nile (cf. Frantz-Murphy 2001: 161). As under the conditions of flood-fed irrigation, both the location and size of fields varied considerably from year to year (cf. Eyre 2004). In the present case, the unspecified size of the leased-out fields must have been considerable; the extraordinarily high rent of 20 dinars would point to some 80,000 square meters. As usual in Arabic lease documents, which were always issued by fiscal agents formally acting

as lessors, the state and its interest in land tax are much more visible than in the earlier Greek and Coptic land leases. While all issues of agricultural work are explicitly left to the tenant's discretion, his liability for correct and on-time tax payment is treated in great detail. The text starts and ends with an abstract, at least one of the two probably still visible after the paper was folded.

The translation of Grohmann and Khoury (1995) is followed.

*Abstract:* Tenancy that (previously) was in the hand of Rauh ibn Abd-al-Rahman, (including) everything within its boundaries in the last year, a tenancy without survey. Dinars: 20.

*Invocation and address:* In the name of god, the Merciful the Compassionate! Praise be to God, the Lord of the world! This is the record of Ali ibn Muhammad ibn Ahmad, the tenant in the island of Maqbalā, for the year three hundred and twenty six. He wrote it for Muhammad ibn Ibrahim, the bean seller.

*Deed corpus:* Verily, you asked me and requested that I rent you the tenancy known as "Tenancy of Rauh ibn Abd-al-Rahman" from the soil of Maqbalā, (that) you sow (on) it whatever you want, (as) a tenancy without survey, for twenty dinars' weight measure,<sup>172</sup> right, without discount,<sup>173</sup> according to the schedule<sup>174</sup> current in this area. You (may) sow (it) or you (may) leave (it) without work, its tax-in-money<sup>175</sup> is incumbent upon you, and on condition that you fulfill your tax-in-money together with the governor's (sultan's) – may God strengthen him! – installments and his expiry dates, so I grant you that. So sow with the blessing of God and his help, and you are responsible for that. And that (was written) in (the month) Dhu-l-Qa'da of the year three hundred and twenty-six, 326.

*Summary:* Tenancy of Rauh in the last year, a tenancy without survey. Dinars: 20.

<sup>172</sup> For the term *mithqāl* used here, see Frantz-Murphy (2001: 133–34).

<sup>173</sup> The term *sarf* "schedule, register" used here "should be understood as a discount given for paying in gold coins, dinars. Payment in crops, or even in coins other than gold dinars, would have involved an exchange rate. Payment made in dinars, the unit of account that did not have to be exchanged, would result in a discount, since there was no need to pay an exchange rate" – Frantz-Murphy (2001: 149).

<sup>174</sup> For the term *rasm* used here, see Frantz-Murphy (2001: 113–14).

<sup>175</sup> For the term *kharāj* used here, see Frantz-Murphy (2001: 25–31).