Donatio Mortis Causa

By
Mohammed El-Ashiry

P. Cairo Mus.inv.No 3729 / 10
21.1 x 8.3 cm.

Provenance Caranis
29 November 169 A.D.

This papyrus consists of 27 lines. The left hand side is incomplete, there are about 45 missing letters per line on this side. On the other hand, the right side margin has not been completely preserved. Most of the last letters contained in this side seem to be complete, whereas ligatures of some other letters reach the edge of this side. There is an upper margin of 2.7 cm. and a lower margin of ca. 7 cm. The papyrus suffers 2 vertical rifts, besides; it has some worm holes. The writing is on the recto. The document, which is on its verso, is a copy of a report made by soteriologus of Caranis addressed to the strategus in 222 A.D., in this papyrus remained without reusing for about 53 years (See; E.G. Turner: Recto and Verso, JEA, 40, 1954, 102 ff.).

This document is a will of the Egyptian type, i.e. "donatio mortis causa". In other words, to be effective only after the death of testator, μετά τῆν τελευταίαν (cf. line 11). Since the papyrus is much mutilated, about 4 letters are missed per line, it could not be possible to guess the name(s) of the heir(s), or the inheritance itself. It is not known whether this document is the original of the authentic will, διαθήκη αὐθεντικὴ, or a copy taken after the authentic will was opened (cf. lines 4 - 5).
In this document, the testator is a woman called, Ταυτημέρος, it appears from the name that she is an Egyptian woman. The position of the slave, Βερινίκη, that occurs in line 13 is not clear; whether she would have been emancipated by the force of this will, or she would have been inherited. The text contains two obligations imposed on the heir. First; is to pay back at debt that may appear, καὶ ἐὰν δὲ τι φανῇ ὅθείλων ἀποδόσει (cf. line 14). Second; is to defray the expenses of the funeral and burial of the testatrix body at death, αὐτὴς κηδείαν καὶ περιστὸ[λην ἀργυρίου δραχμᾶς (cf. line 15).

There is also a special clause inserted in this document which indicates that the testatrix keeps for herself the right to dispose of her property, whatever way she wishes, as long as she lives (cf. lines 15 - 16). And perhaps to annul her will.

After the death of the testatrix the heir took his official certificate, ἐκδόσιμον τῆς διαθήκης, to the agoranomeion, asking for opening the will. The Application for opening of wills was presented to the strategus, who had to attend the procedures of its opening. Witnesses or at least the major of them "major pars signatorum" who had sealed the will, had also attend these procedures to revise their seals and to make sure that the will was under seals ἐπὶ σφραγίδων, and that the seals were intact.
Τext

[瑷τους ἐκάτω Αὐτοκράτορος Καίσαρας Μάρκου Αὐρηλίου Αὐτονεινού]
[Σεβαστοῦ Ἀρμενιακοῦ Μηδικοῦ Παρθικοῦ Μεγίστου καὶ Αὐτοκράτορος Καίσαρας Λουκίου]
[Αὐρηλίου Οὐήρου Σεβαστοῦ Αρμενιακοῦ Μηδικοῦ Παρθικοῦ] Μεγίστου μηνὸς Ἀδριανοῦ γ [τῆς Ἡρακλείδου μερίδος τοῦ Ἀρσινοῦτον νομου̱ς7].

ἐκ τῆς λυθείσης αἰθέντικης

[διαθήκης .. (ἐτεί) Αὐτοκράτορος Καίσαρας Μάρκου Αὐρηλίου Αὐτονεινοῦ Σεβαστοῦ Ἀρμενιακοῦ Μηδιλοῦ Παρθικοῦ Μεγίστου καὶ Αὐτοκράτορος Καίσαρας Λουκίου Αὐρηλίου Οὐήρου Σεβαστοῦ Αρμενιακοῦ Μηδικοῦ Παρθικοῦ Μεγίστου μηνὸς7].

.α. διωλογεῖ Ταυνημέρος

[43 μὴτρος Αρτέμης ἀπὸ κάμης Καράκινδος] [45] Ἵμι διὰ Αἰλίου Σαραπίωνος εὐάρχων

[44] Πιασσείτου Πολυνίκου ἀπὸ τῆς [καυτῆς κάμης Καράκινδος725] μετα τὴν καυτῆς τελευτήν

[45] ἦρμου τοῦ Παρ- [44] αὐτῆς δούλην δυναμίατι Βερνείκην


[45] περὶ αὐτῶν ὡς καὶ βουλήται τρόπῳ [44] αὐτῆς κηδεῖαν καὶ περιστοπλήν ἀργυρίου (δραχμάς) ..
[44] ὑπογραφεῖς τῆς ὅμωλογονύσης
[45] Ἰος Ἁσκίληπταλοῦ του Σωκράτους
[46] ὡς (ἤτοι) λγο σολήν
[47] ὡς (ἤτοι) καὶ σολήν παρὰ δόθαλμον δεξιόν
[48] ὡς (ἤτοι) οὐλή ἀντικυθημίωι ἀριστερῶι Μέγαρος
Δίδυμοι
[49] Ἀτρηνόλιον Ἀπολλωνίου του Σαραλίωνος
[50] ὥσιλου καὶ ἀντέβαλον προφ. Ἰππου
[51] ἤτοις θ' Ἀντωνείνου καὶ Οὐήρου τῶν
[52] ἑσπερίων Σεβαστῶν 26 παραβιδίδει καὶ ὑπογραφεῖ
βιβλίον ἀνοφάλλας Ἀρσιοείτου
[54] ὡς πρόκειται.
Translation

"The 9th year of the Emperor Caesar Marcus Aurelius Antoninus Augustus Armenianus Medicus Parthicus the Great and the Emperor Caesar Loucius Aurelius Verus Augustus Armenianus Medicus Parthicus the Great, 3rd of Hadrianus month, in accordance with the authentic will, which was opened in the ...th year of the Emperor Caesar Marcus. Aurelius Antoninus Augustus Armenianus Medicus Parthicus the Great and the Emperor Caesar Loucius Aurelius Verus Augustus Armenianus Parthicus the Great (month and date). Taeuemeros (daughter of N.N. ?) whose mother is Arteme, from the village of Caraxis in the division of the Heraclides in the Arsinoite Nome, through Aelius Sarapion, at office (of the notaries), Pasoxites son of Polyaemus, from the same village, acknowledges that she bequeaths, after his death..... Ioulius Serenos. Concerning her own female slave, whose name is Bernice... and he/she (the heir) ought to pay any debt that may appear. As long as she is alive, she is to have her power over (to revoke the will, to use and to dispose) of them, in whatever way she wishes. He/she "the heir" ought also to perform the obsequies and laying out her (body). After the acknowledgment had been signed, (the will was sealed) by ... and ... Asclepias, son of Socrates, ..... and ... nos son of Leonides, whose age is about 33 years old, having a scar on his left eye, and ... having a scar on the right leg, and Meyrus son of Didymus and Aurelius Apollonius son of Sarapionos, ..... and (the will) was revised. In the 9th year of Antoninus and Verus the Lords Augusti....., she handed over at signed (the acknowledgment) for the keepers of the archive of the Arsinoite Nome, ..... as mentioned above."
Notes

1-3, 5-7 The calculation of the length of the missing part on the le side is based on the imperial titles in these lines, cf. e.g. P. Lond. 336, 1- (Arsinoe, 167 A.D.); P. Flor. 382 (Arsinoite Nome, 166 / 167 A.D.), 67 - 7: This document dates back to the 9th regnal year of the Emperors Marcus Aurelius and Verus, who were ruling together from 161 to 169 A.D. The enjoyed the titles Μηδικοί Παρθικοί Μέγαστοι only in the Summer c 166 A.D.; i.e. sometime during their 6th or 7th regnal year. (For the imperial titles see; Paul Bureth, les Titulatures Imperiales dans les Papyrus, le Ostraca, le Inscriptiones d'Egypte, Bruxelles, 1964; see also; W.H.M. Liesker & P. sijpesteijn, More remarks on some Imperial Titles in the Papyri III, ZPE, 36 1986, 284 ff.) (cf. line 25).

Ενάστον is reconstructed in accordance with the letter "Θ" of L.25. The 3rd of Hadrianus = 29 November. It is remarkable that months in Roman names are usually preceded by μην (month) see; e.g. P. Wisconsin II, 13 (Oxyrhynchos, early second century A.D.), I:

"μηνὸς Νεοί ν Σεβαστοῦ κς" and note loc. cit.; P. Flor. 68, 4, 12; P.Oxy. 2589, 7; 2590, 15.

4 - 5 Restoring the διαθήκης after the αυθέντικης is common (see e.g. BGU 326, ii, 23 = A. El-Mosallamy, Revocation, P.61; SB 1050C 35 sqq.). διαθήκης αυθέντικη is to be followed by the date in which th will was opened as the verb, λειν, takes place. (See e.g. P.Oxy. 715 (13 A.D.), 19-20. In spite of the fact that the great number of parallel document dealing with the opening of the wills are available. I do not find elsewhere close parallel to the construction of "... έκ τῆς λυθείσης..."
Wills were usually opened and read on the same day before the strategai, see BGU 326, II, 21 (189 - 194 A.D., Arsinoite Nome): ἡνύγησα καὶ ἀνεγνώσθησαν τῇ αὐτῇ ἡμέρᾳ ἐν ἑ καὶ ἡ διαθήκη ἐλαύνη. They were also opened before an official body, "statio vicesimaria in the temple of the Emperor, or in the forum of the Emperor; see BGU 326, II, 10-11: ἡνύγη [κ]αὶ ἀνεγνώσθη Ἀρσινοείτης μητροπόλις ἐν τῇ Σεβαστῇ ἀγορᾷ ἐν τῇ στατιάδι τῆς στατιάδος τῶν κληρονομιῶν ... κτλ."; P. Berol. 7124, 11 (Arsinoite nome, 131 A.D.) "Ἀρσινοείτου ονοματος εἰς foro Augusto anto sta[t]ione[m] ho(recitatium) in Arsino[e]" (See H.Kreßler, op. cit. 404).

7 - 9 Ταευημέρος occurs many times in the Tax Lists from Carana, cf. P.Mich. 224, 257, 5234, 5297, 5350, 5368 (Caranis, 173 - 174 A.D.). The full name of this testatrix lies in the lacuna of the beginning of line 8, her father's name and grandfather's name. But her mother's name Arteme has been preserved. The construction of the "ὁμολογεῖ N.N." is common, followed by full details related to the acknowledger, i.e.; his (her) full name, location, age, distinguishing scars see; P. Wisconsin II, 13, 13 (note) (Oxyrhynchus, early second cent. A.D.). In this approach "τῆς Ἡρακλείδου μερίδος τῆς Ἀρσινοείτου νομοῦ " could be supplemented at the lacuna from:
beginning of line 9 see; e.g. SB. 10797, 2-3 (Caranis, 232-236 A.D.): ἱππὸ κόμης [Καράνιδος] [τῆς Ἱρακλείδου μερίδος τοῦ Ἀρσινοίου τοῦ νομοῦ]. About 7 letters, which should be the date, will be nevertheless left without restoration.

10- Πασοξῖτου Πολυνδίκου, this name also occurs many times in the Tax Rolls from Caranis, see e.g.; P. Mich. 223, 2418 (Caranis, 172 A.D.); 224, 3746, 5128, 5906 (Caranis, 173-174 A.D.); 225, 86 (Caranis, 174-175 A.D.). In our document Pasoxitos might be either the heir or one of the associates of the agoranomeus Aelius Sarapion.

[Ἀνδρὸς κόμης. it would be plausible to be given at the beginning of line 11, to go with ἀνήρ της of line 10, for this construction see; e.g.; SB.10880, 4 (Arsinoite Nome, after 119 A.D.).

11- Μετὰ τὴν Ἑλενῆς τελευτῆς indicates that such a will, will be only in force, after the testatrix’s death, and as long as she is alive she keeps for herself the right to dispose of her property in whatever way she wishes, she may also keep for herself the right to annul the will whenever she likes. (See Taubenschlag, The Law of Greco-Roman Egypt in the Light of the Papyri from 332 B.C.-640 A.D., Warszawa, 1955, pp. 204-207; Kreller, Erbrechtliche Untersuchungen Aufgrund der Graeco-Aegyptischen Papyrusurkunden, Berlin, 1919, 215 ff.; O. Montvecchhi, La Papirologia, Torino, 1973; 207; P. Merton 105, Introduction, (Tebtunis, 164 A.D.). It would be plausible to insert before or after the phrase, μετὰ τὴν Ἑλενῆς τελευτῆς, verbs such as: καταλείπειν, to leave, συνελέαιν, to concede...etc. See; e.g. P. Oxy. 493, 16 (early second century A.D.); BGU 86, 5 (Arsinoite Nome, 155 A.D.); SB.10888, 2-3 (Arsinoite
Nome, after 119 A.D.); 11042, 25 (Caranis, 320 A.D.); P.Fouad 33, 21 (I (A.D.)).

12- Ἰαροῦ, there are various forms of names ending with -ας e.g. Διδάρος, Οινάρος, Πολυάρος, Βοκάρος .... etc. see; B. Han Rucklaufiges Worterbuch der Griechischen Eigenamen, Berlin, 1957. Πα There are also various forms of names beginning with Παρ- Παράδειγμας, Παράδοχος, Παράμεσος...etc. (see; P/N and F/O).

13- Since this line does not contain a verb indicating whether the female slave Bernice, would be emancipated or be inherited, the lacuna at the beginning of this line is left without any restoration see; e.g. P. Lugd. Batava 14, 13 (Arsinoite nome, II cent. A.D.) μοὴν δούλη μοῦ ὄνοματι Σῶραν "; P.Oxy. 907, 14 - 15 (276 A.D. καὶ καταλείπω τὴν δούλην ὄνοματι Εὐνοίᾳ�.

14- In accordance with the Egyptian law of inheritance, the heir is responsible to pay any debt made by the testator or encumbrance that may appear (Taubenschlag, Law, 218). See e.g. P. Oxy. 3498, 33 (274 A.D.) ἐὰν δὲ τι φανὴ ὀφειλόμενον ἡ ἔξακολουθον, P. Oxy.494, 22 (156 A.D.) ἀποδώσῃ πάντα ἃ ἐὰν φανὸ ὀφείλων, SB.10888, 13 (Arsinoite Nome, after 119 A.D.) καὶ ἀποδώσῃ ὃν ἐὰν φανὴ ὀφείλων; P.Lugd. Batava XIII, 14, 20 (Arsinoite Nome, II Cent. A.D.) ἐὰν δὲ τι φανὸ ὀφείλων For the responsibility of the heir. (See Taubenschlag, Law, 192, 218.) (Cf. also line 17).
15 - 16 Verbs such as κραδοθαι (to use), διοικεῖν (to dispose of), ἕπιπελεῖν (to make any further provisions), μεταδιατίθεσθαι (to alter), ἀκυροῦν (to revoke); some of them or altogether could be given in the lacuna of line 16 before περὶ ἀντῶν ἵνα to show that the testatrix insists on her right; e.g. P.Oxy. 1048-9; BGU 183, 25; P. Oxy. 1200, 26ff. In this regard [ἐ]ξοδοσιαν ἔχειν [...][...]ων in line 22 of SB. 11042 (Tellahun, 33 A.D. must be reconsidered and the lacuna left could be supplemented to be [ἐ]ξοδοσιαν ἔχειν πάντων.

17 - Also, out of the obligations imposed on the heir, is to defray the expenses of the funeral and burial of the testatrix's body at death. (See BGU 396, 7 (Arsinoite Nome, 161 - 169 A.D.); P. Lund. VI, 6, 10 ff. (Arsinoite nome, 190 - 191 A.D.); P. Oxy. 2348, 34 - 35 (224 A.D.); P. Tebt. 381 (121 A.D.); 17; P. Tebt. 493, 5 (190 A.D.); SB. 10888, 12 (Arsinoite Nome, after 119 A.D.)) Cf. line 14.

19 - 23 These lines contain names of the witnesses who sealed the will. Their full names as well as their identifications are mentioned such as, αὐτῶς (ἢ τῶ...), and their distinguishing scars. It is noticeable that most of the readable names listed occur in the Tax Rolls from Caranis, cf. P. Mich. 223; 224; 225. Concerning Μου which lies in line 20, there are various forms of names ending with -νος e.g. Βάνος, Πολεμαῖονος, Λουκίανος... etc (see; H/R).

To make the will valid, witnesses were required either when the will was drawn up before the notaries or had been written by the testator and handed over to the notaries. Sealers who witnessed wills were in general six in number...
but few documents record seven witnesses instead of six, e.g. BGU III, 43: "ἐντὸς ἐίσιν ὄφραγινοι" see also P. Lond. 1716, intro., Mario Amelotti, Il testamento romano attraverso la prassi documentale, Fire 1966 in his note on L. 14 on PER 1702 (13) in p.272.

24- Although most of this line falls in the lacuna ἀνεβαζ[\ldots] could be easily restored, see; e.g. P. Berol. 7124, 8 - 11 (131 A.D., Arsinome).Μᾶρκος Σεμπρόνιος Πρεσίσχος ἀνεβάζομεν τὴν διθηκὴν καὶ ἐπανέγνωσθη μοῦ καθὼς πρὸ\ldots Κείται, P. Ha 72, 48 - 51 (2nd cent. A.D.); P. Oxy. 1478, 4 (Late First Century A.D.). (J. O. Gueraud & P. Jouguet, Un Testament Latin, Etudes de Papyrologie, Té Sixième, Le Caire, 1940, II. 48 - 51; H. Kreller, Fabrechliche, 404 - 405).

25-26 For the titles of these two emperors together; see P. Rydl. 1167 A.D.), 6-7; P. Arch. 75(161 - 168 A.D.), 4; P. Tebt. 306 (152 - 153 A.D.), 1. (cf. ll. 1-3, 5-7 (note)).

It is supposed that this document would be an acknowledgment made the testatrix (cf. line 7), handed over to the agoranomeus in office (cf. line and signed there (cf. line 18). Perhaps after the procedures of opening the [was] over, the agoranomeus took this official copy and sent it to the bibliophylakes of the Atrioite nome to be recorded in their registers. (In the structure and function of the bibliophylakes, See Taubescheig, Law, 222: El-Mosallamy, Revocation, 59 ff.; P. Lond. 299 intro.; BGU 825, 14.)

27- ὡς-clause might be supplied in the lacuna, verbs of report, such as ὑπογραφ[\ldots] are attested with ὡς-infinitive (see; Mandilaras, The verb in the Greek Non-Literate Papyri, Athens, 1973, 263, 331).