

## 14 Lease of an Orchard Belonging to a Pious Foundation

T.-S. 16,222

(Only the end of the document is preserved. Although its date is lost, the time can be fixed approximately according to the handwriting, which is that of Nathan b. Samuel, a judge and scribe who wrote many documents in Old Cairo between 1122 and 1154. It is likely that the orchard belonging to the holy shrine of Dumūh (see p. ) is referred to here.)

(We received an undertaking from the above mentioned Hiba, viz., that he had leased the orchard described above for the duration of eight complete years, within the dates fixed above, for a total of eighty-eight dinars; and that he would deliver the nine and two-thirds dinars every year, in the month of Tishri,<sup>a)</sup> with the understanding that one and one-third dinar per month, for the duration of eleven months, provided by him prior to the termination of his tenure,<sup>1</sup> would be brought into consideration;<sup>b)</sup>

and that he was obliged to cut one thousand palm branches from the orchard<sup>c)</sup> and to transport them to the Nile; and that he would not illegally cut down anything planted in the orchard which could harm or destroy it; and that all the expenses for the orchard were to be borne by him;<sup>2</sup> and that he would never cease to operate the irrigation wheel and would work it with oxen. Finally, that he acceded to all the conditions stipulated above in this document.

Then we made the symbolic purchase from the representative of the pious foundation, the elder Abū<sup>c</sup> All the Trustee... (legal formulae)... stipulating that he accepted all the conditions imposed upon him above in this document by the aforementioned Hiba, the tenant,<sup>1</sup> and, in particular, that he would, under no circumstances, accept a higher rent than that offered by Hiba.

Thereupon, we wrote and signed this, in two copies, one for the lessor and one for the lessee, as an instrument conveying rights and serving as a proof, after this day.

(There follow statements about four cases of deletion, made in this document. As none of them occurs in the part preserved, the part lost must have been of considerable length.)

Notes

- a) The first month of the Jewish year, September-October.
- b) The yearly rent was  $\frac{88}{8} = 11$  dinars. Eight payments of  $9\frac{2}{3}$  add up to  $77\frac{1}{3}$  and eleven payments of  $1\frac{1}{3}$  make  $14\frac{2}{3}$ , which makes a total of 92, four more than stipulated. Obviously, the lessee owed the pious foundation certain sums from a previous contract.
- c) Perhaps the lessee was to provide the community with branches of palms from the holy shrine for the feast of Tabernacles, which was celebrated in Tishri.

Comments

1. Text: ba<sup>o</sup>d mā yuhtasab lahu bidīnār wa-thulth fi kull shahr min al-ihda<sup>o</sup>ashar (1) alladhī qaddamahā ila ntiḥā' damānihi. Before concluding this contract of ijāra, Hiba had a damān or tenure. However, owing the fragmentary character of the document, it is hard to decide whether the writer uses the words "lease" and "tenure" in the same sense, or not.
2. Text: wa'anna jamī<sup>o</sup> nawā'ib al-bustān lahu lāzima. For the word nawā'ib, see Dozy, Supplément II, p. 733 and, e.g., Ms. Oxf. Bodl. a2 (2805), f. 9, l.14, where it designates expenses for burial.

12 Lease of an Orchard Belonging to a Pious Foundation

*the Holy Shrine of Dammah in  
the Jewish Community of Fustat*

T.-S. 16.222

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(We received an undertaking from the above mentioned Hiba, <sup>to the effect</sup> viz., that he had leased the orchard described above for the duration of eight complete years, within the dates fixed above, for a total of eighty-eight dinars; and that he would deliver the nine and two-thirds dinars every year, in the month of Tishri, <sup>a)</sup> with the understanding that one and one-third dinar <sup>per month</sup>, ~~for the duration of eleven months~~, provided by <sup>as earnest money</sup> him ~~prior to the termination of his tenure~~, <sup>credited to him</sup> would be brought into consideration; <sup>b)</sup> each month (of Tishri) throughout the ~~duration~~ <sup>duration</sup> of his lease. <sup>is also</sup> and that he was obliged to cut one thousand palm branches from the orchard<sup>o)</sup> and to transport them to the Nile; and that ~~he would not~~ <sup>to</sup> illegally cut down anything planted in the orchard which could harm or destroy it; and that all the expenses for the orchard <sup>are</sup> were to be borne by him; <sup>2</sup> and that he would never cease to operate the irrigation wheel and would work it with oxen. Finally, that he acceded to all the conditions stipulated above in this document.

Then we made the symbolic purchase from the representative of the pious foundation, the elder Abū<sup>6</sup> All the Trustee... (legal formulae)... stipulating that he accepted all the conditions imposed upon him above in this document by the aforementioned Hiba, the tenant,<sup>1</sup> and, in particular, that he would, under no circumstances, accept a higher rent than that offered by Hiba.

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*Corrections*

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- c) Perhaps the lessee was to provide the community with branches of palms from the holy shrine for the feast of Tabernacles, which was celebrated in Tishri.

Comments

- Text: ba' d mē yuḥtasab lahu bidīnār wa-tḥulth fi kull shahr min al-ibda  
ashar (1) alladhī qaddamah ila ntibh' qamānihi. Before concluding this contract of ijāra, Hiba had a qamān or tenure. However, owing the fragmentary character of the document, it is hard to decide whether the writer uses the words "lease" and "tenure" in the same sense, or not.
- Text: wa'anna jamī' nawā'ib al-bustān lahu lāsima. For the word nawā'ib, see Dozy, Supplément II, p. 733 and, e.g., Ms. Gr. Bodl. a2 (2805), f. 9, l.14, where it designates expenses for burial.



A 99

App A 44

ה ח כ ר ת ב ס ת ן ( ב ן ע צ י ת מ ר י ם ) ר כ ו ש ה ה ק ד ש

ס פ ר י י ת ה א ו נ י ב ר ס י ט ה ק י י מ ב ר י ד נ ' ס . - . 16.222 T-S ULC

1. .... בלי אונס כלל בביטול כל מודעין ותנאין אנה קד אסתאנר אלבסתאן אלמדכור  
מדה תמאניה סנין כואמל אל

2 מדכורה אלמורכה לעילא וחית אנתהא חסאבהא בתמאניה ותמאנין דינאר ואנה יקים פי  
כל סנה באלתסעה אלדנאניר ותלתיין פי שהר

3 תשרי בעד מא יחתסב לה בדינאר ותלת פי כל שהר מן אלאחרי עשר אלדי קדמהא אלי  
אנתהא צמאנה ואנה מלתזם בקסע אלף

4 גרידה מן אלבסתאן וחמלהא אלי אלבחר ולא יתעדי אלי קסע שי מן נצב אלבסתאן ממא  
יודיה ויכרבה ואן גמיע נואיב אלבסתאן לה

5 לאזמה ואנה לא יבטל דוראן אלסאקיה ויהתם להא באלבקר ואנה קאבל עליה גמיע אלשרו  
אלמתבותה לעילא פי הוא אלמססור תם

6 אקנינא מן וכיל אלהקדש אלשיך אבו עלי אלנאמן קנין גמור חמור בכלי הכשר לקנות  
בו מעשיו ברצונו בלי אונס כלל בביטול

7 כל מודעין ותנאין אנה מלתזם להבה אלצאמן דנן בגמיע מא שרסה עליה לעיל פי הוא  
אלמססור ואנה לא יקבל עליה זאיד אלבתה

8 וחין אידן (1) כתבנא דלך וכתמנא עליה ובעלנא נסכתין אלואחדה ביד אלאגר ואלאכרי  
ביד אלמסתאגר למיהוי לזכו ולראייה לאחר

9 היום יש גיהסא על מודעין ועל אבו ויש גיהסא על יסכנה והכל שריר ובריר וקיים  
ויש גיהסא על למדה צמאנה

כתב היד הוא של נתן בן שמואל החבר, שנהג לכתוב מעשי ביד בפסטאט בשנים

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