

WATER AND FARM ESTATES IN THE ARABIC DOCUMENTS OF THE NAŞRID KINGDOM OF GRANADA¹

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Introduction

The legal regulation of water in Islamic law—ownership, distribution, use, management—stems mainly from the process and works of legal effect (*furūʿ*), such as collections of *ahkām* (sentences), *nawāzil* (cases), *fatāwī* (legal pronouncements) and *wathāʾiq* (notarial deeds or notarial documents). These all bring together the development and application of a few basic principles derived from the Qurʾān and the *sunna* (Prophet's tradition) to a variety of specific situations and cases which may fall outside those general rules.

The Arabic documents of the Naşrid period bear witness to that process and show: the influence that custom and local practice have on it, and its adaptation to the social circumstances of a given time and place.

This paper deals with water and its legal treatment based primarily on the Arabic Naşrid documents available in the Fondo Antiguo of the University Library of Granada, most of which remain unpublished,² and secondarily on the documents edited and translated by Luis Seco de Lucena,³ many of which come from the above mentioned collection.

Rural property and real estates are of special relevance since this is the setting in which water occurs most often in documents. This is obvious also considering the importance of farmland in the economy and the society of the time.

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² See Seco de Lucena 1970; Zomeño 2001b.

³ See Seco de Lucena 1961. This work has many errors and typographical mistakes, especially in the dates.

The period studied here is the Naṣrid kingdom of Granada (thirteenth-fifteenth centuries),⁴ in particular the fourth phase (Vidal 2000), namely most of the fifteenth century. There were serious political crises at this time, which had resulted in dynastic murders⁵ and which weakened and destabilized the state in the previous two stages (approximately all of the thirteenth century); this in turn influenced land property and its transmission, price, official management, and other aspects, all of which are recorded in the documents studied. This influence cannot be ignored in the study of the evidence found in the documents.

Materials: A document typology

The legal typology or classification of the selected documents contains a wide variety of types. The most frequent one is the certificate of a sale contract (*'aqd bay'*). Inheritance division (*qismat tarika/tirka*), is also frequent, namely a sealed document which accounts for the distribution of the deceased's possessions between the rights' holders following the payment of due amounts, as specified by the legal regulations. The division sometimes included the order that a part of the legacy (from the third allowed for free use by the deceased) become *hubus* (i.e. an inalienable pious foundation for public or family profit, which is not allowed to be sold, the profit of which must always go to the charitable aim decreed by the founder).

Other documents in the collection are *qismat mushā'* (division and ensuing settlement of *pro indiviso* property), *kirā'* / *'aqd kirā'* / *'aqd t̄jār* (lease documents), *waṣīya* ("last will"), *tamalluk* / *'aqd tamlik* (record of ownership) and *mu'āwada* ("exchange"). There are occasional *shahādat al-khubarā'* too, containing specialist reports, among others.

A typology of property and possessions

The most frequent type of farm estate recorded is the *faddān*, which could be translated as farm "land," "plot of land" or "estate." This is a general term for a variable surface which equals approximately the

⁴ Viguera 2000.

⁵ Vidal 2004.

surface that can be ploughed in one day, as *faddān* originally meant “yoke.” Some scholars estimate its surface as 5024 m², while in countries like Egypt and the Sudan the *faddān* currently equals 4200 m².⁶ Other more generic terms are *mawḍiʿ* for “place” or “domain,” and *ard* for “land” or “parcel,” although they do not seem to be always totally equivalent.

The division of these rather large estates, that is, when a smaller parcel of land is separated, results in plots that become independent property and which are called *qaṭra*, “parcels of land.” These are considered the smallest unit of arable land which forms part of a larger estate. When an estate is divided into plots and sold, the terms *qasīma* or *qurʿa*, “plot,” are used, but when it becomes an independent estate itself and is felt as such, the term *qaṭra*, “parcel of land” is used.

Some specific terms are used along with the generic ones above. They denote a rural estate with particular features, for example, *karm*, a very frequent term which in our corpus of documents may sometimes mean literally “vineyard,” but would certainly include other cultivations too. The term *karm* sometimes seems to mean the same as in Spanish *carmen*, a word to denote specifically a periurban pleasure property consisting of a house and a garden or farm area distinctive to the Naṣrid capital city.⁷

As to the specification of whether an estate had irrigation water or not, the term *saquwī*, “irrigated,” is always used, although the documents seem to prefer the form *saqawī* in a general use which could be considered a Granadan dialectal form of Arabic. This is how it occurs whenever the word occurs vocalized, as in at least two documents (no. 3 and no. 15).⁸

Other rural estates can be found as the object of possession among the various types of land, in particular *biʾr* (“well”), *ʿayn* (“water fountain”), *masqa* (“drinking trough”), *ṣahrj* (“pond” or “cistern”). Other water-related elements lie near these forms of property, such as *sāqiya* (“irrigation ditch”), *khandaq* (“ravine”), *majrā* (“drainage ditch”), *majarr* (“torrent” or “seasonal watercourse”) and *wādī* (“river”).

⁶ See Corriente 1977: 576; Díaz 1990: 117–18; Díaz 1994: 55, 68–70; Zomeño 2001a: 280.

⁷ See Tito & Casares 2000: 17–24. On the various terms used for farmland in Naṣrid documents on land division, see Zomeño 2001a: 280–4.

⁸ For easier references, all the documents will be referred to by their number in Appendix II.

Water as added estate value

Notarial deeds and notarial documents on rural estates (sale, inheritance, division, renting, etc.) must describe and render detailed accounts of the object of the document: the exact location, boundaries, surface, cultivation, features, distribution, soil, etc.

However, the social setting caused many of these details to be left out, especially if they were secondary ones, so only indispensable facts like location, surface and boundaries were recorded. Even so, the most significant indication of the boundaries is not always registered and, more important, neither is the exact location and surface of the estate, the author of the notarial deeds or notary limiting himself to mentioning the municipality where it lies.

It is therefore extremely meaningful that documents never disregard or leave out water availability on an estate. Whenever it is the case, the estate is recorded as irrigation land. This shows the relevance that water had for land and for any related legal acts, so that explicit mention of water availability for irrigation is an indispensable part of the document.

Written record or explicit mention of water availability for the estate occurs in all kinds of documents, regardless of whether they are property sale, inheritance, division,⁹ renting or exchange.

In what follows, a number of documents are described showing this for every document typology mentioned and for every estate typology.

Sales certificates ('aqd bay')

This is one of the most frequent types of document.

The most common formula used for recording water availability may take two slightly different forms: a) *jamī' al-faddān al-saqawī* and b) *jamī' qaṭrat al-faddān al-saqawīyya*. The former could be translated as "the whole of the irrigated estate;" the latter could be "the whole of the irrigated parcel of land of the estate" and, as will be shown below, it occurs in a different type of document with a more logic concordance: *jamī' qaṭrat al-faddān al-saqawī* ("the whole of the parcel of land of the irrigated estate").

The documents of type 'a' are nos. 1, 3, 5, 6, 7, 13, 16, 18, 36 and 47.

⁹ See Zomeño 2001a: 285–6 for this case in Seco de Lucena (1961).

The documents of type 'b' are only nos. 9 and 2. In the last one, the notary revises the document and writes: "I mean, unirrigated" (*bal ba'ī*) in an interlinear space which he adds over the words *faddān saqawī*.

Certificates of inheritance division or sealed division documents (qismat tarika/tirka)

Like the sale documents, the formula used in this type of documents for water availability takes the same two forms. The documents containing the former (*jamī' al-faddān al-saqawī*, "the whole of the irrigated estate") are nos. 21, 25, 31, 32 and 48. The second form (*jamī' qaṭrat al-faddān al-saqawīyya*, "the whole of the irrigated parcel of land of the estate") occurs only in no. 32.

Certificates of division and of settlement of pro indiviso property (qismat mushā')

The division and distribution of the land belonging to different owners includes explicit and detailed reference to all the possessions. These kinds of certificates usually contain references to irrigated estates, a common possession in the sphere of rural ownership.

Such is the case of doc. 20 (dated 2 Muḥarram 837/19 August 1433), which contains the certificate of division and settlement of *pro indiviso* property between two brothers. The *pro indiviso* property consisted of various estates and livestock, among which are several farm estates of which detail is always provided as to whether they are irrigated or otherwise, as follows:

- *jamī' al-faddān al-saqawī*;
- *jamī' al-mawḍi' ayn al-saqawayn* [sic];
- *jamī' al-mawḍi' al-saqawī*

A similar case occurs in a certificate of judicial confession (*i'tirāf quḍā'ī*) in which an owner yields half her irrigated estate (*faddān saqawī*) *pro indiviso* with her brother in exchange for the cancellation of a debt with the above mentioned brother (doc. 24).

Last will certificates (waṣīya)

As with the division of *pro indiviso* property, the distribution of property in wills demands a record of all the possessions, and, when farmland is involved, that it be indicated whether the land has water available for irrigation or not.

This information is recorded in these kinds of documents as follows:

- *amlāk saqawiyya* (“irrigated property”) in doc. 33, dated 16 Jumādā I 856/4 June 1452;
- *al-mā’ al-ma’lūm lahu [...] tasqī minhu* (“the water that belongs to it... with which it [the estate] is irrigated”) in the same doc. 33;
- *jamī’ al-mawḍi’ al-saqawī* in the same doc. 33 and with the same date;
- *jamī’ qaṭrat al-arḍ al-saqawiyya* (“the whole of the irrigated parcel of land of the estate/of the parcel of land of the irrigated estate”) in doc. 34.

Certificates of record of ownership (tamalluk/‘aqd tamlīk)

Also known as *ṣiḥḥat tamalluk* (“record of ownership”) or *shahādat ṣiḥḥat tamalluk* (“evidence of record of ownership”) in technical legal terminology, these kinds of documents contain a common legal process for proving land ownership. The owner can thus prove his right of ownership based on an official certificate and documentary evidence.

Like in others above, water availability or estate classification as irrigated is explicitly recorded in these documents. Again, the formula is *faddān saqawī*, which occurs in docs. 4, 15 and 46.

Certificates of exchange (mu‘āwada)

While not as frequent as sales, divisions or wills, documents of certificates of exchange are also found in our corpus. They relate to a variety of farmland, ranging from an estate of arable land for whichever cultivation to a vineyard. Whatever it may be, the quality or availability of irrigation is recorded. The following can therefore be found:

- *qaṭra saqawiyya* (“an irrigated parcel of land”) from a *karm* (“vineyard” or “carmen”) in doc. 11 and
- *faddān saqawī* in doc. 12.

Certificates of lease (kirā’/‘aqd tījār)

The last type of documents to record irrigated estates are, among others, certificates of lease. If the estate has water, it is explicitly recorded in the certificate by the following two formulae mentioned above:

- *jamī’ al-faddān al-saqawī* in doc. 30 and
- *jamī’ qaṭrat al-faddān al-saqawī* (“the whole of the parcel of land of the

irrigated estate," unlike the model cited in 4.1., where the adjective *saqawī* was used for *qaṭrat* in doc. 17.

Irrigation systems and irrigation rights

The water-land link

Irrigated estate ownership is usually linked to the irrigation water contained in it (as in a well or a fountain) or to any incoming water (from a river, a fountain, a well outside the property). Water is therefore linked to the land in transmission of land, both with and without payment (inheritance, donation), or even in the institution of pious foundations (*hubus*). The right to irrigation and use of water from fountains, wells, cisterns and other water sources are linked and transmitted with the land. In divisions, the water and the irrigation rights are divided too and are transmitted proportionally to the amount of land of each lot.

While both possessions (land and water) were transmitted together and it was not necessary to make explicit mention that water was transmitted too, the Arabic Naṣrid documents of Granada explicitly point out water transmission and irrigation rights, too. This was necessary, because Islamic law allows a separate treatment of water, that is, water or the irrigation rights of an estate can be sold, rented or yielded separately (without the land).

Thus, in division—as was often the case with inheritances—of an estate with one water source, like a well, fountain, pond, cistern or pool, all the resulting lots hold a right to water use even if the source lies only in one of them. This right was to be safeguarded because, as has been said, irrigation was highly valued and exceptionally influential to the estate value. A fair division therefore had to preserve the irrigation right.

Every lot into which an estate was divided would therefore share the water use for irrigation. Therefore, all the beneficiary parties were obliged towards the maintenance and repair of the water source.

This is distinctly shown in the division certificate recorded in a document of 4 Muḥarram 890/21 January 1485, which is a comparison of the above mentioned certificate of inheritance division (doc. 40). In this division, a vineyard or *carmen* (*karm*) on a farmstead at the edge of, or near, Baza (*tawq madīnat Baṣṭa*) is divided into three parts. A pond (or cistern) built on a flat area (*raḥba*), probably a small open front yard in

view of its proximity to the house of the *carmen*, lies in one of them and is used to irrigate the whole estate. Although the pond lies in one of the three parts, the certificate of division explicitly states that the remaining two parties hold rights to benefit from and use it for irrigation, even if they do not have the right to go into the estate where the pond lies unless allowed to do so by the owner. It also states that the maintenance of the pond, whenever it is needed, will fall to all three parties.

A relevant case concerning the buyer of a vineyard in Aynadamar results from a similar division. The sale certificate states that the buyer also acquires a gallery leading to a well lying in the neighbouring vineyard. This vineyard's owner can use water only for irrigation, while the buyer can use water for whatever he decides besides irrigation (doc. 35, dated 2 Dhū 'l-qa'da 880/27 February 1476).

A document of 30 ("the last days of") Jumādā I 896/10 April 1491 regarding the sale of a plot of land of a famous vegetable garden owned by the sultan (known as "Iṣām's orchard") also states that the sale includes the amount of irrigation water that belongs to him both by day and by night (doc. 42).

Whenever a plot of land was instituted as *ḥubus* ("inalienable pious foundation"), the water belonging to the transmitted plot of land had to be specified too. Water therefore also became an inalienable pious foundation forever.

Confirmation of this legal treatment can be found in a document (no. 33) containing a will of 16 Jumādā I 856/4 June 1452 in which the testator reserved, out of the third part for free disposition of his inheritance, a number of the irrigation estates lying in the village of Belicena (Balīsāna) for institution as *ḥubus* along with their corresponding irrigation water, and all the above to the benefit of the fortress of Archidona.

This document gives an accurate account of the amount of water and the irrigation rights, as well as of the water source, division method and surplus water: "This is the water from the village of Belicena, in particular one fourth of the total water amount of the village, which is to be used in turns all day on Tuesdays and all night on Wednesdays, every week, in summer and autumn, whenever the land needs irrigation." The surplus water quota is used for irrigation of the remaining testator's estate in the farm.

Some rental agreements for irrigated land similarly demand that the link between land and water be kept. A document on renting an

estate includes the condition that the tenant use the estate's water on the rented estate (doc. 30). With water being of such a high value, this was intended to prevent the tenant from diverting or using the water for other property or for sale or temporary yield to a third party.

Land and water dissociated: Land sale without its water and water exchange

As mentioned above, Islamic law also allowed water to be sold separately from land.

Although this is not very frequent, the documents contain one case in which this situation is stated explicitly. It is the agreement by which Abū Ja'far b. Sa'īd al-Ashkar sells Abū Ishāq Ibrāhīm b. 'Alī b. Najm an irrigated estate "without the right to irrigation" (*faddān saquwī min dūn sharb*) (doc. 7).

A less extreme case is the one of an estate sold retaining only some water. One document contains a vineyard sale in which the owner sells half the fountain water—the fountain lying in the sold estate—and retains the other half for a different estate, and retains all the Friday night water for her other estate, from the *'aṣr* ("afternoon") to Saturday's sunrise (doc. 50).

Also relevant here is the case of water (irrigation quota) sold or exchanged without any accompanying land. This case occurs in an exchange agreement by which water quotas of Acequia Gorda (*al-Sāqiya al-Kubrā*) owned by two people for different days (Thursday and Friday) are exchanged (doc. 41).

Wells and their ḥarīm

A relevant issue concerning water sources, especially in the case of wells (but also of channels and fountains) is that of the *ḥarīm*, the reserved part, or part for preferential use, which covers the surrounding area of a well or water source; this area belongs to the well owner and is for their exclusive use, while new wells cannot be excavated there which might damage the amount or quality of the water of the older well.

Among the documents studied, a *shahādat al-khubarā'*, an expert report (doc. 38) stands out, in which qualified witnesses (*ahl al-bāṣar wa-'l-ma'rifa*) go to a vineyard or *carmen* (*karm*) owned by Muḥammad al-Ṣanā', whose well lies in an adjoining, higher vineyard. The owner of the latter, al-Baṣṭī, only holds irrigation rights with regard to the well (that is, he is

not the owner or holds right for other uses), but has dug up a gallery for water collection and deepened the well, so the water does not reach the first gallery and the lower vineyard is left without water supply. The experts state that the owner of the latter vineyard, al-Baṣṭī, must fill the well which he deepened, and leave it as it was originally.

This document shows the possibility of selling water and land separately, as mentioned above, because the well lies in a different estate.

By a most interesting and exceptional chance, a later document is preserved in which the above parties raise a similar issue which might result from the one described above. Barely four years after the former document, the owner of the first vineyard, Muḥammad al-Ṣanāʿ, requested and bought from al-Baṣṭī a piece of land for digging a gallery in order to collect more water on the lower part of his well, below al-Baṣṭī's *carmen* (doc. 39).

Obligations

As to the *ḥarīm* and due obligations, it is also worth mentioning the independence of water elements for land transmission, if the estate where they lie does not hold the property right of the water element in question.

This holds true in the documents studied here, as in the case of a certificate of exchange of two estates (doc. 8). The exchange agreement (*mu'āwada*) is between a Muslim, called Aḥmad b. Muḥammad Ḥaja and a Christian by the name of Pedro de Andújar. They exchange a vineyard or young vineyard (*ghars*)¹⁰ owned by the Christian for an estate (*faddān*) owned by the Muslim in which a drinking trough (*masqā*) lies which belongs to a third person called al-Ghāzī. The Christian, who receives the estate, is aware of the existence of the trough and accepts the obligations (*wa-qad 'alīma al-naṣṣrānī anna 'alayhi masqā li-'l-Ghāzī*). The notary must record the fact that the new estate owner is aware of the existence of the trough and accepts it, because unawareness of this obligation before the transaction could qualify as a redhibitory defect (i.e. sufficient reason to nullify the exchange).

¹⁰ In this case *ghars* meaning vineyard, according to Corriente 1988: 195; Pezzi 1989: 657; Corriente 1997: 376.

Pious foundations (ḥubus) for the benefit of wells, fountains and other water sources

The importance of fountains and wells in Arab-Islamic civilization turned these elements into highly valued public institutions for the general benefit. They were therefore the object of donations and pious foundations for their maintenance. The documents studied thus show that some wills order that a part of the possessions be contributed for the institution of a pious foundation for the benefit of a well. This is the case of an irrigated plot of land in an estate (*jamīʿ qaṭrat al-arḍ al-saqawiyya*), which is founded as *ḥubus* for the benefit of a *rābiṭa* ("small hermitage") of the village of Belicena and of the neighbouring well (doc. 34).

Water as boundary: property delimited by water elements

Another water-related issue which occurs frequently in documents is the use of water elements as delimitation and boundaries for an estate which is the object of notarial deeds. Water elements are unequivocal, appropriate references for setting the limits in relation to the four cardinal points. This holds for a variety of elements, the most frequent of which is the *sāqiya* ("irrigation ditch"), others being *manbaʿ* ("waterspring"), *khandaq* ("ravine"), *majrā* ("drainage ditch"), *masqā* ("drinking trough") or *wādī* ("river"). As a rule, they delimit an irrigated estate (*faddān saqawī*), but they occur as the boundaries of unirrigated estates, vineyards, or of a parcel of an estate or vineyard, too. As mentioned above, the most frequent element is *al-sāqiya*, the irrigation ditch, which is used as a reference for a variety of estates, usually irrigated ones (*faddān saqawī*) in documents 4, 6, 13, 18, 46 and 47.

The *sāqiya* ("irrigation ditch") is used for delimiting a different type of property too, like:

- an irrigated plot of land (*qaṭrat al-faddān saqawiyya*) in doc. 9
- a portion of land (*qurʿa*) in doc. 43
- a vineyard or *carmen* (*karm*) in doc. 32

It is also used for delimiting two irrigated estates (*al-faddānayn al-saqawiyyayn*) in doc. 48 and, curiously, it can even delimit an unirrigated estate recorded just as *faddān*¹¹ as in the docs. 28, 29 and 37.

¹¹ While it is not explicitly referred to as unirrigated, it is assumed to be so, because

Besides irrigation ditches, other water elements serving as boundaries are:

- *al-manba*‘, “the waterspring,” delimits a *faddān saqawī* in doc. 32.
- *al-khandaq*, “the ravine,” delimits an irrigated *faddān* (the certificate marks it as irrigated at the beginning) in doc. 33, but also an unirrigated *faddān* in doc. 32.
- *al-majrā*, “the drainage ditch,” delimits a vineyard (*karm*) in doc. 32.
- *al-majarr*, “torrent” or “seasonal watercourse” (cf. Dozy 1881: I, 180; Corriente 1988: 32; Alcalá 1989: 563) in docs. 22 and 29.
- *Masqā*, “drinking trough,” delimits a parcel of land of a vineyard (*qaṭrat al-karm*) as in doc. 32. It also delimits an estate (apparently, an unirrigated one, *faddān*) as in doc. 28.
- *al-wādī*, “the river,” delimits a *faddān saqawī* in doc. 16. It also delimits an estate (apparently, an unirrigated one: *faddān*) in doc. 28.
- *wādī Binatar*, “river Binatar,” delimits a *faddān* as in doc. 49.

Although rather peripheral to this paper, it is finally worth mentioning for comparison that water in towns was a determining factor for urban planning¹² and was used as a boundary, too. Thus, a house (*jamī’ al-dār*) is delimited on the east by the channel (*sharqī-hā al-q.na’*, sic for *qand’*, or *qinā’* “the channels”) in a document for inheritance division (no. 32). An exchange document also identifies one of the parties, the Christian Pedro de Andújar, as living near a bath (*ḥammām*) (no. 8). Several sales agreements for houses and vegetable gardens (*janna*) delimit the property by a bath and an irrigation ditch (doc. 44).

irrigated estates are always recorded as having water availability. By contrast, the qualification of not being irrigated occurs only sometimes, as in doc. 23. Common practice does not specify water unavailability or unirrigated land, as in doc. 27. This is so even if the boundaries comprehend water elements, like a *masqā* or drinking trough for animals, and an irrigation ditch or a river, which apparently do not irrigate the property in question (doc. 28). Clear evidence if this is the occurrence of estates recorded as irrigated, and others left unspecified in one and the same document. The latter must no doubt lack water availability and be unirrigated, as was most of the farming property (doc. 31). By contrast, *karm* (“vineyard” or “carmen”) is left unspecified as to availability of water irrigation, even if the water rights and facilities are usually recorded (doc. 35).

¹² See Vidal 2001.

Water-related toponyms

Just as water elements are used for estate delimitation, they are also used for naming the areas.

Thus, we can find:

- Manhal Nublu(h), “watering place of the cloud” in doc. 32 (occurring in other sources as Qaryat Nubluh and Dār Nubluh);
- al-Khandaq al-Kabīr, “the great ravine” in doc. 33;
- al-Khandaq al-‘Amīq, “the deep ravine” in doc. 32;
- Khandaq al-Shajara, “ravine of the figtree” in doc. 20;
- Khandaq al-Ghaḍīr, “ravine of the pond” in doc. 26;
- al-Wādī al-Maliḥ, “river Maliḥ” in doc. 22;
- Wādī Ashkarūja, “river Asquerosa” in doc. 28;
- ‘Ayn al-Dam’, “fountain of the tears” or Aynadamar as it occurs in docs. 10, 14 and 19.

Conclusions

Since this paper is based on a limited number of documents, its conclusions are necessarily partial and provisional until the remaining documents in other collections are studied too, for example those in the collection of the cathedral, of the municipal archive of Granada¹³ or other sources translated from Arabic into Romance Spanish, like the one on water lawsuits.¹⁴ However, several conclusions can be listed based on the evidence of the treatment and occurrence of water in the documents studied thus far.

First, the occurrence of water in the corpus of Arabic Naṣrid documents selected shows the process of the application of Islamic law and its adaptation to the society and economy in which they were produced, namely the Naṣrid kingdom of Granada.

Additionally, the cases recorded in the documents on lawsuits over water management, irrigation rights, water linked to land, farming facilities or ownership, and property transmission all reveal a crucial fact: the function of documents as a system for establishing and controlling water rights. Further, water appears as a regulating element for property itself, land use and land value.

¹³ Molina 1993; Molina & Jiménez 2004.

¹⁴ Álvarez de Morales 2001.

Water also has a considerable influence on: 1) property transmission with payment (sale, exchange) or without (inheritance, donation), 2) property division and 3) property leasing.

While water and property are usually linked in estate sales and transmissions, water is so important in itself that it becomes independent of the land which it irrigates. Thus, there are wells, troughs or collecting galleries, the ownership of which can be retained even if they lie in other people's estates who, in turn, are not allowed to use the water and are subject to the due obligations.

Appendix I

This appendix is the edition and translation of an unpublished Arabic document kept in the Fondo Antiguo of the University Library of Granada. The Arabic text is on the obverse, and the quotation '32. Luque' is overleaf. This is on the obverse in many other Arabic Naşrid documents of the fifteenth century along with two modern catalogue notation figures, probably by L. Seco de Lucena.

Concerning their documentary typology and contents, it is a certificate of ownership certifying the Christian Ighrāsiya Hirrandis' (Gracia Hernández) ownership of an irrigated estate which she bought from the Muslim Mufarrij.

It is probably just one case of many after Granada was taken by the Christians in 1492 in which Muslims sold their property to the Christians before migrating. The new Christian owners then supplied evidence of their ownership in fear of, or due to, property lawsuits, and turned to Muslim notaries for the notarial certificates required by Islamic law, of which this document is an example.

Caja C 27 (16) R. 32965. Paper: 21.5 × 15 cm. Box: 7 × 11.5 cm. Certificate of ownership/evidence of record of ownership. See Seco de Lucena 1970: no. 84 and Zomeño 2001b: 279. 29 Rabī II 900/27 January 1495 (see Plate 1).

Text

الحمد لله

ممن يعلم صحة تملك الفدان السقوي الكائن بشميل ارملة خارج غرناطة قبله الحطاب وجوفيه ابو الفتح وشرقيه اجباس وغريه ساقية بحقوقه وحرمة وكافة منافعه ومرافقه للنصرانية اغراسية هرندس وانه صار لها بالشراء الصحيح على يدي زوجها¹⁵ النصراني غنطاله ذي قرطبة من الحاج مفرج معتق الحاج النوالي يعلم ذلك شهودا بمباشرة رسم التبائع بينهما ومن علم ما ذكر قيد على ذلك شهادته في التاسع والعشرين لشهر ربيع الاخر عام تسعمائة (توقيعات غير مقروءة)

Translation

Allah be praised.

Those who know the legal ownership of the irrigation estate lying in Shamīl Armilla on the outskirts of Granada, whose southern boundary is (the property of) al-Ḥaṭṭāb, whose northern boundary is (the property of) Abū 'l-Faṭḥ, whose eastern boundary is that belonging to pious foundations and whose western boundary is an irrigation ditch, with all its rights and obligations and all its uses and benefits, (testify to) its ownership by Christian Gracia Hernández and to her gaining possession of it by valid purchase by way of her Christian husband Gonzalo de Córdoba from al-Ḥajj Mufarrij, a freedman of al-Ḥājj al-Nawwālī. (Those who hereby issue the present official certificate) know it all as official witnesses to the notarial deed for the sale between the two (aforementioned parties, Gracia Fernández and Mufarrij). Those who know what has been mentioned bear witness to it accordingly. The twenty-ninth day of the month Rabī' II of year 900 (= 27 January 1495).

(Illegible flourished signatures.)

¹⁵ I would like to thank Amalia Zomeño for her help and wise advice on the interpretation of these two words, as well as for helping me to access the image of the original document. Any mistakes in the edition and interpretation of the text are my sole responsibility.

*Appendix II*¹⁶

1. Aguirre 1980, 10 Sha'bān 899/16 May 1494.
2. Caja C 27 (8) R. 32957, 9 Sha'bān 890/21 August 1485 (Seco de Lucena 1970: no. 68, Zomeño 2001b).
3. Caja C 27 (10) R. 32959, early Jumādā I 897/early March 1492 (Seco de Lucena 1970: no. 77, Zomeño 2001b).
4. Caja C 27 (16) R. 32965, 29 Rabī II 900/27 January 1495 (Seco de Lucena 1970: no. 84, Zomeño 2001b).
5. Caja C 27 (18) R. 32967b, 29 Sha'bān 897/26 June 1492 (Seco de Lucena 1970: no. 78, Zomeño 2001b).
6. Caja C 27 (21) R. 32970, 22 Dhū 'l-qa'da 860/22 October 1456 (Seco de Lucena 1970: no. 36, Zomeño 2001b).
7. Caja C 27 (23) R. 32972, 28 Dhū 'l-hijja 857/30 December 1453 (Seco de Lucena 1970: no. 31, Zomeño 2001b).
8. Caja C 27 (32) R. 32981, 16 Luque, 23 Rajab 901/7 April 1496 (Seco de Lucena 1970: no. 88, Zomeño 2001b).
9. Caja C 27 (34) R. 32983, 2 Rabī I 898/22 December 1492 (Seco de Lucena 1970: no. 79, Zomeño 2001b).
10. Caja C 27 (37) R. 32986, 9 Rajab 888/13 August 1483 (Seco de Lucena 1970: no. 65, Zomeño 2001b).
11. Caja C 27 (57) R. 33006, 24 Rabī II 858/23 April 1454 (Seco de Lucena 1970: no. 33, Zomeño 2001b).
12. Caja C 27 (69) R. 33018, 13 Rabī II 877/17 September 1472 (Seco de Lucena 1970: no. 43, Zomeño 2001b).
13. Caja C 27 (71) R. 33020a, 14 Rabī II 874/21 October 1469 (Seco de Lucena 1970: no. 42, Zomeño 2001b).
14. Caja C 27 (72) R. 33021, 19 Dhū 'l-Hijja 894/13 November 1489 (Seco de Lucena 1970: no. 48, Zomeño 2001b).
15. Caja C 27 (74) R. 33023, 29 ("last days of") Sha'bān 890/10 September 1485 (edited in Seco de Lucena 1969: no. 4, see also Seco de Lucena 1970: no. 69, Zomeño 2001b).
16. Caja C 27 (78) R. 33027, 16 Dhū 'l-Hijja 887/26 January 1483 (Seco de Lucena 1970: no. 61, Zomeño 2001b).

¹⁶ In this appendix I will provide the reader with all the references to find the documents in the University Library of Granada. The indication "caja," Spanish for "box," is retained in this appendix. Seco de Lucena 1961 refers to his edition and translation of the documents, and Seco de Lucena 1970 and Zomeño 2001b refer to their catalogue entries. As for Aguirre 1980, it refers to his edition and translation of doc. no. 1.

17. Caja C 27 (80) R. 33029, 11 Jumādā II 884/30 August 1479 (Seco de Lucena 1970: no. 54, Zomeño 2001b).
18. Caja C 27 (90) R. 33039, 21 Jumādā I 843/30 October 1439 (Seco de Lucena 1970: no. 18, Zomeño 2001b).
19. Caja C 27 (91) R. 33040-I, 2 Dhū 'l-Ḥijja 854/6 January 1451 (Seco de Lucena 1970: no. 27, Zomeño 2001b).
20. Caja C 69 (5-14), 2 Muḥarram 837/19 August 1433 (Seco de Lucena 1961: no. 3, Zomeño 2001b).
21. Caja C 69 (5-15) 189 Luque, 15 Jumādā II 855/15 July 1451 (Seco de Lucena 1961: no. 8, Zomeño 2001b).
22. Caja C 69 (5-19), 21 Dhū 'l-qa'da 865/28 August 1461 (Seco de Lucena 1961: no. 17, Zomeño 2001b).
23. Caja C 69 (5-20), 15 Rabr' I 867/8 December 1462 (Seco de Lucena 1961: no. 18, Zomeño 2001b).
24. Caja C 69 (5-21), 23 Rabr' I 869/23 November 1464 (Seco de Lucena 1961: no. 19f, Zomeño 2001b).
25. Caja C 69 (5-22), 17 Ramaḍān 868/24 May 1464 (Seco de Lucena 1961: no. 20, Zomeño 2001b).
26. Caja C 69 (5-25), 22 Jumādā I 872/18 December 1467 (Seco de Lucena 1961: no. 23).
27. Caja C 69 (5-26), 27 Muḥarram 873/17 August 1468 (Seco de Lucena 1961: no. 24, Zomeño 2001b).
28. Caja C 69 (5-28), 8 Dhū 'l-qa'da 876/17 April 1472 (Seco de Lucena 1961: no. 29, Zomeño 2001b).
29. Caja C 69 (5-30), 29 Dhū 'l-ḥijja 880/24 April 1476 (Seco de Lucena 1961: no. 33a, Zomeño 2001b).
30. Caja C 69 (5-32), first ten days of Dhū 'l-qa'da 884/14 to 23 January 1480 (Seco de Lucena 1961: no. 38, Zomeño 2001b).
31. Caja C 69 (5-36), 2 Muḥarram 887/21 February 1482 (Seco de Lucena 1961: no. 43, Zomeño 2001b).
32. Caja C 69 (5-38), 15 Shawwāl 888/16 November 1483 (Seco de Lucena 1961: no. 47a, Zomeño 2001b).
33. Seco de Lucena 1961: no. 7b, 16 Jumādā I 856/4 June 1452 and 16 Jumādā I 856/4 June 1452.
34. Seco de Lucena 1961: no. 7c, 29 ("last days of") Jumādā II 856/17 July 1452.
35. Seco de Lucena 1961: no. 32a, 2 Dhū 'l-qa'da 880/27 February 1476.
36. Seco de Lucena 1961: no. 34, 2 Jumādā I 881/23 August 1476.
37. Seco de Lucena 1961: no. 35, 7 Ramaḍān 881/24 December 1476.

38. Seco de Lucena 1961: no. 37, 10 Dhū 'l-qa'da 884/23 January 1480.
39. Seco de Lucena 1961: no. 46, 10 Sha'bān 888/13 September 1483.
40. Seco de Lucena 1961: no. 49, 4 Muḥarram 890/21 January 1485.
41. Seco de Lucena 1961: no. 52, 24 Rajab 890/6 August 1485.
42. Seco de Lucena 1961: no. 65b, 30 ("last days of") Jumādā I 896/10 April 1491.
43. Seco de Lucena 1961: no. 80a, 7 Jumādā I 897/7 March 1492.
44. Seco de Lucena 1961: no. 81a, 9 Jumādā II 897/8 April 1492.
45. Seco de Lucena 1961: no. 81b, 23 Jumādā II 897/22 April 1492.
46. Seco de Lucena 1961: no. 83, 13 Dhū 'l-ḥijja 897/6 October 1492.
47. Seco de Lucena 1961: no. 86, 9 Rabī' II 898/28 January 1493.
48. Seco de Lucena 1961: no. 88, 23 Rabī' I 899/31 January 1494.
49. Seco de Lucena 1961: no. 89, 14 Jumādā II 899/22 March 1494.
50. Seco de Lucena 1961: no. 91, 10 Rabī' I 900/9 December 1494.

BIBLIOGRAPHY

- Aguirre Sádaba, J. (1980). 'Un documento de compraventa arábigo-granadino.' *Andalucía Islámica* 1. 163–72.
- Álvarez de Morales, C. (2001). 'Pleitos de agua en Granada en tiempos de Carlos V. Colección de escrituras romanceadas.' In M.J. Rubiera (ed.). *Carlos V. Los moriscos y el Islam*. Madrid. 59–90.
- Corriente, F. (1977). *Diccionario árabe-español*. Madrid.
- (1988). *El léxico árabe andalusí según Pedro de Alcalá (Ordenado por raíces, corregido, anotado y fonéticamente interpretado)*. Madrid.
- (1997). *A Dictionary of Andalusī Arabic*. Leiden.
- Díaz García, A. (1994). 'El léxico del dialecto árabe granadino a través de la toponimia.' In J. Aguadé, F. Corriente, & M. Marugán (eds.). *Actas del Congreso internacional sobre interferencias lingüísticas árabe-romances y paralelos extra-iberos*. Zaragoza. 47–75.
- Dozy, R. (1881). *Supplément aux dictionnaires arabes*. Beirut. (reprint. Leiden. 1991).
- Molina López, E. (1993) 'Un nuevo fondo de documentos árabes granadinos. Archivo de la Catedral de Granada.' *Orientalia Lovaniensia Analecta* 52. 275–92.
- Molina López, E. & M.C. Jiménez Mata (2004). *Documentos árabes del Archivo Municipal de Granada [1481–1499]*. Granada.
- Pezzi, E. (1989). *El Vocabulario de Pedro de Alcalá*. Almería.
- Seco de Lucena, L. (1961). *Documentos arábigo-granadinos*. Madrid.
- (1969). *Privilegios reales y viejos documentos. VII, Granada (Reino nazarí) I–VIII*. Madrid.
- (1970). 'Escrituras árabes de la Universidad de Granada.' *Al-Andalus* 35. 315–53.
- Tito Rojo, J. & M. Casares Porcel (2000). *El Carmen de la Victoria. Un jardín regionalista en el contexto de la historia de los cármenes de Granada*. Granada.
- Vidal Castro, F. (2000). 'Decadencia y desaparición (1408–1492).' In M.J. Viguera Molins (ed.). *El Reino Nazarí de Granada (1232–1492). Política, instituciones. Espacio y economía*. Madrid. 151–248.

- (2001). 'Agua y urbanismo: evacuación de aguas en algunas *fatwas* de al-Andalus y el norte de África.' In P. Cressier, M. Fierro, & J.-P. van Staëvel (eds.). *L'urbanisme dans l'Occident musulman au Moyen Âge. Aspects juridiques*. Madrid. 101–23.
- (2004). 'El asesinato político en al-Andalus: la muerte violenta del emir en la dinastía nazari (s. XIV).' In M. Fierro (ed.). *De muerte violenta. Política, religión y violencia en al-Andalus*. Madrid. 349–97.
- Viguera Molins, M.J. (ed.) (2000a). *El Reino Nazarí de Granada (1232–1492). Política, instituciones. Espacio y economía*. Madrid.
- (ed.) (2000b). *El Reino Nazarí de Granada (1232–1492). Sociedad, vida y cultura*. Madrid.
- Zomeño, A. (2001a). 'Herencias, tierras y notarios. Algunas notas sobre propiedades agrícolas en los *Documentos árabe-granadinos*.' In C. Álvarez de Morales (ed.). *Ciencias de la Naturaleza en al-Andalus*, VI. Granada. 277–90.
- (2001b). 'Repertorio documental árabe-granadino: los documentos árabes de la Biblioteca de la Universidad de Granada.' *Qurṭuba* 6. 275–96.

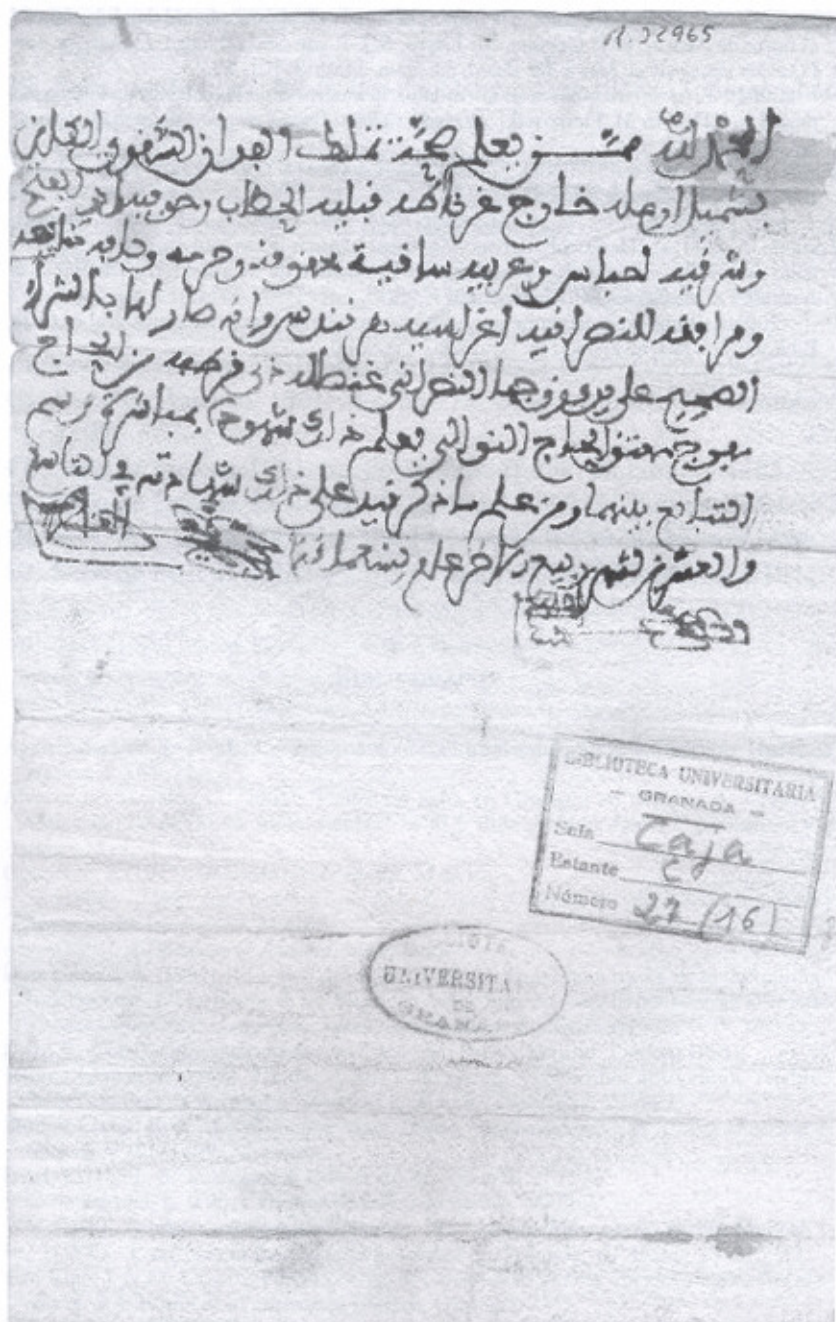


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