

# **CHAPTER 3**

## **PROPERTY LAW**

In this Chapter we shall try to establish what types of property a woman could own, movable and immovable, and how she could acquire the said property. We shall be confronted with the questions if she could indeed be a full owner, how and if she could acquire property on her own, if there were any restrictions on the types of property she could acquire, if she could alienate it and whether alienation could take place without the intervention of a male guardian.

### **1) GENERAL**

It seems that there was no limit or restriction on how much and what kind of property women could possess. There were different ways in which a woman could obtain property. Mostly she received it as a gift, or as an inheritance from her parents or husband, or she could have bought it with goods she had earned through her employment or with what she had borrowed from someone.

A woman, married or unmarried, was free to perform legal acts with regard to her own property. Her husband's interposition was not necessary for the legal validity of her acts. This, however, does not mean that a woman did not need a man to help her in the administration and maintenance of her property rights.<sup>1</sup>

Women regularly appeared in property documents and were named in the transfer of property by sale, inheritance or lease. According to McDowell (1992:220) this

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<sup>1</sup> Some of the leading scholars in the field of Property Law are Gardiner (1935), Hughes (1973), Menu (1989) and Allam (1989) and their works were mainly used for reference here. Reference is also made to the original texts for the sake of completeness.

evidence makes it clear that a woman's consent was necessary when her property was at stake and that she did not need the consent of her guardian.

There are one hundred and thirty-one female landholders mentioned in Papyrus Wilbour, and their holdings vary between three and five *arouras*, the same size of land that men usually owned (Allam 1989:129).

According to Allam (1989: 133-134) there existed a wide range of personal rights, usufruct, possession or ownership and even full ownership of property. Cruz-Uribe (1989 : 136-137), in his reply to Allam's paper (1989), remarks that the transfer of legal property involving women may be viewed as exceptions to the rule, rather than the norm, and that women may not have been able to exercise those rights.

## **2) IMMOVABLE PROPERTY**

### **2.1) Land and Fields**

Women could possess and lease any piece of land, as is seen from Papyrus British Museum 10523<sup>2</sup>:

“ ...to its west - the portion (?estate) of the woman Mut, daughter of Kludj...”

A stela was found at Amarah, the text of which deals with the acquiring of immovables and movables by the daughter of a deceased father: it first devolved upon her mother, but the mother had transferred the property to the daughter in return for

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<sup>2</sup> As translated by Glanville (1939 : 10-12): this piece of land, according to Glanville (1939 : 13), belonged

her support in old age. The brother also gave her his share of the possessions of the father, consisting of:

“fields in the country, male and female slaves as well as trees”.<sup>3</sup>

Ruru, an unmarried woman, acquired money for the purchase of property by the weaving and selling of clothes (Papyrus Louvre E 3168). Another unmarried woman acquired money as wages for the arranging of a funeral and with these wages she then bought herself immovable property (Papyrus Louvre 3228d).

A tomb<sup>4</sup> of the Ramesside Period documents one of the most well known and long running court cases we know of. It concerns a piece of land that Neshi had acquired as a reward for military services rendered at the time of Ahmose’s reign. He bequeathed this land to his children and his sons and daughters inherited equally. They chose rather to manage the inheritance jointly, than to divide it. One of the heirs was chosen to administer it. All went well until the reign of Horemheb, when the guardianship of the land was disputed. A woman, Wenero, a descendant of Neshi, won a court case and became the legal manager on behalf of five other heirs. Her position was soon contested by her sister, Takhero, who won another court case, but soon discovered that the ruling had been overturned in favor of Wenero and her son, Huy. Matters then ran smoothly until the death of Huy, who left behind a wife and son, Mose, as heirs. A certain Khay<sup>5</sup> disputed the right of Huy’s wife, Nebnefret, to administer the estate. Again the dispute was taken to court and Nebnefret tried to

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to Djufachi, and the woman owned only part thereof.

<sup>3</sup> Stela from Amarna West.

<sup>4</sup> Inscription of Mose.

strengthen her case by asking the court to consult the official registers. But Khay forged the official documents and letters and this convinced the court that Huy's family had no right to the land. Khay received the guardianship of the estate and expelled Nebnefret and Mose. The fifth, and presumably final, court case came before the court when Mose was an adult. He alleged that he was the real descendant of Neshi and accused Khay of the forging of the records. At the end Mose appealed to all the people in his community. They, one by one, swore an oath that his father, Huy, the son of Wenero, had legally cultivated the land and that Wenero was the descendant of Neshi. Various documents were brought before the court to substantiate the allegations and the court decided in his favour<sup>6</sup>.

The above mentioned court case is important in understanding the working of the Ancient Egyptian law. It is also clear that women could administer estates on behalf of other family members, including men, and that they could also initiate court cases<sup>7</sup>.

It is evident that the registers of property dated back for hundreds of years and that they were available for consulting and also, unfortunately, for forging. Petrie (1923 : 49) states that:

“The old registration of private deeds, which was in force at least as early as the XIIth dynasty, and probably long before, was fully kept up; not only were all the official documents registered, but every private agreement had to be registered to obtain legal force and serve as future evidence”.

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<sup>5</sup> Most probably another family member.

<sup>6</sup> Also see Allam (1989 : 132). See also Watterson (1991: 33-34).

Ostraca Deir el-Medina 235 indicates that a woman brought three workmen before the court. She requested the court to award her the immovables of her husband. The court decided that:

“The lady is in the right”

and she was thereupon given her husband’s immovable property by law. We, however, do not know the full details of the case and which facts gave rise to the litigation.

The Apanage stele shows that many women possessed land holdings: some cultivated the fields together with their brothers, some with their sons. Some women were widows, using the plot inherited from their husbands as support for them and their children (Menu 1989 : 197)<sup>8</sup>.

The inheritance of land and fields by women is well known throughout the New Kingdom. Ostraca Gardiner 165 refers to a dispute over a donkey, but it is interesting that in this case, proof is given that ordinary people, especially women, could own and sell fields. The woman offers another choice to her creditor:

“I will buy it and I will give you (its) price (from f) ields in Armant.”

The creditor is not satisfied and he responds to the woman as follows:

“I will not take ... fields. Now give me (the) donkey itself!”

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<sup>7</sup> Also see Robins (1993 : 135-136).

<sup>8</sup> Also see Robins (1993 : 135).

A woman could also ask that somebody would provide for her and would promise that she would, in return, give something back, as seen in the words by Peniunu:

“The lady Shedese, a servant of mine, came to me saying: ”Provide for me while I am alive, and you shall control this field of mine. Do not make me give it to another, who is an outsider” and she gave me ¼ rod of land.”

From the above we can thus deduce that even female servants could own fields and dispose of them as they wished.

From the Papyrus Turin<sup>9</sup> we learn that a particular piece of land was subject to a number of transfers. Firstly, Ese(n)kheb held her fields in joint possession with her brother. She wanted to sell her share in the fields and she did so by selling her part, together with her brother, to the other person, a singer of Amun. It is noted further that the vendor’s aunt also owned a share of the fields. The plot of land was subject to a second sale when Peteese bought the plot of land from the singer a few years later. Lastly, Peteese’s widow acts together with her children and donated these ten *arouras* of land to Osiris in order to have her husband’s funerary cult established there. This demonstrates that women could act with immovables as they wished, even donate them to whom they wanted (Menu 1989 : 203). The full right a woman had in the disposal of property is clearly illustrated in the above transfer of this property from the domain of Amun to that of Osiris.

## 2.2) Huts, Houses and Storerooms

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<sup>9</sup> P. Turin 2118, 2118A, 2119, 2120 and 2121.

Women are frequently documented as buying and selling houses and storerooms at the village of Deir el-Medina and a contract<sup>10</sup> is even known to have existed between a woman and a man enabling her to build a house in terms of certain specifications:

“I (the woman) am responsible to thee if I build my house which forms the western (boundary) of your house (and) which is in the ...And I will build my house from my southern wall up to thy wall, provided that I do not insert any timber in it...”

Huts were also left to women by their husbands and fathers, who might otherwise have had no other place to live when their husbands or fathers died. Once there was a protest against a workman (Hieratic Ostraca):

“... he took the hut of Baki, my father, which is in the (Great Field) on the share of Shemt-nfrt”.

The latter was a woman, and it is notable that a woman owned a hut in the Valley of the Kings.

Another two cases of the possession of huts by women are known to us (Ostraca Deir el-Medina 112): a hut in a field was bequeathed to a woman, and a hut in the Valley of the Queens was left to another woman in the same legacy. Usually the huts were used for the storing of tools, basketry and bags.

A divorced woman or widow could find herself without a roof over her head and the acquiring of a private dwelling could have been a major priority. Some of the transfers of these houses have survived. One such house had changed ownership a few times. The house was acquired from the mother of Padikhonsu, who inherited it

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<sup>10</sup> P. BM 10524 as translated by Glanville (1939 : 20-22).

from her. When Padikhonsu died his wife mortgaged the house and all her property, but because she was still unsuccessful in paying her debts the house became the property of the creditor and was later sold to another woman, Taynetjeruy.

Papyrus British Museum 10522<sup>11</sup> indicates that houses were also sometimes given to women as security:

“I have ceded to thee the claim to my house, which has been built and is roofed...”

Only the title to these houses was given as security and not the house itself. If the conditions the security had been given for were not met, however, the house then became the actual property of the woman and she became the full owner of the house.

Papyrus British Museum 10522 furthermore states that other women also owned houses:

“The boundaries of this house, which has been built and roofed, are: its south - **the house of**...and the True **daughter** of Pasemteu; its north- the **house of the woman Neyere**...its west - **the house of the woman Tmut**...”

In the records from Deir el-Medina, Ostraca Deir el-Medina 586, it is mentioned that a woman held many immovable properties at the same time: for example, store rooms at the temple of Osiris and Ptah, a dwelling, a store room next to the tomb of a man, a small shrine and a pyramid on top of another tomb (Allam 1989 : 130).

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<sup>11</sup> As translated by Glanville (1939 : 4-5).

From this evidence it seems that the rights women had in immovables were much the same as those of their male counterparts. Furthermore, women could transfer their rights on immovables and dispose of them as they wanted.

### **3) MOVABLE PROPERTY**

#### **3.1) A Woman's Property before Marriage**

It is clear from marriage deeds, where a wife brings into the marriage some goods, that she could own and possess movable property before her marriage. According to Papyrus Turin 2129 she could, for instance own:

“one shawl (*insn*) to the value of 50 (*deben*) of copper; another shawl to the (value of) 50 (*deben*) of copper; one jar [to] the (value of) 50 (*deben*) [of copper]; one bracelet to (the value of) 50 (*deben*) of copper; one pair of ... of gold ... 1 1/3 to the (value of) 40 (*deben*) of copper; one ring and ringcase, 2 *kite* of silver [to] (the value of) 25 (*deben*) [of copper]; one bracelet to (the value of) 35 (*deben*) of copper”.<sup>12</sup>

Sometimes a list of clothing is added and a piece of material, usually “5 1/2 yards long” was often mentioned first, due to its importance. It seems that this piece of material resembled the veil of the bride, because of its importance, and therefore it possessed such great value that even taxes had to be paid on it. The woman retained ownership of these goods: the husband only acknowledged the fact that she had brought them into the

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<sup>12</sup> The text refers to these goods as the “goods of the woman”: thus private goods for the use of the woman – (mirrors, beds and ornaments) usually made up this property and sometimes musical instruments and copper were included.

marriage (Pestman 1961: 94-96).<sup>13</sup>

The payment a bride gave her husband-to-be to become his wife may have consisted of money or goods. Before the marriage the money or goods belonged to the bride and she remained the owner thereof, but after the marriage the husband administered those goods and money. The goods could comprise a “dower” that also included clothes. The husband promised his wife that he would give back these goods or money if she asked for them after divorce. Whether he in actual fact received the goods and money is doubtful. It was also possible that the amount was not deemed necessary to be paid in full at the time of the marriage and that it could be paid in instalments:

“[The monies which] you will (still) give me (and) which you have (already) given to me [belong to you]”<sup>14</sup>.

The wife could also pay her husband a sum of money or give him goods, as maintenance for herself. The money or goods remained her property even though the husband administered them. He had to give an equal sum of money back after the divorce and after the woman had requested it from him. According to Pestman (1961 :107), we may assume that these goods or money devolved on the wife if the husband died, and on her children if she died.

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<sup>13</sup> There is no indication whatsoever that a conclusion can be drawn that this piece of material was indeed the bridal veil. Because these goods belonged to the wife, she could take them wherever she went: “if you are inside, you are inside with them, if you are outside, you are outside with them”. The husband had the right to do with these objects what he wanted to, but he had to ensure that his wife did not lose and that she would get back a similar object or the estimated value thereof (as fixed in the deed) (Pestman 1961 : 99).

<sup>14</sup> P. BM 10607 as translated by Erichsen & Nims (1958 : 123-125).

Several women sold their shares of income of a hereditary nature. A sale contract recording an inheritance consisting of income that Tamenkhawase inherited from her mother and that she then sold to Pherbes, has survived (P. Louvre 9294). She told the buyer that she was satisfied with the payment she had received for the shares that were hers in the countryside, temple and town, of the properties that were dependent on the functioning of the Choachyte- offerings, a tomb, a house, a field and a vacant plot, servants, sycamores etc.- which she had inherited from her mother, Ruru.

## **3.2) Property received in terms of the Marriage**

### **3.2.1) After Divorce**

A wife had a claim to one third of all the communal property that had accrued during the marriage. If a woman brought in a dowry, she could keep it, although her husband usually made free use of it. However, when divorce occurred, her own property was returned to her in addition to any divorce agreement that was stipulated in the original marriage contract.<sup>15</sup>

A husband also gave his wife a *sp n s.hm.t*, usually consisting out of a sum of money, but sometimes it also comprised of a quantity of corn. This was her property and she could administer and dispose of it as she wished. It became her private property after divorce. Pestman (1961) is however of the opinion that deeds from the period before 230 B.C shows that a wife was entitled to her *sp n s.hm.t* at the time of the marriage. Pestman refers to Papyrus Cairo 30646<sup>16</sup> which records the example that a “gift of

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<sup>15</sup> See Chapter 1, Family Law and Chapter 4, Law of Contract for examples.

<sup>16</sup> A translated by Pestman (1961).

silver (and) gold” had been sent over with Ahura, by her father, to her husband-to-be, her brother, as support for the above. A wife could keep her *sp n s.hm.t* even if her husband died or he repudiated her

### **3.2.2) Inheritance**

She was entitled to inherit one third of the communal property at the time of the death of her husband and the rest of the estate was divided between the children, brothers and sisters of the deceased. The husband had at least two options to circumvent these possibilities and to enable his wife to dispose of all the property. Firstly, he could draw up an *imt-pr* document that was a legal, one sided deed for the grant of property<sup>17</sup>. Secondly, if there were no children, and he did not wish his brothers and sisters to inherit, he could legally adopt his wife as his child and heir<sup>18</sup>.

### **3.2.3) Maintenance**

An important source of income for the wife was the maintenance her husband paid her during the marriage. Usually it consisted of food and clothing and was contained in a deed drawn up on behalf of the wife. The maintenance was calculated annually but it was due every month. The wife could also claim for any outstanding maintenance. The deed made provision for the food, clothing and money which the wife could use as her maintenance. Should the husband also not pay back the money

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<sup>17</sup> See Chapter 2, Law of Succession.

<sup>18</sup> See Chapter 1, Family Law.

she had given him to become his wife, he had to pay her maintenance until this money was paid back:

“I shall give you *boti*, 72 *artabas* at 40 *hin*, is it 48 *artabas* at 40 *hin*, is *boti* 72 *artabas* at 40 *hin* again; and 2 (*deben*) and 4 *kite* of silver, is 12 *stater*, is 2 (*deben*) and 4 *kite* of silver again; and ... oil, 24 *hin*; ... oil, 24 *hin*; is 48 *hin* of liquid in order to give you food and clothing, each year. **You are entitled to the arrears of your food and clothing which shall come at my charge, monthly and annually**”. (P. Cairo 30601)

### 3.3) Slaves

Gardiner (1935 : 141-142) refers to a lawsuit that arose out of the purchase of slaves and translates it as follows (P. Cairo 65739):

“... the merchant Reia approached me with the Syrian slave Gemnhiamente, she being (still) a girl, and he said to me: Buy this girl, and give me a price for her. So he said to me. And I purchased the girl from him and gave him a [price] for her”.

“Me” refers to a woman, which thereby illustrates that women could buy slaves.

In Papyrus Brooklyn<sup>19</sup> we come across a woman, Sonebtisy, who owned a substantial number of slaves and servants. She was the owner of 95 slaves and although this papyrus refers to these slaves as having fled the enforced labour by the government it is especially interesting to see that a woman could own so many slaves.

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<sup>19</sup> As translated by Parkinson (1991 : 99-101).

A document from Deir el-Medina<sup>20</sup> documents a court case between two women. In the earlier days of the reign of Rameses II a woman, Erenofre, decided to buy a slave girl for 4 *deben*, 1 *kite*, and paid for her in different commodities, some of which she already possessed, but some of which she had to buy from others. Her neighbour, Bekmut, alleged that Erenofre had used some of her property to pay for the slave and that she (Bekmut) has a claim on the slave girl. Nakhi, a soldier, laid the charge on behalf of Bekmut. Bekmut took Erenofre to court and both women brought evidence with them to prove their stories. Erenofre had to take an oath:

“If witnesses establish against me that any property of the lady Bekmut was included in the silver I paid for this slave-girl, and I have concealed the fact, then I shall be liable for 100 strokes, having also forfeited her”.

Our records stop where the witnesses for Bekmut gave their testimony and the outcome is uncertain<sup>21</sup>.

If Erenofre had lost her case her punishment would have been severe. Other court cases indicated that women, like men, could receive severe punishment. Lorton (1977 : 48) mentions that Erenofre denied stealing the objects under oath, thus invoking 100 blows and the loss of the slave:

“the former punishment undoubtedly was for perjury, while the latter probably represents a restitution of value to the injured party”.

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<sup>20</sup> P. Cairo 65739. Also see Gardiner (1935 : 140).

<sup>21</sup> Also see Allam (1989 : 130). Also see Pritchard (1955 : 216).

A 13<sup>th</sup> Dynasty papyrus, Papyrus Brooklyn 35.1446, documents a claim by a woman, Tahenwet, that her father gave his wife 15 slaves that were in fact given to her by her husband.

“My father has committed an irregularity. He had in his possession certain objects belonging to me which my husband had given me. But he made them over to his second wife, Senebtisi. May I obtain restitution thereof”.

The outcome of the court case is uncertain, but the importance of this case lies in the fact that a daughter could own slaves and that she could take her father to court.<sup>22</sup>

Women could hire out their slaves and they were thus an extra source of income, even if the initial capital expense were substantial (Robins 1993 : 131). Women could also make available working days of slaves, which meant that they only had a part share in these slaves. They then received payment for the labour of the slaves (McDowell 1992 : 201). With these incomes they were able to buy other slaves and movable and immovable property.

Menu (1989 : 205) argues that we often come across women carrying out transfers of servants and slaves and then being paid a transfer duty or fee for the said transfer. According to Menu, thirteen conveyance deeds are known from the Nubian and Saite period and five of these contracts were negotiated by women on behalf of servants.

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<sup>22</sup> Also see Thèodoridès (1971 : 303-305).

### **3.4) Acquired with a woman's own means**

Women could accumulate capital by the bartering of their agricultural produce and handmade items. With the capital they then bought houses, land and even slaves. Tyldesley (1995 : 42) states that the right to own property was a very important concession and provided security to the unmarried, the divorced and widows.

An example is known where a woman, Benatenherimen, sold thread to a person. Benatenherimen was paid for the raw material and for the weaving of the thread. This example clearly indicates that women could freely sell the products they had produced (P. Louvre E 3168).

Women could also own animals and there is a clear example of a woman who sold a cow to a farmer of Edfu (Papyrus Michigan 3525A). We are not sure if the woman was the wife of the farmer. If she was, the document probably shows, according to Menu (1989 : 202):

“the implementation of matrimonial law ruling property acquired in common”.

Documents also indicate that loans were taken. In the 2<sup>nd</sup> Century B.C. a woman, Renpet-Nefret, loaned money from Andronikos. The loan must have had to be paid back within a year and a part of her land was held as security. Moret (2001 : 348) states that where there was no deed, the oath of the borrower, that he no longer owed anything, made him free from all his obligations, according to a decree by Bocchoris.

Women could also lease their property to other people in order to increase their income. In Papyrus Philadelphia XII, a woman leased a house to another woman for a period of one year:

“You have leased to me (your house)”,

but no reference is made to rental. Hughes (1973 : 158) maintains that there is no mention of rental as the rental had already been paid in full. We cannot, however, be certain as the papyrus is fragmented at this point in the clause.

Reference is also made in Papyrus Deir el-Medina 25C, to a woman leasing seven *arouras* of land to a priest for one year. Mention is made of:

“the taxes and rental of which I have already paid you in full.”

Papyrus British Museum 10537<sup>23</sup> also indicates that a woman had received a receipt on the purchase of property, that she had indeed paid her taxes:

“The woman Teianti, daughter of Djeho, has paid 21/2 *kite*, [being] the tithe [on the] house which she has bought from Pabuche, the mast-maker....”

The above mentioned case shows that women, like men, were also liable for the payment of taxes.

Leases of portions of buildings were also common, whereby the owner of half of the building leased his portion to the other party. In one such lease, a brother leased

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<sup>23</sup> As translated by Glanville (1939 : 40). According to Glanville (1939 : 39) a tax of 10% was levied on the purchase of property.

his sister's part of the building for a year; he took over the responsibility for the maintenance thereof and also undertook to pay rent (Hughes 1973 : 159).

## **SUMMARY**

It suffices to say that a woman could own immovable property. She could obtain immovables in different ways, for example, through inheritance, by purchase and gifts. It has been seen that there was no limitation on what kind of immovables she could own. She could own fields, land and huts, houses and storerooms and could even own them simultaneously.

A woman's movable property consisted of her dowry and any other property she had owned before the marriage. She also received property in terms of the marriage that had been concluded and if repudiation took place, she was also awarded other movable property. She became entitled to movables through inheritance, by having her husband's property bequeathed to her.

From the above, it is thus clear that a woman, whether not yet married, married, divorced or widowed, could purchase property by using the wages she received for work she had done. She could also acquire property by inheritance from her husband or parents. There was no restriction on the types, quantity or the location of property she could own. She could also administer all of her property on her own: hire out slaves, loan money and lease immovable property. She could also sell property without the intervention of a male guardian and proceed with legal actions against others with regard to her property.

The acquisition of property necessitated the entry into a contract. We shall, in the following Chapter, attempt to establish what kinds of contracts women could enter into, and what some of the consequences of the contracts were.