

Immovable Property in Legal Actions as Documented in the Notarial Records: The Case of 13th-Century Dalmatian Cities*

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Written documents are particularly valuable when researching medieval urbanity, since many buildings or spatial constellations are no longer extant or have been restructured over the centuries. The issue of ownership over immovable property is crucial when it comes to exploring historical urban areas, since its owners/users directly influenced its appearance and alterations. Information on the types, locations, and owners of immovable property are found scattered in notarial documents, mostly in various legal actions related to property transfer. In this paper, we have analysed this type of data linked to immovable property and its descriptions in the notarial records, focusing on the 13th-century Dalmatian cities of Zadar, Šibenik, Trogir, Split, and Dubrovnik (present-day Croatia). These data constitute a database that serves to reconstruct various spatial and social relations in the medieval city.

Keywords: Notarial Records. Dalmatia. Croatia. Middle Ages. Cities. Legal Actions.

Introduction

In medieval cities, immovable property was a key element of wealth and power. Institutions, groups, or individuals were holders of a precisely determined set of rights and powers over property, having the authority to use the land, rather than the exclusive rights to it. The relationship between townsmen and their property in medieval cities was very complex and defined by a number of different local and external circumstances. The property-acquiring strategies in the urban societies of medieval towns are relevant for understanding the real-estate market and urban economy. Urban space existed within the legal and administrative framework of a particular community, in which urban development was regulated by the statutes, but even more by legal practice. Throughout the 11th and 12th centuries, the European urban population grew and the economy experienced rapid transformations. It was a period of increasing investment in urban land, which created the need for new theoretical models and practical instruments that would be more appropriate to the demands of an urban society. Many distinctive features of urban laws and customs developed to respond to the new needs of these growing towns. A new and efficient legal order was needed, with mechanisms that could deal with commercial contracts, property transfers, and municipal governments. From the 12th and 13th centuries onwards, documents recording urban properties multiplied. New legal terminology and procedures developed to enforce and recover property rights. Most medieval documents do not include exact data about the types of ownership – they only describe ownership transfers. Nevertheless, these transactions

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reflect the legal influences and vitality of the local communal economy, as well as of individual social groups or families.¹

The 13th century is a period when the communal system developed in the cities of Dalmatia. At this point, municipal institutions required a new legal arrangement, which was also a result of the general currents in the Mediterranean area at the time. As the urban elite gradually took shape, it gained control over the local institutions of power and acquired a specific identity, which is mirrored in the codification of communal law regardless of the sovereign rule of Venice (in case of Zadar and Dubrovnik) or the Croatian magnates from the hinterland, especially the Šubić clan (in case of Šibenik, Trogir, and Split).

The 13th century was also marked by urban demographic growth and expansion in Dalmatia. The construction of new suburbs (and their inclusion within the city walls) was also an invitation to the newcomers who could contribute to the progress of the urban economy and administration. One should also take into account the impact of foreign (often Italian) notaries on administering property.² The dynamics of real-estate transactions and everyday legal practice were restructured so as to function within a clearly defined legal system. This fact was certainly related to the gradual ordering of legal and administrative systems in the municipalities, including the establishment of public chanceries and notarial records. These have been systematically preserved in the cities of Dubrovnik, Zadar, and Trogir from the last decades of the 13th century. As for Split and Šibenik, only individual notarial documents have survived.³ Moreover, the 13th century was a period of conflict between various understandings of legal institutes: the older (common law) and the new one, based on the new official terminology and legal institutes related to the reception of Roman law.⁴

The notarial documents contain many details on urban owners, the type, location, and size of immovable property, the commissioners of construction works, and generally on urban topography and toponymy.⁵ When researching immovable property in the

1 BENYOVSKY LATIN, Irena. Introduction : Towns and Cities of the Croatian Middle Ages : Authority and Property. In: BENYOVSKY LATIN, Irena – PEŠORDA VARDIĆ, Zrinka (Eds.). *Towns and Cities of the Croatian Middle Ages : Authority and Property*. Zagreb : Croatian Institute of History, 2014, pp. 13-35.

2 Cf. GRBAVAC, Branka. *Notarijat na istočnojadranskoj obali od druge polovine 12. do kraja 14. stoljeća* [The notarial office in the Eastern Adriatic from the second half of the 12th until the late 14th century]. [PhD. dissertation]. Zagreb : Filozofski fakultet Sveučilišta u Zagrebu, 2010, pp. 78-81.

3 During the 13th century, court records were still noted down in the form of notarial records (in the notariate of Dubrovnik and Trogir). Besides notarial documents, we have also analyzed the court records of Dubrovnik, Trogir, Šibenik, Split, and Zadar. After the 1270s, court records were separated to form court registers (Dubrovnik, Zadar), which acquired their final form in the 14th century. Cf. POPIĆ, Tomislav. *Krojenje pravde : Zadarsko sudstvo u srednjem vijeku (1358. – 1458.)* [Tailoring Justice: Zadar's Judiciary in the Middle Ages (1358 – 1458)]. Zagreb : Plejada d.o.o., 2014, pp. 33-34.

4 The city notaries, who emerged in the second half of the 13th century, used the latest formulas created in the first half of the century (*Ars notariae*) to facilitate their work when compiling documents and guaranteed the proper formal aspect of the contract on real-estate transfer: using these given models, they filled in the respective data. However, not all forms were the same: thus, formulations related to long-term lease show some varieties. The notaries brought their own experience from other cities where they had served. Cf. GRBAVAC, B. *Notarijat...*, pp. 78-81.

5 On real estate in medieval Zadar, Trogir, Dubrovnik, Šibenik, and Split in 13th-century notarial records (their type, location, and size), see: BENYOVSKY LATIN, Irena – BEGONJA, Sandra. *Nekretnine u notarskim dokumentima 13. stoljeća : Primjeri dalmatinskih gradova (Zadra, Šibenika, Trogira, Splits i Dubrovnika)* [Real estate in the 13th-century notarial records : The examples of Dalmatian cities (Zadar, Šibenik, Trogir, Split, and Dubrovnik)]. In: *Povijesni prilozi*, 2016, vol. 51, no. 51, pp. 7-39.

city based on notarial records, it is crucial to define the type of legal actions,⁶ since urban property is largely mentioned in the notarial records documenting the transfer of ownership/usufruct from one (legal) person or institution to another.⁷ It should be noted that medieval concepts such as (land) property, ownership and lease correspond neither to our modern understanding nor to the Roman period. In addition to full ownership, there were many other forms of "ownership", such as long-term property right, servitude, etc.⁸ City statutes also mention such different levels of owning land.⁹

Property transfer could take the form of sale, donation, exchange, or legal inheritance. Contracts between equivalent parties also included instruments that acknowledged debts due to paying for a property (promissory notes) or paying the property price (receipts), or those obliging to a payment or a transaction (bonds).¹⁰ Transfer of rights *in rem* could also take place on a different legal basis, which mostly meant that it occurred as a result of legal dispute, political decision, confiscation, and so on.¹¹ From the 13th century onwards, documents were also written down for

6 BENYOVSKY LATIN, I. *Introduction...*, pp. 13-35. Cf. LONZA, Nella. Pravna kultura srednjovjekovne Dalmacije između usmenosti i pismenosti [The legal culture of medieval Dalmatia between orality and literacy]. In: *Zbornik Pravnog fakulteta u Zagrebu*, 2013, vol. 63, no. 5-6, pp. 1209-1211. MARGETIĆ, Lujo. *Antika i srednji vijek : studije* [Antiquity and the Middle Ages : Studies]. Zagreb; Rijeka : HAZU; Vitagraf and Pravni fakultet Sveučilišta u Rijeci, 1995, p. 204.

7 Cf. BENYOVSKY LATIN, I. *Introduction...*, pp. 13-35.

8 Already from the 12th century, medieval jurists were struggling with the terminology found in Roman legal sources. They were trying to adjust it to the medieval reality and, in order to integrate the medieval legal institutes into the framework of Roman law, they formulated the doctrine of *duplex dominium* (shared ownership): both the feudal lord (or the commune) and the tenant could "own" the same land, but "not in the same way": the lord had superior ownership (*dominium directum*), while the tenant had a status that resembled ownership (*dominium utile*). This was not the only model that defined the position of a vassal in the system of feudal lordship; there were many other legal positions, such as that of long-term users; cf. RÜFNER, Thomas. The Roman Concept of Ownership and the Medieval Doctrine of *Dominium Utile*. In: CAIRNS, John W. – J. du PLESSIS, Paul (Eds.). *The Creation of the Ius Commune from Casus to Regula*. Edinburgh : Edinburgh University Press, 2012, p. 129. HARDING, Vanessa. Space, Property and Propriety in Urban England. In: *Journal of Interdisciplinary History*, 2002, vol. 32, p. 553 and p. 569. Historians have also referred to these extended patterns of property tenure as "tenurial ladders"; cf. LILLEY, Keith D. *Urban life in the Middle Ages, 1000 – 1450*. Houndmills; Basingstoke; Hampshire; New York : Palgrave, 2002, pp. 200-204. BENYOVSKY LATIN, I. *Introduction...*, pp. 13-35.

9 Thus, the Statute of Split distinguishes between the superior ownership (*dominium eminens*) of the central authority and ownership over the city (*dominium directum*) of the commune (or rather urban nobility, as it enjoyed political rights), while tenants living on leased land (who often owned wooden huts on that land) had the right of usufruct (*dominium utile*), i.e. long-term lease. A similar situation is documented in the Statute of Zadar; cf. BARTULOVIĆ, Željko. Neka pitanja prava vlasništva u Splitskom statutu [Some issues related to property rights in the Statute of Split]. In: RADIĆ, Željko – TROGRLIĆ, Marko – MECCARELLI, Massimo – STEINDORFF, Ludwig (Eds.). *Splitski statut iz 1312. godine : povijest i pravo. Povodom 700. obljetnice. Zbornik radova sa međunarodnoga znanstvenog skupa održanog od 24. do 25. rujna 2012. godine u Splitu*. Split : Književni krug Split; Odsjek za povijest Filozofskoga fakulteta Sveučilišta u Splitu; Pravni fakultet Sveučilišta u Splitu, 2015, pp. 333-352, here p. 334. As Ivan Beuc has established for Zadar, the land owner enjoyed the *dominium utile* (usufruct) and the commune *dominium directum* (direct ownership), but indicated that the Statute itself did not distinguish between these two forms; the terms were only used when compiling the Statute and are of a later date; cf. BEUC, Ivan. Statut zadarske komune iz 1305. godine [Statute of the Zadar commune (1305)]. In: *Vjesnik historijskih arhiva u Rijeci i Pazinu*, 1954, vol. 2, pp. 610-611.

10 Last wills and donations in case of death, as well as breviaries, belong to a special group of notarial documents (a breviary being a record of a transaction – mostly public auctions (*breviarium incantus*) or last wills – that were put down in writing subsequently (*breviarium testamenti*); cf. GRBAVAC, B. *Notarijat...*, pp. 86-89.

11 During the 13th century, most notaries continued using the older terminology, referring to a document as *carta*; some added a term that defined the legal action (*venditio, donatio*). In the 1270s, the term *instrumentum* came into use. A special type was the so-called *notae* – transcripts of older documents (especially important when it comes to real estate); cf. GRBAVAC, B. *Notarijat...*, p. 83.

temporary relations and small-scale transactions, e.g. promissory notes (*instrumenta mutui*). An important type of notarial document was the inventory – that is, official property lists. Unfortunately, inventories from the 13th-century cities that form the focus of this work are no longer extant.

The city statutes are an important comparative source for investigating the relations among the citizens, authorities, and urban space in Dalmatian cities. The codification of legal norms (which, prior to this, were deficient, scattered, unclear) implies the ordering of law in Dalmatian cities. Codification of statutory law started in the 13th century, but not all the statutes have been preserved.¹² The Dalmatian coastal area was, in legal terms, strongly influenced by statutory law which shows the influence of Roman, Byzantine, and Venetian laws. The customary, unwritten law dominating the pre-statutory period was still present in the later centuries. In this study, legal actions in the notarial records have been compared to the statutory regulations from the 13th and 14th centuries.¹³

Sale

The most frequent type of immovable property transfer was sale.¹⁴ In the 13th century, Dalmatian cities gradually introduced the public announcement of a sale as a legal procedure preceding the transfer, intended to prevent conflicts and disputes after the property transfer and to protect the future owner.¹⁵ In this procedure, the

12 In the first half of the 13th century, Dalmatian cities compiled their written regulations into "more complex and more complete normative forms – the predecessors of the future statutes." Cf. LONZA, N. *Pravna kultura...*, pp. 1223-1224. The preserved Statute of Split is from 1312, written under the influence of an older one as well as of Roman law. The preserved Statute of Dubrovnik was codified in 1272 and the Statute of Šibenik in 1293. Codification of the Statute of Zadar was completed in 1305, but most probably started as early as the 1260s. The preserved Statute of Trogir is from 1322. Cf. BENYOVSKEY, Irena. *Reguliranje gradskih prostora u dalmatinskim gradovima srednjeg vijeka* [Regulating urban space in medieval Dalmatian cities]. In: *Acta Histriae*, 1999, vol. 7, pp. 543-564. BENYOVSKEY, Irena. *Komunalno reguliranje gradskog prostora u srednjovjekovnom Trogiru* [Communal regulation of urban space in medieval Trogir]. In: *Zbornik Odsjeka za povijesne znanosti Zavoda za povijesne i društvene znanosti Hrvatske akademije znanosti i umjetnosti*, 2003, vol. 21, pp. 29-43. CVITANIĆ, Antun (Ed.). *Statut grada Splita. Splitsko srednjovjekovno pravo. III. izdanje* [Statute of Split : Split's medieval law, 3rd ed.]. Split : Književni krug, 1998, (hereinafter SS), passim; ZELIĆ, Danko. *Gradski statut kao izvor za povijest urbanog razvoja Šibenika* [Statute of Šibenik as a source for the history of urban development]. In: *Radovi Instituta za povijest umjetnosti*, 1995, vol. 19, p. 37. NOVAK, Grga. *Povijest Splita. Knjiga prva (Od prehistorijskih vremena do definitivnog gubitka pune autonomije 1420. god.)* [History of Split. Book 1 : From the prehistoric times until the final loss of full autonomy in 1420]. Split : Matica hrvatska, 1957, vol. 1, pp. 279-282. KOLANOVIĆ, Josip – KRIŽMAN, Mate (Eds.). *Zadarski statut sa svim reformacijama odnosno novim uredbama donosenima do godine 1563* [Statute of Zadar with all its reformations and new regulations before 1563]. Zagreb; Zadar : Hrvatski državni arhiv and Ogranak Matice hrvatske, 1997 (hereinafter ZS), pp. 10-12. BEUC, Ivan. *Statut zadarske...*, pp. 545-550.

13 However, the statutes did not regulate all areas of life, but only the most important legal norms or changes in customs. Especially important for understanding urban development are those related to the law of obligations, the law of real property, and the law of inheritance. The statutes influenced the notarial records with the evidentiary effect of an instrument.

14 GRBAVAC, B. *Notarijat...*, p. 86. On sales in medieval Croatia and Dalmatia, see: BREITENFELD, Fedor. *Pravni poslovi nekretninama u XII. i XIII. vijeku u Dalmaciji, Hrvatskoj i Slavoniji* [Legal transactions in Dalmatia, Croatia, and Slavonia during the 12th and 13th centuries]. In: *Vjesnik Hrvatskoga arheološkoga društva*, 1936, vol. 17, no. 1, pp. 113-114.

15 See also: MARGETIĆ, Lujo. *Srednjovjekovno hrvatsko pravo : obvezno pravo* [Medieval Croatian law : Law of obligations]. Posebna izdanja HAZU. Prilozi za izučavanje hrvatske povijesti, vol. 1. Zagreb; Rijeka : HAZU; Vitagraf; Adamić; Pravni fakultet Sveučilišta u Rijeci, 1997, pp. 220 and 238. MARGETIĆ, Lujo. *Osnove srednjovjekovnog obveznog prava u Dalmaciji* [Basic features of the medieval law of obligations in Dalmatia]. In: *Rad HAZU*, 1993, vol. 32, no. 465, pp. 75-76.

seller had to inform the municipal officials about the intended sale, which had to be publicly announced at a well-frequented site in the city, at a peak hour.¹⁶ Before that, the property was to be measured by the communal surveyors. All those who considered themselves injured could file an objection within a due period of time, which could lead to a dispute and postpone the sale and the property transfer. If there were no objections and the deadline was over, the buyer could be vested in the property. The preserved 13th-century documents on announcements of sale mostly mention objections due to debts. Examples from Dubrovnik contain subsequently added objections, which disclose the seller's debts (which he was to settle from the sale of the property).¹⁷ In some cases, objections were filed by family members who believed that they were entitled to the property.¹⁸ According to some scholars, documents from 1240 – 1290 contain mentions of public announcements of sales in Split¹⁹ that offered the creditor an opportunity to recover his money from the sale. A document from Zadar (1289) tells of a sale announced according to the "statutory regulations and customs of the Zadar commune".²⁰ It was only at a later date that the Dalmatian statutes regulated sale announcements so as to ensure the right of pre-emption, which probably means that property transactions had become more liberal.²¹ Nevertheless, a dispute from Dubrovnik (1286) shows that in practice this rule was also applied at an earlier date: there the descendants of Šimun de Cerneca raised charges against Ungara, the widow

16 In Zadar, the Statute declared that sales were to be loudly announced in front of the loggia, in a public space, twice a day for an entire month, and on Sundays in front of churches, where the multitude assembled. ZS, L. III, t. IX, c. 32.

17 A notarial document on sale by public announcement was in Dubrovnik mostly structured as follows: the communal messenger (*preco comunis*) announced the sale: (...) *ad petitionem ambarum partium, per loca solita publica voce preconciavit...* The announcement ended by stating the deadline by which those who considered the sale doubtful were to raise objections: (...) *unde si quis habet petere rationem in dictis veniat coram domino comite et sua curia infra terminum in statuto specificatum* (...) Cf. ČREMOŠNIK, Gregor (Ed.). *Spisi dubrovačke kancelarije: Zapisi notara Tomazina de Savere 1278 – 1282. Monumenta historica Ragusina* [Documents of the Dubrovnik chancery: Records of the notary Tomazino da Savere, 1278 – 1282]. Zagreb; Dubrovnik: JAZU, Historijski institut JAZU, 1951, book 1 (hereinafter MHR I), X-XI.

18 Margetić has indicated that the statutory regulation on real-estate announcements in Dubrovnik, according to which no sale was considered valid without having been announced, does not mention the obligation of putting it down in writing. Thereby he has argued for the hypothesis that at the time of the Statute of 1272, such a document was merely used as evidence, rather than being an element of a valid sale contract; cf. MARGETIĆ, L. *Srednjovjekovno...obvezno...*, p. 233. ŠOLJIĆ, Ante – ŠUNDRICA, Zdravko – VESELIĆ, Ivo (Eds.). *Statut grada Dubrovnika sastavljen godine 1272*. [Statute of Dubrovnik (1272)]. Dubrovnik: Državni arhiv u Dubrovniku, 2002 (hereinafter SD), L. VIII, c. 31.

19 According to Margetić, these documents were linked to a specific form of sale, namely sale-exchange. Cf. MARGETIĆ, L. *Srednjovjekovno...obvezno...*, p. 233. Such examples largely refer to real-estate announcements during the 1260s and 1270s in Split; cf. SMIČIKLAS, Tadija (Ed.). *Diplomatički zbornik Kraljevine Hrvatske, Dalmacije i Slavonije / Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae. Listine godina 1256 – 1272*. Zagreb: JAZU, 1907, vol. 5 (hereinafter CD V), p. 343, doc. 833 (1265). CD V, p. 502, doc. 969 (1269). SMIČIKLAS, Tadija (Ed.). *Diplomatički zbornik Kraljevine Hrvatske, Dalmacije i Slavonije / Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae. Listine godina 1272 – 1290*. Zagreb: JAZU, 1908, vol. 6 (hereinafter CD VI), p. 171, doc. 158 (1276).

20 (...) *solempnitate statute iuris et consuetudinis ladere* (...) ZJAČIĆ, Mirko (Ed.). *Spisi zadarskih bilježnika (Notarilia Iadrensis). Spisi zadarskih bilježnika Henrika i Creste Tarallo 1279. – 1308. Notariorum Jadrensiu Henrici et Creste Tarallo acta quae supersunt 1279 – 1308*. Zadar: Državni arhiv u Zadru, 1959, vol. 1 (hereinafter SZB I), p. 124, doc. 53.

21 CVITANIĆ, Antun. Uvod [Introduction]. In: SS, p. 168. MARGETIĆ, L. *Srednjovjekovno...obvezno...*, pp. 227 and 230-237. CVITANIĆ, Antun. Uvod u trogirsko statutarno pravo [Introduction to the statutory law of Trogir]. In: BERKET Mladen – CVITANIĆ, Antun – GLIGO, Vedran (Eds.). *Statut grada Trogira* [Statute of Trogir]. Split: Književni krug, 1988 (hereinafter ST), p. xliv. ZELIĆ, D. *Gradski statut...*, p. 42.

of Kalenda de Cerneca (Šimun's brother), because she had sold the property of her late husband "to whomever she wished" – namely, to her parents and nephews instead of the one who offered the most.²²

The 13th century was also the period in which existing property relations were put down in writing, since citizens were increasingly aware of the importance of possessing a written document in case of dispute. In 13th-century sale contracts (*instrumentum venditionis*), one can also observe a mixture of older legal customs (such as giving a symbolic object or token²³ when vested in property) and newer ones, introduced under the impact of trained notaries. In cases that are in the focus of this paper, sales were defined by older legal institutes and using verbs that are typical of donation, such as *dare* or *donare* (e.g. in Dubrovnik in 1233²⁴), or of exchange. Margetić calls such cases "sales-donations" and "sales-exchanges",²⁵ observing that this type of documenting sales was typical of the 12th and the first half of the 13th century, after which period a stronger

22 The dispute mentions that it was a custom in Dubrovnik to sell the property to the highest bidder at a public auction. However, Ungara claimed that she was acting in accordance with her husband's last will, which did not mention any public auction, only that the property should be sold to the one who offered the largest sum of money. Ungara then added that she investigated by herself who could offer the most in the city "among the persons who regularly bought estates". Even though she had also "wanted to sell the estate for a higher price", she could not find a buyer and thus sold it to her relatives for less money. Ungara's relatives, as the buyers of the property in question (a palace with a wooden hut and a vineyard outside the city) stated that they would cede it to anyone who offered more than they had done. Eventually, the count and the judges decided that the sale should be publicly announced and if nobody offered a higher price within an eight-day period, it should go to the Crossi family. Based on this verdict, the *preco comunis* publicly proclaimed that the estate was sold for 1000 *perperi* and the vineyard for 400 *perperi*. CD VI, p. 560, doc. 475. Cf. BENYOVSKY LATIN, Irena – LEDIĆ, Stipe. Posjed obitelji Volcassio u srednjovjekovnom Dubrovniku [Property of the Volcassio family in medieval Dubrovnik]. In: *Anali Zavoda za povijesne znanosti HAZU u Dubrovniku*, 2013, vol. 51, no. 1, p. 37, n. 76.

23 According to Margetić, an even earlier form than advance money was to confirm the sale by giving a coin to the seller, a form that vanished with the introduction of notarial records and witnesses as the instrument of warrant; cf. MARGETIĆ, Lujo. O javnoj vjeri i dispozitivnosti srednjovjekovnih notarskih isprava s osobitim obzirom na hrvatske primorske krajeve [On public faith and the dispositivity of medieval notarial records, with a special focus on the Croatian littoral]. In: *Radovi Zavoda za hrvatsku povijest Filozofskoga fakulteta Sveučilišta u Zagrebu*, 1973, vol. 4, no. 1, pp. 70-72. MARGETIĆ, Lujo. *Srednjovjekovno hrvatsko pravo – stvarna prava* [Medieval Croatian law : Law of real property]. Zagreb; Rijeka; Čakovec : Pravni fakultet u Zagrebu and Pravni fakultet u Rijeci, 1983, pp. 82-86. According to N. Lonza, it was a custom in the Middle Ages to ritually vest a person in property by giving symbolic objects (a token, a lump of earth), by which act the seller renounced at the estate. This way of memorizing a legal action was particularly important at the time before the systematic records. LONZA, N. *Pravna kultura...*, pp. 1211-1213.

24 SMIČIKLAS, Tadija (Ed.). *Diplomatički zbornik kraljevine Hrvatske, Dalmacije i Slavonije / Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae. Listine godina 1201 – 1235*. Zagreb : JAZU, 1905, vol. 3 (hereinafter CD III), p. 380, doc. 328. In a document from Dubrovnik (1233), Teoderata, daughter of Matija Ranana, sold two houses to Andrija Ranana. The sale was noted down using the following formula: (...) *donavit (...) idem Andreas in eternum habeat et possideat*. Andrija Ranana gave 10 *perperi* to Teoderata *loco remunerationis* ("in remuneration") and 210 *perperi pro uenditione*. In continuation, the transaction is referred to as a *donatio et uenditio*. According to Margetić, the 10 *perperi* were some sort of advance money, while the 210 *perperi* were the agreed price. There are similar cases in Zadar, where the "countergift" was called *talio*; cf. MARGETIĆ, L. *Srednjovjekovno...obvezno...*, pp. 182 and 189. In Zadar, one also encounters the terms *dare*, *donare* for this type of sale-donation; cf. KOLANOVIĆ, Josip – MARKOVIĆ, Jasna – BARBARIĆ, Josip (Eds.). *Diplomatički zbornik Kraljevine Hrvatske, Dalmacije i Slavonije. Dodaci / Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae. Supplementa. Listine godina 1020 – 1270*. Zagreb : Hrvatski državni arhiv; HAZU, 1998, vol. 1 (hereinafter CD SUPPL I), pp. 288-289, doc. 227 (1266).

25 MARGETIĆ, L. *Srednjovjekovno...obvezno...*, p. 185. MARGETIĆ, L. *Srednjovjekovno stvarno...*, pp. 84-88; cf. ŠUFFLAY, Milan pl. *Dalmatinsko-hrvatska srednjovjekovna listina : povijest hrvatskoga notarijata od XI. do XV. stoljeća* [Medieval documents in Dalmatia and Croatia : History of the Croatian notariate from the 11th– 15th centuries]. Zagreb : Naklada Darko Sagrak, 2000, pp. 115 and 117.

impact of Roman law is noticeable.²⁶ Adapting the form to the specific circumstances and various types of oral agreements between the contract parties resulted in different combinations of formulas in the records.²⁷ Whereas in Zadar expressions such as *dare*, *donare*, *vendere atque transactare* were used (1264²⁸ and 1290²⁹), in Split the same action was recorded as *dedit*, *contulit ac precise vendidit* (1269).³⁰ At the same time, a specific style evolved that often used the formula *vendo atque transacto*.³¹ These various formulations depended on the individual notaries.³² Thus, in Trogir both forms of sale were documented in the second half of the 13th century.³³ However, the verbs that were most frequently used were *vendere*,³⁴ *vendere et dare*,³⁵ *vendere, tradere et dare*,³⁶

26 MARGETIĆ, L. *Srednjovjekovno...obvezno...*, pp. 182 and 189.

27 In Rolandino's form, the sale is rendered as *dedit, vendidit et tradidit iure proprio in perpetuum*. According to the collection of formulas compiled by the notary Rajnerije from Perugia (founder of a notarial school in Bologna), sale documents should be written using the formula *vendidit iure proprio / iure proprio vendo et trado*; according to the formula collection compiled by the notary Bencivenna de Norcia (*Ars notariae*), it should be *iure proprio vendidit / iure proprio vendidit et tradidit*; and according to the notary Salathiel: *vendidit et tradidit*. GRBAVAC, B. *Notarijat...*, pp. 78 and 144.

28 (...) *damus, donamus, vendimus atque transactamus* (...) CD V, p. 317, doc. 806.

29 (...) *uendo, do, dono atque transacto* (...) SZB I, p. 227, doc. 275. MARGETIĆ, L. *Srednjovjekovno...obvezno...*, p. 185.

30 In a document from 1269 proclaiming the sale of a house owned by Vučina Černca and his wife Demencija, the following formula is used: (...) *dedit, contulit ac precise uendidit eisdem domum suam bannitam per preconem publice in platea* (...). It is evident from the rest of the document that it was a sale, whereby Vučina obtained from the buyer not only 60 *librae* of small Venetian coins, but also a land plot in exchange. CD V, p. 502, doc. 969.

31 B. Grbavac has interpreted the use of the verb *transactare* along with *dare* and *vendere* as a specificity of the Zadar style, in which the notaries' subjective forms prevailed until as late as the 1330s; cf. GRBAVAC, B. *Notarijat...*, p. 146.

32 A similar situation can be observed later on. Thus, in 14th-century Zadar, various notaries used different formulations: Nicolaus (1320) and Stephanus Petri (1321) used *do, uendo, trado, atque transacto, do, uendo atque transacto*. cf. SMIČIKLAS, Tadija (Ed.). *Diplomatički zbornik kraljevine Hrvatske, Dalmacije i Slavonije / Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae. Listine godina 1301 – 1320*. Zagreb: JAZU, 1910, vol. 8 (hereinafter CD VIII), p. 577, doc. 472. SMIČIKLAS, Tadija (Ed.). *Diplomatički zbornik kraljevine Hrvatske, Dalmacije i Slavonije / Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae. Listine godina 1321 – 1331*. Zagreb: JAZU, 1911, vol. 9 (hereinafter CD IX), p. 15, doc. 12. Duymus de Spaleto (1321, 1329, 1333) used *uendo atque transacto*. CD IX, p. 2, doc. 2. CD IX, p. 480, doc. 390. SMIČIKLAS, Tadija (Ed.). *Diplomatički zbornik kraljevine Hrvatske, Dalmacije i Slavonije / Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae. Listine godina 1332 – 1342*. Zagreb: JAZU, 1912, vol. 10 (hereinafter CD X), p. 76, doc. 41; and Maurus de Cosića (1331, 1332) used *do uendo et trado*. CD IX, pp. 549 and 552, doc. 445 and 447. CD X, p. 21, doc. 19.

33 MARGETIĆ, L. *Srednjovjekovno...obvezno...*, p. 234.

34 BARADA, Miho (Ed.). *Trogirski spomenici. Dio I. Zapisci pisarne općine trogirске. Svezak I. od 21. X. 1263. do 22. V. 1273. Monumenta Traguriensia. Pars prima. Notae seu abbreviaturae cancellariae comunis Traugurii. Volumen I ab 21. X. 1263. usque ad 22. V. 1273. Monumenta spectantia historiam Slavorum meridionalium*. Zagreb: JAZU, 1948, book 44 (hereinafter MT I/1) (notary Franciscus Angeli), p. 237, doc. 33; p. 284, doc. 31.

35 MT I/1, p. 68, doc. 147. MT I/1, p. 168, doc. 74. MT I/1, p. 461, doc. 373.

36 For the formulation *vendidit, dedit et tradidit*, see e.g.: MT I/1, p. 144, doc. 29; p. 217, doc. 163; p. 219, doc. 167; p. 154, doc. 49 and 52; p. 162, doc. 62; p. 175, doc. 84; p. 171, doc. 78; p. 192, doc. 117, 118, and 122; p. 204, doc. 142; p. 232, doc. 23; p. 247, doc. 51; p. 249, doc. 56; p. 257, doc. 75; p. 221, doc. 1 (notary Franciscus Angeli); p. 278, doc. 18; p. 285, doc. 33; p. 291, doc. 43; p. 305, doc. 66; p. 311, doc. 73; p. 311, doc. 73; p. 316, doc. 84; p. 322, doc. 94; p. 323, doc. 98; p. 337, doc. 121; p. 346, doc. 138.

or *vendere et tradere*.³⁷ In Split, the most common verbs were *vendere*³⁸ and *vendere et tradere*,³⁹ but one also finds *dare*, *contulere*, and *ac precise vendere*.⁴⁰

Besides verbs related to sales, Dalmatian notarial records use various expressions for the rights linked to ownership. The claims of the new owner are defined by the clause with the *res* formula on property, e.g. in Trogir *iure proprio*,⁴¹ *in perpetuum*, or *cum plena virtute et potestate... ad habendum, possidendum, obligandum... donandum...* The situation was similar in Split and Zadar.⁴² The terms referring to inalienability in sale contracts were intended to protect the seller, since it was often difficult to determine all the circumstances around the sold property. Nevertheless, some stipulations in the documents may be mere ornaments introduced by the notary, a “mechanical listing of formulations from a model” rather than a precise legal foundation.⁴³ Along with the property, the new owner obtained all the rights related to it for himself and his heirs.⁴⁴ Some records mention older documents as proof of ownership in case of dispute. An example mentioning “charters new and old” is documented in Zadar (1285) when part of an estate was sold to Lampredije de Cotopagna,⁴⁵ as well as in Dubrovnik.⁴⁶ Ownership claims were sometimes asserted by the choice of terminology linked to the type of property. For example, the sale of a house with land (*cum solo*) was described

37 MT I/1, p. 94, doc. 6; p. 105, doc. 24; p. 112, doc. 34; p. 215, doc. 160. After the last will: p. 118, doc. 44; p. 125, doc. 56; p. 127, doc. 60 and 61; p. 177, doc. 88. In Trogir, the formulations differed from notary to notary (with various notarial formulas). In the 14th century, the most frequently used verb was *vendere*, more rarely *dare* et *vendere*; cf. ANDREIS, Mladen – BENYOVSKY LATIN, Irena – PLOŠNIĆ ŠKARIĆ, Ana. Socijalna topografija Trogira u 14. stoljeću [Social topography of Trogir in the 14th century]. In: *Povijesni prilozi*, 2007, vol. 33, pp. 133-192.

38 CD III, p. 364, doc. 317; p. 394, doc. 341 (extrarurban real estate).

39 CD V, p. 343, doc. 833 (at the city outskirts).

40 CD V, p. 502, doc. 969. CD VI, p. 171, doc. 158. Cf. GRBAVAC, B. *Notarijat...*, p. 147.

41 E.g. BARADA, Miho (Ed.). *Trogirski spomenici. Dio I. Zapisnici pisarne općine trogirске. Svezak II. od 31. I. 1274. do 1. IV. 1294. Monumenta Traguriensia. Pars prima. Notae seu abbreviaturae cancellariae comunis Traugurii. Volumen II ab 31. I. 1274. usque ad 1. IV. 1294. Monumenta spectantia historiam Slavorum meridionalium. Zagreb: JAZU, 1950, book 45/I-2 (hereinafter MT I/2), p. 17, doc. 35. MT I/2, p. 21, doc. 46. MT I/2, p. 23, doc. 49. MT I/2, p. 56, doc. 123. MT I/2, p. 63, doc. 137. MT I/2, p. 72, doc. 158. MT I/2, p. 73, doc. 160. MT I/2, p. 87, doc. 187.*

42 For example, in Split: (...) *habendi, possedendi, uendendi* (...) CD V, p. 502, doc. 969; in Zadar: (...) *cum plena virtute et potestate* (...) *habendi, tenendi, gaudendi, possidendi* (...) CD VI, p. 350, doc. 294. Ensuring that the new owner would not be deprived of the property by the old one was also regulated by a formula of obligation; cf. BREITENFELD, F. *Pravni poslovi...*, p. 120.

43 LONZA, N. *Pravna kultura...*, p. 1230.

44 Nevertheless, the investigated examples show that the lack of such formulations does not necessarily imply the lack of “full ownership”, since some notaries used them regularly, while others not at all. A similar situation is found in official forms – with Rajnerije: *vendidit iure proprio / iure proprio vendo et trado*; with Bencivenne: *iure proprio vendidit / iure proprio vendidit et tradidit*; with Salathiel: *vendidit et tradidit*; with Rolandin: *dedit, vendidit et tradidit iure proprio in perpetuum*; quoted from: GRBAVAC, B. *Notarijat...*, p. 144.

45 BREITENFELD, F. *Pravni poslovi...*, p. 119. An example from Zadar: CD VI, pp. 525-526, doc. 444. Cf. the sale contract of Dabra, daughter of the late Martinusi (1282). In: SIROTKOVIĆ, Hodimir – BARBARIĆ, Josip – MARKOVIĆ, Jasna (Eds.). *Diplomatički zbornik kraljevine Hrvatske, Dalmacije i Slavonije. Dodaci II. / Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae. Listine godina 1271 – 1309. Supplementa II. Zagreb: HAZU, 2002, vol. 2 (hereinafter CD SUPPL II), p. 116, doc. 50.*

46 Thus, Tripo de Georgio shared his property with his brother's descendants in 1300 and the document on this division includes an older transcript of a document (*cartae*) from 1295, in which Tripo bought the land plot from St Bartholomew's monastery that year. LUČIĆ, Josip (Ed.). *Spisi dubrovačke kancelarije: Zapisni notara Andrije Beneše 1295 – 1305. Monumenta historica Ragusina. Zagreb: HAZU; Zavod za hrvatsku povijest Filozofskog fakulteta u Zagrebu, 1993, vol. 4 (hereinafter MHR IV), pp. 78-79, doc. 262.*

“including all constructions, rights, and boundaries”.⁴⁷ Individual claims of entitlement (a specific relation to the object of sale) were more relevant in practice than abstract full ownership.⁴⁸

Various reasons for selling immovable property can be inferred from legal actions. Thus, some sales resulted from instructions given in last wills, or from divisions (these were simple sales and thus property boundaries are always given).⁴⁹ Sales could also result from debts.⁵⁰ It has been mentioned above that sale contracts need not necessarily mirror the actual situation on site – it was in the parties’ interest to bypass the legal regulations by agreeing orally on the transaction before signing the contract and then formulate the document as a different legal action (e.g. donation or exchange). Introducing regulations concerning issues such as pre-emption or sale announcement shows that the authorities tried to prevent such private deals. Even though everyone was in principle free to sell his property as he liked,⁵¹ selling real estate to foreigners or ecclesiastical institutions was gradually curbed, a trend that was later codified in statutory regulations.⁵²

Exchange

Exchange (*instrumentum permutacionis*) was another type of permanent transfer of immovable property occurring in the notarial records.⁵³ The formulation *do, dono atque transacto nomine et titulo permutacionis et cambii* is found with Zadar’s notaries in the late 13th century;⁵⁴ the verb *commutare*⁵⁵ and the formulations *comutare, dare, or deliberare*⁵⁶ were also used. A document from Trogir (1266) uses the formulation *fecit comutationem*, while those in Split (mostly referring to extraurban property) use *gambium feci*. As for Šibenik, there are no preserved examples.⁵⁷ Under the influence of professional notaries, Dalmatian notarial records started using modern formulas.⁵⁸

47 Statutory regulations also protected the rights of real-estate buyers; cf. BREITENFELD, F. *Pravni poslovi...*, p. 117. CVITANIĆ, A. *Uvod...*, p. 198. ZS, L. II, t. XVIII, c. 106. GRUBIŠIĆ, Slavo (Ed.). *Knjiga statuta, zakona i reformacija grada Šibenika*. Šibenik : Muzej grada Šibenika, 1982 (hereinafter ŠS), L. III, c. 49.

48 CVITANIĆ, A. *Uvod...*, pp. 153-175. LONZA, N. *Pravna kultura...*, pp. 1209-1211.

49 See the section on division.

50 According to the Statute of Split, debts were to be repaid from the last will, including the sale of property if needed. ŠS, L. III, c. 20. ŠS, Nove statutarne odredbe, c. 14 (1350).

51 ZS, L. III, t. VIII, c. 27. ŠS, L. IV, c. 44.

52 ŠS, R, c. 34 (1385). ŠS, L. IV, c. 45. ŠS, R, c. 10 (1381). ŠS, R, c. 162 (1405). ZELIĆ, D. *Gradski statut...*, p. 42. ST, R. I, c. 17. R. I, c. 62. R. II, c. 59. ŠS, L. I, c. 21. ŠS, Nove statutarne odredbe, c. 25 (1354). Real-estate ownership was generally linked to citizenship. ZS, L. III, t. XX, c. 97. Cf. BEUC, I. *Statut zadarske...*, pp. 574-575 and 577-579.

53 See the following statutory regulatons: ŠS, L. III, c. 47. ZS, L. III, t. XX, c. 97. ZS, L. II, t. XVIII, c. 106. ŠS, L. III, c. 121. ŠS, L. I, c. 21 (1325). ŠS, L. III, c. 72. ŠS, L. III, c. 74. ŠS, Nove statutarne odredbe, c. 25 (1354). ŠS, L. III, c. 49. ŠS, R, c. 4 (1380).

54 An example of extraurban estate: SMIČIKLAS, Tadija (Ed.). *Diplomatički zbornik kraljevine Hrvatske, Dalmacije i Slavonije / Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae. Listine godina 1290 – 1300*. Zagreb : JAZU, 1909, vol. 7 (hereinafter CD VII), p. 358, doc. 312 (1299).

55 CD III, p. 44, doc. 41 (1204).

56 CD III, p. 163, doc. 135 (1217).

57 MT I/1, pp. 45-46, doc. 97. For Split examples, see: CD III, pp. 96 and 112, doc. 78 and 90.

58 MT I/2, p. 220, doc. 118. MT I/2, p. 229, doc. 151. Something similar is found in a document from 1272: (...) *dederunt et tradiderunt in gambium nomine permutacionis* (...) MT I/1, p. 317, doc. 86. See also: (...) *nomine permutacionis et gambij dedit et tradidit* (...) *Peruin Cicole nomine permutacionis et gambij dedit et tradidit Vidonne Scocillani medietatem tocius paratinee, quam ipse Peruin emit a Stoysca* (...) *posite in burgo iuxta* (...) MT

Thus, exchange could take place in two ways: by exchanging one estate for another (similar in value) without any additional payment, and as exchange with additional payment by the party who offered an estate of inferior value, mostly in cash.⁵⁹ In this regard, a 13th-century document from Dubrovnik confirms the exchange (*cambium*) of two estates: the de Gondula brothers gave one estate in exchange for another (from the de Volcassio brothers).⁶⁰

Donation

Donation (*instrumentum donationis*) likewise documents permanent transfer of immovable property, mostly without additional payment. In practice, however, there were varieties that suited the specific needs of the parties.⁶¹ For example, donations could conceal other types of legal action, such as sale, in order to bypass the rule of pre-emption. If a person was not willing to sell the property to their neighbours or relatives, they could agree with a third party to make a formal donation. This was known as *negotium mixtum cum donatione*.⁶² Donations in marriage were another specific type (*donatio inter virum et uxorem* or *donatio sponsalitia*).⁶³ The verb mostly used to define this legal action is *donare*,⁶⁴ with a frequent addition of *inter vivos*.⁶⁵ The *res* formula

I/1, p. 470, doc. 392. The notarial forms used the following formulations: *permutavit iure proprio* (Rajnerije); *iure proprio permutavit / iure proprio permutavit et tradidit* (Bencivenne); *permutavit et tradidit* (Salathiel); *dedit, tradidit et permutavit iure proprio imperpetuum* (Rolandin); cf. GRBAVAC, B. *Notarijat...*, p. 144.

59 BREITENFELD, F. *Pravni poslovi...*, p. 135. In Zadar, a few documents concerning property exchange lack the segment with information on the second estate or additional payment, see: CD III, p. 44, doc. 41. In Split, notarial documents also mention payment in the context of property exchange (extrarban estates), e.g. CD III, p. 96, doc. 78.

60 However, it may have been a special type of sale, the so-called exchange-sale. MHR I, p. 335, doc. 1119. BENYOVSKY LATIN, I. – LEDIĆ, S. *Posjed obitelji...*, p. 42.

61 Thus, in a donation from Zadar (1277) a land plot is donated (...*inter uiuos, do, dono atque transacto...*) to the monastery of St Mary, on the condition that the donor should be granted sustenance until she dies. CD SUPPL II, p. 75, doc. 26.

62 On Split, see: CVITANIĆ, A. *Uvod...*, p. 209. On Šibenik: ŠS, R, c. 49 (1386).

63 GRBAVAC, B. *Notarijat...*, p. 144.

64 In Dubrovnik, the most common formulation is *dare et donare*, with an indication of full usufruct and ownership after the act of donation. MHR I, pp. 105-106, doc. 376. MHR I, p. 142, doc. 478. MHR IV, p. 20, doc. 7. MHR IV, pp. 25-26, doc. 30. MHR IV, p. 47, doc. 128. In 13th-century Zadar, the following verbs were used: *dare, donare atque transactare*. SMIČIKLAS, Tadija (Ed.). *Diplomatički zbornik kraljevine Hrvatske, Dalmacije i Slavonije. Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae. Listine godina 1236 – 1255*. Zagreb: JAZU, 1906, vol. 4 (hereinafter CD IV), p. 377, doc. 344 (1249). Other verbs used include *dare, donare, tradere atque transactare*. CD V, p. 299, doc. 794 (1264). The earliest donation forms from Zadar do not contain the formula of irrevocability, but a promise of firm adherence to the contract instead, which had by the late 13th century become a part of donations *inter vivos*. GRBAVAC, B. *Notarijat...*, p. 233. Cf. CD VI, p. 570, doc. 483. SZB I, p. 199, doc. 222.

65 According to the forms, exchange was to be noted down as follows: *iure proprio pure, libere et simpliciter inter vivos do et trado / donavit inter vivos* (Rajnerije); *iure proprio pure et libere et simpliciter inter vivos donavit inrevocabiliter* (Bencivenne); *donavit pure et libere et simpliciter inter vivos / donavit et tradidit (... pure libere et simpliciter inter vivos* (Salathiel); *dedit, tradidit et donavit pure libere simpliciter et inreucabiliter inter uiuos iure proprio in perpetuum* (Rolandin). GRBAVAC, B. *Notarijat...*, p. 144.

here also refers to those elements that emphasized the new ownership rights.⁶⁶ Thus, most examples from Split⁶⁷ stated that donation was irrevocable and voluntary.

The statutes also confirmed the freedom of donation, although with some exceptions,⁶⁸ and included regulations on the wording of donations for property that exceeded a particular value.⁶⁹ In the early Middle Ages, donation was a particularly important legal action, since property was often donated to ecclesiastical institutions. Such donations concerning urban property are found in the mid-13th century⁷⁰ and sometimes at the end of the same century,⁷¹ even though the tendency of limiting the expansion of ecclesiastical estates is visible⁷² (it was eventually prohibited by statutory regulations).⁷³ A similar trend is noticeable with selling immovable property to foreigners.⁷⁴ It was punishable to donate another person's or (especially) communal property.⁷⁵ In practice, various relations could emerge and be formalized in donation documents: for example, in some documents from Zadar (1277, 1282, and 1286)⁷⁶ and Split (1293) property was donated to monasteries in exchange for lifelong sustenance.⁷⁷ It was permitted to sell an estate and donate money from the sale to ecclesiastical institutions and persons, and a property could also be permanently transferred for the purpose of "pious works or for the salvation of the soul" (e.g. in Dubrovnik).⁷⁸

66 In Roman law, there were donations valid during the donor's lifetime (*donatio inter vivos*) and those that became valid only after his or her death (*donatio mortis causa*); GRBAVAC, B. *Notarijat...*, p. 144. In Trogir, along with the verbs *donare et tradere* or *dare et tradere* (MT I/1, p. 196, doc. 124), the following formulations were used: *pure, libere et inreuocabiliter inter uiuos* (MT I/1, p. 328, doc. 106) or *iure donationis inter vivos dare et donare* (MT I/2, p. 302, doc. 84. MT I/2, p. 401, doc. 253). An example from Trogir emphasizes that the donation (...*iure donationis inter vivos dedit et donauit*...) was to be effected without any payment (*sine aliqua remuneratione*). MT I/2, p. 302, doc. 84. In Split, a similar formulation was used: *dare et tradere (post mortem)*, CD IV, p. 446, doc. 385. *donare*, CD V, p. 494, doc. 961. See also: (...) *nomine donationis que dicitur inter uiuos* (...) CD V, p. 97, doc. 613. (...) *pure, simpliciter et inreuocabiliter inter uiuos donauit et tradidit* (...) CD V, p. 212, doc. 717.

67 CD V, p. 212, doc. 717 (1262).

68 ZS, L. III, t. X, c. 41 and 42.

69 As with sales, the donation of real estate exceeding a specific value had to be noted down in writing according to the statutes. ZS, L. III, t. X, c. 42. ZS, L. III, t. XI, c. 45. SS, L. III, c. 47. SD, L. VIII, c. 90.

70 Examples from Zadar: CD IV, p. 377, doc. 334. CD V, p. 299, doc. 794; an example from Split: CD V, p. 493, doc. 961.

71 Zadar: CD VI, pp. 415-416, doc. 353 (1282). Split: CD VII, p. 142, doc. 121 (1293).

72 Even though it was only in the 14th century that a statutory regulation made it illegal to donate real estate to ecclesiastical institutions in last wills, this practice had already started by the late 13th century, same as in other Dalmatian cities.

73 The Statute of Split mentions in this regulation that the citizens had already donated to the Church more than a third of the real estate in the city's territories: in the city proper, outside the city, and in the district. The Statute of Zadar explicitly prohibited such actions, but allowed, for example, a donation of real estate to St Martin's Almshouse; SS, Nove statutarne odredbe, c. 25 (1354). ZS, L. III, t. V, c. 14. ZS, L. III, t. X, c. 41 and 42.

74 The statutes also limited the donation of real estate to foreigners (non-citizens; cf. SS, Nove statutarne odredbe, c. 25 (1354). SD, L. IV, c. 58.

75 SS, L. IV, c. 78.

76 CD VI, p. 415, doc. 353. CD VI, p. 570, doc. 483. CD SUPPL II, p. 75, doc. 26.

77 CD VII, p. 142, doc. 121.

78 ZELIĆ, Danko. *Liber affectuum thesaurarie (1428 – 1547): Knjiga vječnih najmova oporučnim legatima namijenjenih nabožnim djelima [Liber affectuum thesaurarie (1428 – 1547): Book of perpetual legacies providing funding for pious purposes]*. In: ZELIĆ, Danko (Ed.). *Knjiga rizničarskih najmova: Liber affectuum thesaurarie (1428 – 1547)*. Dubrovnik: HAZU, Zavod za povijesne znanosti, 2012, pp. 43-69.

Last wills

Last wills (*testamenta*) are among the oldest type of notarial documents.⁷⁹ They documented permanent property transfer and contained an indication of fees.⁸⁰ Real-estate transfer by inheritance could be carried out with or without a last will: the latter included cases where a person died without a last will or it was invalid. Last wills in which property was transferred to new owners, usually the late person's descendants, are very valuable notarial documents when researching medieval urbanity, especially if they describe the situation of real estate in the city. Inheritable goods were the most important part of one's immovable property and offer a good insight into the financial situation of individual families. The *legatorum* formula refers to such testamentary legations, including urban estates.⁸¹ In the notarial documents, these are often described very generally – *de bonis meis mobilibus et immobilibus, bona stabilia (immobilia)* – without mentioning their precise location in the city. Accurate descriptions were usually given for the main houses of families or for those estates that were to be divided, sold, or given in lease after the testator's death. Often property had to be sold in order to repay debts.⁸² In other words, it was not to be inherited in the regular way or as foreseen by the laws on inheritance.⁸³ Last wills defined what the heirs or executors had to do after the testator's death – some estates were to be divided (*dividem inter se*) or could not be divided (*non possint dividere*).⁸⁴ In Trogir,

79 LADIĆ, Zoran. Oporučni legati pro anima i ad pias causas u europskoj historiografiji. Usporedba s oporukama dalmatinskih komuna [Testamentary legations pro anima and ad pias causas in European historiography. Comparison with the last wills from Dalmatian communes]. In: *Zbornik Odsjeka za povijesne znanosti Zavoda za povijesne i društvene znanosti HAZU u Zagrebu*, 1999, vol. 17, pp. 17-29.

80 On last wills in general, see: GRBAVAC, B. *Notarijat...*, pp. 88, 152, 187-188, and 215.

81 In the last wills from Dalmatian cities, the list of legations in the 13th century usually started with the formula *Imprimis reliquit (or relinquo) dimittere, dare, distribuere*, cf. e.g.: ZJAČIĆ, Mirko – STIPIŠIĆ, Jakov (Eds.). *Spisi zadarskih bilježnika (Notaria ladrensis). Spisi zadarskih bilježnika Ivana Qualis Nikole pok. Ivana Gerarda iz Padove 1296 ... 1337. Notariorum Jadrensiu Johannis Qualis Nicolai quondam Johannis Gerardi de Padua acta quae supersunt: 1296 – 1337. Zadar: Državni arhiv u Zadru*, 1969, vol. 2 (hereinafter SZB II), p. 11, doc. 24. SZB II, p. 16, doc. 31. MT I/1, p. 332, doc. 112. The most commonly used formulations in Split include: *uolo et iubeo* (CD III, p. 260, doc. 232. CD III, p. 307, doc. 273. CD IV, p. 428, doc. 372); *contulit* (CD V, p. 83, doc. 600); *donauit et tradidit* (CD V, p. 212, doc. 717); *mandauit et uoluit* (CD V, p. 155, doc. 663). In Zadar, the most common formulations for this type of legal actions were *dare et tradere* (CD VI, p. 537, doc. 456); *uolo et ordino* (SZB I, p. 60, doc. 25; SZB I, p. 80, doc. 44); *dimitto* (SZB I, p. 65, doc. 31); *uolo* (SZB I, p. 66, doc. 33); *ordino et dimitto* (SZB I, p. 76, doc. 42); *iudico et dimitto* (SZB I, p. 89, doc. 48. SZB I, p. 55, doc. 19. SZB I, p. 67, doc. 35); *ordino et uolo* (SZB I, p. 90, doc. 49). A Šibenik example from 1297 uses the formulation *ordino*. SZB II, p. 6, doc. 12.

82 In case of sale, Trogir's notaries used the formulation: (...) *precepit et voluit (...) vendatur per (...) suos procuratores et fidei commissaries (...)* MT I/2, p. 54, doc. 118. In Dubrovnik: (...) *primo habeo domum lignaminis, que vendatur et de vendicione dicte domus (...)* MHR IV, pp. 304-305, doc. 1343. See also: *Et volo, quod domus lignaminis, quam habeo in territorio comunis, vendatur (...)* MHR IV, p. 306, doc. 1345; *Item habeo domum lignaminis in territorio comunis, quam domum vendant pitropi mei sicut eis melius videbitur (...)* MHR IV, p. 284, doc. 284. Stana, daughter of the late Ruger, asked that money from the sale of her residential house should be used for the construction works at the belfry of St Stephen's church in Split and some other churches and monasteries in Zadar, even Trogir. CD III, pp. 307-308, doc. 273 (1229).

83 Thus, in 1282, Dubrovnik's nobleman Pasko de Volcassio stated in his last will that the church under his patronage, which he had commissioned on his estate in Dubrovnik's *burgus*, was to be left for administration to the treasurers of St Mary's church (he was himself a treasurer at the time). In his last will, he also decreed that after the death of his wife Desa, 15 *perperi* per year should be paid out to the treasurers of St Mary's: the sum that they would have obtained from renting the house and shop *in campo*. MHR I, p. 228, doc. 731. Cf. BENYOVSKEY LATIN, I. – LEDIĆ, S. *Posjed obitelji...*, p. 35.

84 MHR IV, pp. 269-270, doc. 1281.

immovable property is often mentioned in the last wills merely as *bona immobilia*.⁸⁵ Sometimes only parts of an estate were to be sold after the testator's death, so their position is determined very precisely with regard to the rest of the estate (individual storeys, a half of the house, a small plot within a larger estate).⁸⁶ The land plot could be sold by the executors according to the last will, which happened in the same manner as in any sale contract.⁸⁷ In Zadar, one finds more often a description of the estate⁸⁸ (specific parts, building materials, neighbours), especially when it was an important part of a family property (*hospicium, domus*).⁸⁹ Even though the location of urban property is documented in individual last wills from Split from 1226 until the 1260s, it was more common to give the description of boundaries in extraurban estates, along with the neighbours⁹⁰ and locations.⁹¹ The statutes occasionally regulated the form of inventories, including the real estate *confessio bonorum*.⁹² However, there is no such information in 13th-century notarial records.⁹³

Testamentary division of immovable property was limited by the remnants of protected family property.⁹⁴ This feature was still prominent in the late 13th century, especially in the cities of southern Dalmatia.⁹⁵ Nevertheless, at that time, and especially

85 ANDREIS, Mladen – BENYOVSKEY, Irena – PLOŠNIĆ, Ana. Socijalna topografija Trogira u 13. stoljeću [Social topography of Trogir in the 13th century]. In: *Povijesni prilozi*, 2003, vol. 25, p. 45. MT I/1, p. 153, doc. 48. MT I/1, p. 324, doc. 99. MT I/1, p. 332, doc. 112. MT I/1, pp. 366-367, doc. 177. MT I/1, p. 210, doc. 153. MT I/1, p. 332, doc. 112.

86 In this regard, a last will from Trogir mentions a land plot in the city that was to be sold. The locality was described in great detail, since it was situated next to some walls and passages serving to provide light between the houses (...*terra que remanet pro lumine fenestrarum domus...*) and thus it was necessary to define its position with utmost precision for the sale. ANDREIS, M. – BENYOVSKEY, I. – PLOŠNIĆ, A. *Socijalna topografija...*, p. 73. Cf. MT I/1, pp. 153-154, doc. 48; pp. 154-155, doc. 49.

87 MT I/1, pp. 153-154, doc. 48.

88 SZB I, p. 211, doc. 245.

89 CD VI, p. 537, doc. 456. SZB I, p. 64, doc. 31. SZB I, p. 55, doc. 19. SZB I, p. 67, doc. 35. SZB II, p. 21, doc. 39. SZB I, p. 71, doc. 37.

90 The documents mostly mention one or two neighbours; CD III, p. 260, doc. 232. CD V, p. 83, doc. 600. CD V, p. 154, doc. 663. CD V, p. 212, doc. 717. CD III, pp. 307-308, doc. 273. CD IV, p. 428, doc. 372.

91 CD IV, p. 428, doc. 372.

92 Unclassified property had to be listed, regardless of its value. ZS, L. III, t. XXVI, c. 121. If any property was missing from the last will or remained unclassified, it was to be treated as intestate. ŠS, L. V, c. 11.

93 GRBAVAC, B. *Notarijat...*, p. 88.

94 MARGETIĆ, Lujo. Neka pitanja starijega mletačkog porodičnog prava [Some issues related to the older Venetian family law]. In: *Zbornik Pravnog fakulteta u Rijeci*, 1988, vol. 9, pp. 110-111. In Dalmatia, family law primarily concerned the offspring: parents could not freely dispose of their property either in their last wills or by selling it before they had set aside the part that each of the children would inherit. ST, L. III, c. 5. ŠS, L. III, c. 65. Cf. also: ŠS, L. III, c. 19. The patrimony belonged to the family as a whole, the father being only its manager. SD, L. IV, c. 37 and 56. TKALČIĆ, Ivan Kristitelj (Ed.). *Monumenta ragusina. Libri reformationum. Monumenta spectantia historiam Slavorum meridionalium. Tomus I: 1306 – 1347*. Zagreb: JAZU, 1879, vol. 10 (hereinafter MR I), p. 47. GELČIĆ, Josip (Ed.). *Monumenta ragusina. Libri reformationum. Monumenta spectantia historiam Slavorum meridionalium. Tomus 5: A. 1301 – 1336*. Zagreb: JAZU, 1897, vol. 29 (hereinafter MR V), p. 265. ŠS, L. III, c. 71, c. 125 and 126. SD, L. IV, c. 6, 17 and 23. ST, L. III, c. 19. ŠS, L. III, c. 44 and 108. ZS, L. III, t. XXVIII, c. 127 and 128. ST, L. III, c. 16. ŠS, L. V, c. 24. JANEKOVIĆ RÖMER, Zdenka. *Rod i grad: dubrovačka obitelj od XIII do XV stoljeća* [The lineage and the city: The family in Dubrovnik (13th – 15th centuries)]. Dubrovnik: HAZU, Zavod za povijesno znanosti u Dubrovniku, 1994, pp. 101-102. MARGETIĆ, Lujo. *Hrvatsko srednjovjekovno obiteljsko i nasljedno pravo* [Croatian medieval family and inheritance law]. Zagreb: Narodne novine, 1996, pp. 201-202, 214, and 223-224.

95 SD, L. IV, c. 19 and 71. In 13th-century southern Dalmatia, the last wills encouraged the creation of fraternal community (*fraterna*); cf. SD, L. IV, c. 52, 53, and 54. In the Statute of Trogir, the *fraterna* appears in the regulation

in the 14th century, there was a growing tendency in the urban setting to turn family property into individual property.⁹⁶ This transformation process started by preferring one child over others,⁹⁷ by disposing with paternal property more liberally,⁹⁸ and by encouraging property division among the descendants. The first feature, namely preferring one child over others, could penetrate the social and familial structures only with great difficulty, especially in southern Dalmatian cities and towns. It was, however, accepted in the central Dalmatian cities, as attested in the notarial records.⁹⁹

Last wills from the 13th century also show a gradual exclusion of daughters from inheritance as a result of changes in inheritance law, and a limitation of widows' right to dispose of the property. Joint last wills and contracts often defined the relations within marriage that disagreed with the statute.¹⁰⁰ A widow could usually use the property until her death, unless she remarried.¹⁰¹ Conjugal partners could also donate property to one another after death (*donationes mortis causa*), which cancelled the intestate or statutory claims of the heirs. According to some documents from Trogir and Zadar, a husband and wife could thus agree on claiming the property after the other's death regardless of remarriage.¹⁰² In Dubrovnik, such contracts between conjugal partners

concerning the mutual inheritance of its members if the deceased had no offspring. Those who lived with the testator had a claim on his property. ST, L. III, c. 17. ST, L. III, c. 25. In the Statute of Šibenik, members of the *fraterna* could inherit only property acquired during the testator's lifetime, while the patrimony belonged to all brothers alike (if the deceased had no offspring). ŠS, L. V, c. 25 and 36. JANEKOVIĆ RÖMER, Z. *Rod i grad...*, pp. 33-40.

96 The old principle was more enduring in the rural areas. cf. MARGETIĆ, Lujo. Dioba općinskog zemljišta u nekim srednjovjekovnim dalmatinskim komunama [Division of communal land in some medieval Dalmatian communes]. In: *Starine JAZU*, 1975, vol. 56, pp. 21-23 and 35.

97 ŠS, L. III, c. 38. ST, L. III, c. 8 and 38. ZS, L. III, t. XV, c. 61. SD, L. IV, c. 18. SD, L. VIII, c. 94. JANEKOVIĆ RÖMER, Z. *Rod i grad...*, p. 102. Cf. the decree of 1493: NEDELJKOVIĆ, Branislav M. (Ed.). *Liber Croceus. Zbornik za istoriju, jezik i književnost srpskog naroda / Srpska akademija nauka*. Belgrade: SANU, 1997, part III, c. 24, 65, 26. MARGETIĆ, L. *Hrvatsko srednjovjekovno obiteljsko...*, pp. 201-202, 209-210, and 213. MARGETIĆ, Lujo. Preferiranje djeteta po krčkom, rapskom i drugim primorskim statutima [Preference of children in the statutes of Krk, Rab, and other littoral cities and towns]. In: *Vjesnik Historijskih arhiva u Rijeci i Pazinu*, 1973, vol. 18, pp. 230-233.

98 The newer statutes, such as the Šibenik one, display more freedom in the testator's disposal of the property. ŠS, L. IV, c. 64. ŠS, L. V, c. 25.

99 In a notarial document from Trogir (1273), Černeka Donaldi, with the approval of his wife Sfila, left more to his son Dobrosko than forseen by the law (*de gracia supra partem*) of a land plot with a hut in Trogir's Prigrade, with the remark that, in case of property division among the brothers, Dobrosko should recompensate them in money if the property exceeded the allowed 1/10 of the total value. MT I/1, p. 468, doc. 386. Cf. MT I/2, pp. 117-118, doc. 254.

100 In Dalmatian cities, legal relations between husband and wife were based on the separation of property. This made it possible, in case of debt, to transfer immovable property (or sell it for a minimum price) to the conjugal partner and thus preserve it from confiscation; cf. DINIĆ-KNEŽEVIĆ, Dušanka. *Položaj žena u Dubrovniku u XIII i XIV veku* [Position of women in Dubrovnik (13th and 14th centuries)]. Belgrade: SANU, 1974, pp. 41-42.

101 The wife had the right to use, but not possess or sell the property. According to the Statute of Trogir, both husband and wife were supposed to make their last wills separately and in such a way that the surviving partner would have enough to live on, ST, L. III, c. 2. Thus, Gostus Bassali from Trogir left to his wife to use until her death (*...ad usu fructandum donec castam uitam duxerit...*) a wooden hut (its position in the suburb is described with regard to the neighbours), stating that if she should remarry (*...i uero dicta eius uxori mutauerit lectum...*), the hut should be sold for pious purposes (they probably had no offspring). MT I/1, p. 324, doc. 99.

102 MT I/1, p. 340, doc. 126. SZB II, p. 13, doc. 26; pp. 30-31, doc. 66. This way they actually bypassed the statutory regulation on the separation of property (*paterna paternis, materna maternis*) and joined their property, becoming its co-owners instead of owners of separate properties. This ensured that the heirs could claim it only after the death of both conjugal partners. Cf. ČUČKOVIĆ, Vera. Materijalno obezbjeđenje supružnika u dubrovačkom srednjovjekovnom pravu [Financial security of conjugal partners in Dubrovnik's medieval law]. In: *Godišnjak Pravnog fakulteta u Sarajevu*, 1980 (1981), vol. 28, p. 320. Janeković Römer has suggested that

(with mutual appointment as heirs) are found only in the lower social strata (*concordio inter virum et uxorem schepatos*).¹⁰³ According to Margetić, some statutes acknowledged the wife's merit in the preservation and expansion of her husband's property.¹⁰⁴ Community of property meant that the wife could claim a part of the inheritance,¹⁰⁵ and this principle gradually found its way into the Dalmatian statutes,¹⁰⁶ although some cities ignored it (e.g. Dubrovnik).¹⁰⁷ The statutes mostly took the middle way between the separation of property and conjugal community (dowry and separation allowance).¹⁰⁸ In marriage, the wife gave her dowry to her husband to partly manage, but he was not allowed to sell, donate, or damage it.¹⁰⁹

Regardless of the legal regulations, the notarial records show that inheriting the immovable property of one's conjugal partner, or disposing of it, was not always affected by having offspring or remarrying. In practice, various agreements could be made, which could be put down in writing in contracts or last wills, which was especially the case when there were no children as the main heirs.¹¹⁰ Thus, in Zadar there were contracts in which conjugal partners agreed on a different system of inheriting real estate.¹¹¹ The freedom of making property legations in last wills was limited if the

such contracts and common last wills were a result of new relations between men and women from the lower social strata, as they equally contributed to the family property with their work. JANEKOVIĆ RÖMER, Z. *Rod i grad...*, p. 91.

103 SD, L. IV, c. 60. Here the conjugal partners united their property and jointly appointed their heirs; ČUČKOVIĆ, V. *Materijalno obezbeđenje...*, pp. 270 and 272-273. SD, L. IV, c. 6, 7, 17, 32, 33, and 39. SD, L. VIII, c. 43. According to Čučković, inheritance contracts evolved as institutes in their own right at the very end of the 13th and during the 14th century. She has argued, based on examples from Dubrovnik prior to that period, that many agreements were made within the family that bypassed the law, while contracts were put down in writing only if needed (more often among the lower social strata). Cf. JANEKOVIĆ RÖMER, Z. *Rod i grad...*, p. 92.

104 MARGETIĆ, L. *Hrvatsko srednjovjekovno obiteljsko...*, p. 177.

105 Idem, Bizantsko bračno imovinsko pravo u svjetlu novele XX Lava Mudrog [Byzantine conjugal property law in the light of Novella 20 by Leon the Wise]. In: *Zbornik radova Vizantološkog instituta*, 1978, vol. 18, pp. 24-25 and 34-45. JANEKOVIĆ RÖMER, Z. *Rod i grad...*, pp. 12-13.

106 JANEKOVIĆ RÖMER, Z. *Rod i grad...*, pp. 12-13. Split observed the separation of property in marriage. The Statute of Split decreed that should a widow remarry, she only got back her dowry. SS, L. III, c. 24. According to the Statute of Trogir, the widow could take 50 *librae* out of her late husband's property in case of remarriage, yet the husband did not have the same right if she died first. ST, L. III, c. 13, 14, and 16. If someone died intestate in Trogir, immovable property returned to the family of origin (*paterna paternis, materna maternis*). MARGETIĆ, L. *Hrvatsko srednjovjekovno obiteljsko...*, pp. 171, 212, and 238. CVITANIĆ, A. *Uvod u trogirsko...*, p. xlviii.

107 Thus, the Statute of Dubrovnik does not know any sort of community of property. SD, L. IV, c. 7, 32.

108 JANEKOVIĆ RÖMER, Z. *Rod i grad...*, p. 90. MARGETIĆ, L. *Bizantsko bračno...*, pp. 37-43. The statutes of Zadar and Šibenik did not observe the community of property, but foresaw an allowance in case of remarriage, which acknowledges the right to a part of the property acquired in marriage. MARGETIĆ, L. *Hrvatsko srednjovjekovno obiteljsko...*, pp. 174-175. SZB II, pp. 200-201, doc. 14.

109 SD, L. IV, c. 1, 2, 33, and 38. ZS, L. III, t. XX, c. 96. ST, L. III, c. 14. Cf. JANEKOVIĆ RÖMER, Z. *Rod i grad...*, pp. 83-85. MARGETIĆ, L. *Hrvatsko srednjovjekovno obiteljsko...*, pp. 171 and 183. According to the Statute of Split, the husband was not allowed to sell or donate the wife's dowry or any kind of property, except in extraordinary circumstances (famine, his own or children's captivity). SS, L. III, c. 72.

110 Janeković Römer mentions the last will of Benvenuta, wife of Bubanja de Bubagna from Dubrovnik, whose last will from 1282 contains a legation of 200 *librae* and a half of her estates after her parents' death to her husband. Nevertheless, there is a clause in case children were born: the inheritance would be primarily theirs. JANEKOVIĆ RÖMER, Z. *Rod i grad...*, p. 90.

111 SZB I, pp. 165-166, doc. 132 and 133. In 14th-century Zadar, for example, the common property of conjugal partners included only the real estate acquired in marriage, not the patrimony. Cf. STIPIŠIĆ, Jakov (Ed.). *Spisi zadarskih bilježnika (Notarilia ladrensis). Spisi zadarskog bilježnika Franje Manfreda de Surdis iz Piacenze 1349...1350. Notarii Jadrensis Francisci ser Manfredi de Surdis de Placentia acta quae supersunt: 1349 – 1350.*

recipients were ecclesiastical persons/institutions or non-citizens: the legal regulations gradually prohibited legations made to the Church and to foreigners.¹¹² This principle was gradually introduced even before the corresponding statutory regulations.¹¹³ The communal authorities prevented property legations to the Church in Dubrovnik as well. Such estates were first to be sold and only then could the money be left to the Church.¹¹⁴ Nevertheless, this prohibition could also be bypassed: the estate could be permanently left for "doing pious works or for the salvation of the soul".¹¹⁵

Dowry

The preserved documents on dowry (*instrumentum dotis*) describe the property that women brought into marriage. Notarial records from the 13th century show that daughters' inheritance after their parents' death could also include immovable property, but there was a gradual tendency towards transforming it into cash payable in the form of a dowry. Nevertheless, immovable property was still part of the dowry, especially in those settings where even the urban elite did not have access to so much cash that they could pay out the daughter's part of the inheritance.¹¹⁶ In the 13th century, one still mostly finds both principles of inheriting property: either the daughters were to obtain an equal share of inheritance after the parents' death, regardless of the dowry, or they renounced the inheritance when receiving their dowry, since they

Zadar : Državni arhiv u Zadru, 1977, vol. 3 (hereinafter SZB III), p. 122, doc. 175. SZB II, pp. 252-253, doc. 77 (14th c.). SZB II, p. 13, doc. 26; pp. 30-31, doc. 66. SZB I, pp. 165-166, doc. 132.

112 ST, L. III, c. 5, 6. ZS, L. III, t. V, c. 14. and 15. ŠS, R, c. 163 (from 1380/1405). ŠS, L. IV, c. 45. ŠS, R, c. 162-163 and 178. ZS, L. III, t. V, c. 18. Cf. JANEKOVIĆ RÖMER, Zdenka. *Okvir slobode : dubrovačka vlastela između srednjovjekovlja i humanizma* [The frame of freedom : The nobility of Dubrovnik between the Middle Ages and humanism]. Zagreb and Dubrovnik : Zavod za povijesne znanosti HAZU, 1999, p. 213. SD, L. IV, c. 66 and 68. SD, L. VIII, c. 96.

113 Thus, a last will from Trogir mentions that the daughter was to inherit the immovable property, but in case she had no offspring, it was to be forwarded to the Franciscans. MT I/1, p. 174, doc. 83. On the other hand, Perva, daughter of Dragonja and widow of Teodor, stated that money from the sale of a house in Trogir should be left to her confessor. MT I/1, pp. 366-367, doc. 177. The 14th-century Statute of Trogir (1346) prohibited such practices. ST, R. I, c. 17, 62. ST, L. II, c. 16, 59, and 60. A decision dated November 16, 1355 prohibited ecclesiastical persons in Trogir to manage other people's immovable property as last will executors - instead, this was to be done by a relative of the testator. RİSMONDO, Vladimir (Ed.). *Pavao Andreis : Povijest grada Trogira* [Pavao Andreis : History of Trogir]. Split : Čakavski sabor and Splitski književni krug, 1977, p. 178.

114 In this regard, a daughter of Domanja Guerero (who had no offspring) left a legation in 1284 to the monastery of Puncijela that consisted of half of the real estate that she had legally obtained (...*tota medietas dicti quarti mei de mobili...*), under the condition that its construction should begin soon (...*si autem dictum monasterium non fieret aut non inciperetur infra dictum medium annum...*). CD VI, pp. 459-460, doc. 384.

115 Thus, some members of Dubrovnik's nobility destined their estates to pious purposes *in perpetuum* as early as the 13th century, giving instructions in their legations concerning permanent lease. The heirs were to pay annual sums or to define a sum that would be incoming from renting the estates. Thus, it was either sums that corresponded to the rent or the rent itself, both to the benefit of the Church. ZELIĆ, D. *Liber afflictuum...*, pp. 43-69. LUČIĆ, Josip (Ed.). *Spisi dubrovačke kancelarije : Zapisi notara Tomazina de Savere 1282 – 1284. Diversa cancellariae I (1282 – 1284). Testamenta I (1282 – 1284). Monumenta historica Ragusina*. Zagreb : JAZU, 1984 (hereinafter MHR II), vol. 2, p. 277, doc. 1129.

116 In a document on the verdict in a dispute that took place in Šibenik (1292), Margetić has detected change in the system of inheriting real estate that occurred between 1260 and 1292. MARGETIĆ, L. *Hrvatsko srednjovjekovno obiteljsko...*, pp. 225-229. LJUBIĆ, Šime (Ed.). *Listine o odnošajih između južnog Slavenstva i Mletačke Republike : knjiga III. od godine 1347. do 1358. Monumenta spectantia historiam Slavorum meridionalium*. Zagreb : JAZU, 1872, vol. 3, pp. 430-432, doc. 92. The Statute of Šibenik explicitly stated that paternal houses were to be inherited only by sons. Sons were given preference even if born after the death of a testator who had already distributed his property. ŠS, L. V, c. 24. ŠS, L. V, c. 23. ŠS, L. IV, c. 64-65.

were considered remunerated.¹¹⁷ Payment of the inheritance share in the form of dowry was usually related (e.g. in examples from 13th-century Trogir) to exceptional circumstances, such as a girl marrying into a distant commune or a family of higher social status (Zadar). The situation may have been similar in Split, but there are far fewer sources on that.¹¹⁸ During the 13th century, there were several examples in Dubrovnik where immovable property was left to daughters: through their offspring, which carried the husband's name, the property passed into another family. As a rule, women from the lower social strata (not the urban elite) received their dowry both in cash and in immovable property,¹¹⁹ whereas examples from the nobility concerned only families without male heirs.¹²⁰ Since the nobility of Dubrovnik had to accumulate large sums of money for their daughters' dowry, sometimes this sum was paid in several instalments, and when that was not an option, the family sold or sublet immovable property.¹²¹ In

117 In Trogir, the right of women to inheritance is well documented due to the preserved notarial records, but that does not mean it was an exception. As early as the 13th century, women in Trogir had the same claim to real-estate inheritance as their brothers or unmarried sisters. If someone died without a last will, the property was returned to the family of origin (*paterna paternis, materna maternis*). Cf. MARGETIĆ, Lujo. Nasljedno pravo descendenata po srednjovjekovnim statutima Šibenika, Paga, Brača i Hvara [Inheritance claim of descendants according to the medieval statutes of Šibenik, Pag, Brač, and Hvar]. In: *Zbornik pravnog fakulteta u Zagrebu*, 1972, vol. 22, pp. 344-345. According to the Statute of Šibenik, sons and daughters had an equal share in inheritance, but the daughters could not inherit the paternal house. ŠS, L. V, c. 22; cf. JANEKOVIĆ RÖMER, Zdenka. Pristup problemu obitelji i roda u stranoj i domaćoj medievistici [An approach to the issues of family and gender in international and Croatian medieval studies]. In: *Historijski zbornik*, 1989, vol. 42, p. 177.

118 According to the research results of NIKOLIĆ JAKUS, Zrinka. Obitelj dalmatinskog plemstva od 12. do 14. stoljeća [Dalmatian noble families from the 12th–14th centuries]. In: *Acta Histriae*, 2008, vol. 16, no. 1-2, p. 59-88. See examples: Split, CD III, pp. 80-81, doc. 7 (1208). CD SUPPL I, pp. 225-226, doc. 177 (1256). In Zadar, the earliest case of renouncement at the inheritance after the parents' death due to the payment of a large dowry was recorded in 1289, when a goldsmith's daughter married a nobleman. It may be concluded that here such a rich dowry served as a compensation for climbing the social ladder. SZB I, pp. 173-174, doc. 152-154. In this transitory period, the practice also depended on specific circumstances and the attitude of individual families. For example, that same year there was a case in Zadar when the father, apparently a commoner whose daughter had married a nobleman, explicitly stated in his last will that she had the same claim to the inheritance as her brothers, regardless of the dowry. SZB I, pp. 58-59, doc. 23. Even if in Trogir there was a case of treating male and female children differently as early as 1234, where only the male descendants could inherit houses (cf. Kaptolski arhiv Split [Chapter Archive Split], Osobni arhivski fond [Personal archive group], Ostavština Ivana Lučića [Legacy of Ivan Lučić] vol. 539, fol. 57-64'), there are later examples, from the second half of the 13th century, in which daughters (i.e. sisters) had the same claim to inheritance as the sons (i.e. brothers). In one of these early examples, a rather large sum of money was given in dowry as remuneration for the inheritance: the sum of 700 *librae* and 15 small sacs of gold were given, with the addition of a female slave, at that time still a custom (when Franica de Lucio was married in Dubrovnik in 1274). Presumably it was because of the distance that cash was more practical than immovable property. Cf. BARADA, Miho (Ed.). *Trogirski spomenici. Dio II. Zapisici sudbenog dvora općine trogirske. Svezak I. od 8. VIII. 1266. do 6. XII. 1299. Monumenta Traguriensia. Pars secunda. Acta curiae comunis Traugurii. Volumen I ab 8. VIII. 1266. usque ad 6. XII. 1299. Monumenta spectantia historiam Slavorum meridionalium*. Zagreb: JAZU, 1951, vol. 46 (hereinafter MT II), pp. 28-29, doc. 38. MT II, p. 60, doc. 21. In the 14th century, examples from Split show that, besides money, immovable property was still a part of women's dowries (the right to use a land plot); for more detail, see: NIKOLIĆ JAKUS, Z. *Obitelj dalmatinskog plemstva...*, p. 64. For examples showing the right of women to inheritance after marriage, see: CD SUPPL I, p. 143, doc. 106. MT I/1, pp. 54-55, doc. 113. MT I/1, pp. 55-56, doc. 114. MT I/1, p. 58, doc. 119; p. 59, doc. 123. MT II, 3/1, p. 14, doc. 12. MT I/1, pp. 160-161, doc. 59. MT I/1, pp. 194-195, doc. 123. MT II, pp. 61-63, doc. 22. MT I/1, pp. 308-309, doc. 71. MT I/1, pp. 325-326, doc. 100. MT I/1, p. 335, doc. 117. MT I/2, p. 99, doc. 214; p. 105, doc. 226; pp. 117-118, doc. 254. MT I/2, pp. 186-187, doc. 18. MT II, 3/4, p. 189, doc. 50. MT I/1, pp. 50 and 65-66, doc. 106 and 137.

119 MHR II, p. 191, doc. 836.

120 BENYOVSKY LATIN, I. – LEDIĆ, S. *Posjed obitelji...*, p. 76, n. 69. MHR II, p. 335, doc. 1294. SD, L. IV, c. 26, 36.

121 Thus, Filip de Maressia gave his house in Dubrovnik in lease to Pasko de Volcassi, *pro perchivio* of his daughter. The owner lived in the house until his death, but never returned the debt. After his death, his creditor

Dubrovnik, immovable property could also be given in lease directly to the son-in-law until the dowry could be paid, which is how it indirectly passed from one family to another with the daughter's marriage (nevertheless, it was often ensured that the wife's parents should have the right to use the property until their death, and later on the matter was negotiated with the siblings).¹²² By receiving a dowry in money, girls renounced at their claim to immovable property and special contracts were signed to confirm that (e.g. in Zadar).¹²³ In those communes where a developed economy allowed for greater accumulation and traffic of financial capital, such as Zadar or Dubrovnik, paying out the inheriting daughter by means of a dowry started earlier than in the less developed areas such as Trogir or Split, where in the 14th century the dowry was still given in immovable property or as income from immovable property, or estates were sold or pawned to other family members in order to pay the dowry.¹²⁴ Immovable property was increasingly inheritable by sons alone in order to ensure the continuity of property and the indivisibility of family estates.

Division

In the pre-communal period (and in some places until the end of the 13th century)¹²⁵ families tried to preserve their property undivided.¹²⁶ Notarial records from the 13th century still contain examples of fraternal communities (*fraterna*): in Zadar, brothers could live together before dividing the patrimony, although it was not

Pasko de Volcassio had a dispute about the house with Filip's sons, Šimun and Dimitrije, and submitted as evidence older documents on the lease that he kept *in deposito*. LONZA, Nella. Dubrovački statut, temeljna sastavnica pravnog poretka i biljeg političkog identiteta [The Statute of Dubrovnik as a constituent of the legal order and a mark of political identity]. In: ŠOLJIĆ, Ante – ŠUNDRICA, Zdravko – VESELIĆ, Ivo (Eds.). *Statut grada Dubrovnika sastavljen godine 1272* [Statute of Dubrovnik (1272)]. Dubrovnik : Državni arhiv u Dubrovniku, 2002, p. 17. Cf. CD III, pp. 435-438, doc. 379. In a document from 1278, Pasko proved that he had lent the money to Šimun and Dimitrije, sons of the late Filip de Mauressia. Cf. LUČIĆ, Josip (Ed.). *Spisi dubrovačke kancelarije : Zapisi notara Tomazina de Saverre: 1284 – 1286. Zapisi notara Aca de Titullo 1295 – 1297. Monumenta historica Ragusina*. Zagreb : JAZU, 1988, vol. 3 (hereinafter MHR III), p. 313, doc. 971.

122 JANEKOVIĆ RÖMER, Z. *Rod i grad...*, p. 81. DINIĆ-KNEŽEVIĆ, D. *Položaj žena...*, pp. 87-89. Probably for this reason a regulation was introduced to the Statute of Dubrovnik about the "domazet" (on the son-in-law accepted for a son): real estate was to remain in the (wealthy) family even in case of female heirs. SD, L. IV, c. 70. In the Statute of Dubrovnik, dowry was regulated by numerous decrees. SD, L. IV, c. 1, 2, 4, 9, 24, 28, 44, 45, 46, and 47. JANEKOVIĆ RÖMER, Z. *Rod i grad...*, p. 83.

123 JANEKOVIĆ RÖMER, Z. *Rod i grad...*, pp. 13-14. Women thus passed into a different clan (their husband's). Cf. NIKOLIĆ JAKUS, Z. *Obitelj dalmatinskog plemstva...*, p. 61.

124 Examples from 14th-century Split: STIPIŠIĆ, Jakov (Ed.). *Splitski spomenici. Dio prvi. Splitski bilježnički spisi, svezak 1. Spisi splitskog bilježnika Ivana pok. Čove iz Ankone od 1341. do 1344. godine* [Split's monuments. Notarial records, vol. 1. Records of Split's notary Ivan son of the late Čova from Ancona, 1341 – 1344], MSHSM. Zagreb : HAZU, 2002, vol. 53, pp. 60-61, doc. 104-105; pp. 111-112, doc. 215; pp. 123-124, doc. 216; p. 124, doc. 217; pp. 124-125, doc. 218; p. 125, doc. 219; p. 127, doc. 247; p. 216, doc. 359; pp. 244-245, doc. 408; p. 246, doc. 409 and 410; pp. 253-254, doc. 423. Generally, on women inheriting real estate and dowry, see: NIKOLIĆ JAKUS, Z. *Obitelj dalmatinskog plemstva...*, pp. 63-69.

125 Thus, in 13th-century Dubrovnik, possession was linked to family structure (the community of father and sons) and even more often to the horizontal community of brothers (*fraterna*). According to the Statute of Dubrovnik, if the sons wanted to separate their property because the father had remarried, they only had a claim on their mother's and their wives' dowries, and could get hold of the property only after their father's death. SD, L. IV, c. 52, 53, and 56. MAHNKEN, Irmgard. *Dubrovački patricijat u XIV veku* [Dubrovnik's patriciate in the 14th century]. Belgrade : SANU, 1960, vol. 1, p. 17. According to the Statute of Split, brothers who owned an estate in common could not sell or donate it (although they were allowed to use it themselves). SS, L. III, c. 103.

126 JANEKOVIĆ RÖMER, Z. *Rod i grad...*, pp. 33-40.

mandatory.¹²⁷ In the late 13th and early 14th centuries, property was often divided between brothers (or sisters). With the growth of population and a more dynamic real-estate market, familial property was increasingly turned into individual property, but that was a gradual process. In the notarial records, such divisions are described by means of various formulas.¹²⁸ In Dalmatian documents on property division, the key verbs are *dividere* and *divisionem facere*. Division of property among brothers appears in Dubrovnik's notarial records in the late 13th and more often during the 14th century.¹²⁹ In a case from Dubrovnik, one son obtained immovable property through division (*casale*),¹³⁰ while the other was remunerated "in the name of division".¹³¹ According to the division contract, their mother could continue living *in dicto casale siue domo* until her death.¹³² Divisions among brothers could also be effectuated after a court verdict, e.g. in case of property division between Palma and Fusko de Binčola in Dubrovnik.¹³³ A similar case is known from Zadar (1280).¹³⁴ Mauro, son of the the late Krševan Mauro, requested the commune to appoint officials for property division (apparently, the brothers could not agree based on their father's last will).¹³⁵

127 In a case from Zadar, two of the three brothers lived in a joint household (they had even married two sisters), whereas the third one lived separately. But even the two did not have all property in common, only a part of it. Cf. NIKOLIĆ JAKUS, Z. *Obitelj dalmatinskog plemstva...*, pp. 72-73. SZB I, pp. 80-81, doc. 44.

128 E.g. with Rainerije: *volentes res suas et possessiones dividere*; and with Bencivenne: *ad divisionem rerum et possessionum suarum pervenientes, de ipsis tres partes communi eorum voluntate fecerunt*. Cf. GRBAVAC, B. *Notarijat...*, p. 143.

129 JANEKOVIĆ RÖMER, Z. *Rod i grad...*, pp. 25-40. For example, in 1299 the Resti brothers divided the patrimony among themselves: (...) *facimus divisionem inter nos de patrimonio nostro* (...) MHR IV, p. 27, doc. 36. It was emphasized that the decision about dividing the common property (*nostra bona*) was done freely and willingly (*spontanea voluntate*). MHR IV, p. 27, doc. 36. The brothers confirmed, in first-person singular (...*accepi pro parte mea...*), which parts of the patrimony they each got. Thus, Šimun obtained the tower in the city and a part of the neighbouring house in Pustijerna, while Vukas got the rest of the said house and another one nearby: (*Margaritus et Martholus filii quondam Budislavi de Rissa petrarii confitemur quod facimus divisionem de uno nostro casali quod habemus hic in Ragusio...*). In 1300, a patrimony was divided between Tripo de Georgio and the wife and sons of Tripo's deceased brother (Ana and his sons Dabraslav and Ivan). Thereby, the notary used the common formulation *quod talem divisionem facimus inter eos*. (*Pasqua filius quondam Dabronis et Georgius filius quondam Marini Dabronis de Luca divisionem inter nos domum et vineas de Molinis...*) MHR IV, p. 79, doc. 263. MHR II, p. 202, doc. 876.

130 (...) *habeo et recepi pro parte mea in perpetuum dictum casale cum omnibus pertinentiis* (...)

131 (...) *ego recepi pro parte mea yperperos XV* (...) *pro refustura dicti casalis* (...) The boundaries are described with regard to the neighbours.

132 MHR IV, p. 42, doc. 101. A similar case is that of the Miscara brothers in Dubrovnik, where the sons of Pasqua de Miscara divided the patrimony among themselves (*Nos quidem Petrus et Marinus, filii q. Pasque de Miscara, confitemur quod nostra bona voluntate fecimus divisionem inter nos in hunc modum videlicet...*). One of the brothers obtained the house (... *ego... Petrus habui in partem meam domum cum toto arnisio domus et cum omnibus suis pertinentiis...*), the locality of which is described with regard to the neighbours, while the other was remunerated (... *ego... Marinus accepi pro parte mea de moneta tantum, quantum dicta domus fuit appretiata...*). Eventually, formulations promising legal protection and firm adherence to the contract were added (... *quam divisionem predictam perpetuo promittimus firmam et ratam habere, ut unus alteri super divisionem predictam possit in perpetuum facere questionem...*) MHR I, p. 129, doc. 445 (February 13, 1281).

133 MHR I, pp. 85, 317 and 319.

134 CD SUPPL II, p. 98, doc. 36.

135 It was about some estates outside Zadar (the villages of Čudomirščine and the salt plants on Pag) as well as houses in the city, which Mauro was to split with his brother Filip and other siblings. The judges decided that the property in the said village was to be divided between Mauro (...*petens et requirens, ut ei daremus partitores ad diuidendum et partiendum...*) and his brother Frederik. The youngest brother, Filip, was to obtain a stone house in the city (*domus lapideam cum coquina*) in the urban district of Sv. Stošija (described with regard to the neighbours), which their father Krševan Maurov assigned to him above the legal part in his last will (*ante*

In Zadar's notarial records, there are ten preserved documents on property division that include urban real estate. According to one of them (*carta diuisionis inter nos facimus*), brothers-in-law (*cognati*) Teodor and Petar, with the approval of their wives (who were sisters) divided the latter's inheritance (*bonis omnibus peternis (!) et maternis*).¹³⁶ In another division from Zadar (1290), the property of the late Černa de Karlaco and his wife Marija was divided (*facimus diuissionem perpetuo ratam habendam et tenendam*) among their sons, the clerics Ivan and Grgur; their widowed daughter Hota; the descendants of their late daughters Dominika and Dobroša: two grandchildren, brother and sister Černa and Mara (children of Dobroša and the late Crančo de Nona); and a third grandchild, Marija, daughter of Dominika and wife of Muscina.¹³⁷

In some cases, the division of property was followed by an agreement between the brothers in which some sold their shares (e.g. a third of a shop or a house, one fifth or one ninth of a house) to their sisters,¹³⁸ brothers,¹³⁹ or other family members,¹⁴⁰ as in a case from Trogir, which clearly shows that the division of property also benefited the sisters, who could nevertheless sell it only with the approval of their husbands. Divisions also took place if a brother or sister died without offspring.¹⁴¹ In a case from Trogir, after the division of property (*secundum tenorem instrumenti diuisionis*) between the siblings and the nephews, there was an agreement that one party should allow the other to use (*dedit et concessit ad fructandum*) their part of the house (see the following section) without any payment (*sine aliqua contura uel nauolo*).¹⁴² The Statute of Šibenik included a regulation on rejoining the property after the division.¹⁴³ In 13th-century divisions, remnants of the transition from cognate to agnate models are still visible, as female family members almost regularly participated in inheritance and property

partem et supra partem). The fourth brother, Bartol, was to split the salt plants on Pag with Frederik. However, the brothers could not agree about the division: Frederik was not willing to share the village with Mauro and asked to be remunerated instead. The arbiter judges decided that Frederik (...*habeat scilencium super questione, quam fratribus faciebat, de vusufructibus seminatis hoc anno, qui nunc sunt in campo colligendi, ac in vineis et salinis*) and that Filip should keep the house in accordance with his father's will, as he had assigned it to him above the legal part, but he was to remunerate his brothers for the excess *secundum ius et constitutionem ciuitatis* as he wished. According to the Statute of Zadar, the father could not assign to a single child more than one tenth of the value above the part that was legally due. Moreover, the last will was given to the sons for inspection after the father's death, and if they could not agree upon it, then the property value was assessed and all disputes around the undivided property were to be solved by the count of Zadar. ZS, L. III, t. XV, c. 61 and 62.

136 SZB I, p. 146, doc. 94 (1289).

137 The document shows that as late as 1290 there was a case in Zadar where daughters were equal to their brothers as their parents' heirs. SZB I, pp. 202-203, doc. 227 (1290). In the third example, from 1259 (*diuisionis et concordie cartam*), Petriko, son of Zanzi from Zadar, and Bona, widow of his brother Soppa, with their children, agreed on property divisions with their relatives, Leon from Split and his children. CD V, p. 137, doc. 645. Another interesting example from 1283 tells of a property division between brothers Domaldo, Jakov, and Frane de Zadulinis. CD SUPPL II, p. 120, doc. 55. The property seems to have been huge.

138 MT I/1, p. 472, doc 395.

139 MT I/1, p. 468, doc. 388; cf. p. 482, doc. 412.

140 MT I/1, p. 477, doc. 403.

141 MT I/1, p. 473, doc. 396.

142 MT I/1, p. 363, doc. 169 and 170.

143 Should some of the brothers and sisters rejoin their parts after the division and put it down in writing, and someone died intestate and without heirs, the other party was to inherit it all. If there were heirs, they were to inherit their part. If there was no document on that, the intestate property was to be divided. ŠS, L. V, c. 39.

division.¹⁴⁴ In Trogir, the inherited property, called *bona omnia mobilia et immobilia patrimonii et matrimonii*¹⁴⁵ or *bona comunia patris et matris*,¹⁴⁶ was divided between brothers and sisters from the 1260s onwards. There are documented cases of division of both inherited¹⁴⁷ and acquired property.¹⁴⁸ Property divisions were often a result of divisions within a family, when a house was divided among the children.¹⁴⁹ After the division, obligations of the future co-owners were defined, including the maintenance and repair of the house as a whole (e.g. the roof or rotted beams).¹⁵⁰ Estates acquired by division included those in inherited lease (over which the possessors had rights *in rem*). Thus, in a notarial document from Trogir, four brothers wanted to divide the property: two of them, Krela and Stjepan, had been using a common land in the suburbs,¹⁵¹ which means that they had rights *in rem* over the property built on land owned by someone else (more on that in the section on lease). The situation with immovable property on communal land was similar.¹⁵²

Statutory regulations referring to division are mostly related to inheritance law: the division of patrimony or other property among brothers (and sisters). The statutes introduced new regulations concerning property division among brothers and sisters,¹⁵³ which shows that individual "property" was replacing the familial model.¹⁵⁴ Soon after the division, the parties could start using the property even without the document.¹⁵⁵ If there was no division and one of the descendants was using the property for a certain period of time "undisturbed", having built there a structure out of solid material, he

144 CD VII, p. 297, doc. 258 (1298). According to Trogir's notarial records, property was equally divided among brothers and sisters; cf. several documents from the 13th century, MT I/1, p. 363, doc. 169 and 170. MT I/1, p. 97, doc. 11.

145 MT I/1, p. 7, doc. 18.

146 The following formulations were used: *divise inter se, volentes inter se dividere*, MT I/1, p. 303, doc. 63.

147 Thus, two sisters, Stana and Neža (*filie condam Celsi Cauanei*), divided the inheritance in 1263 (...*diuisisse inter se bona...*), each obtained a half of the house (defined in the division document with regard to the neighbours). MT I/1, pp. 7-8, doc. 18.

148 On the other hand, brothers Radoš and Tolen divided among themselves (...*dividere inter eos...*) an acquired house (...*domum quam emerunt...*), the location of which is also defined (1274), MT II, p. 66, doc. 142. The brothers agreed on the division in detail: some parts were to remain common, while others were to belong to either of them (whereby they settled on the remuneration for individual parts, as well as the possibilities of later alterations), MT II, p. 66, doc. 142.

149 MT I/1, p. 318, doc. 88. In Trogir, brothers Mihovil and Desa divided (...*diuiserunt inter se eorum...*) a tavern (formula *contrahentes*) and *canauam* (formula *res*). These formulas are followed by a description of the said tavern and its boundaries (1273). MT I/1, p. 492, doc. 432. Cf. the case of Stjepan Cippico in MT I/1, p. 459, doc. 370. ANDREIS, M. – BENYOVSKY, I. – PLOŠNIĆ, A. *Socijalna topografija...*, p. 71. There is also a case of the brothers Marko, don Martin, Nikola, and Marincij, sons of the late Jakov Markov, who divided, with the mother's approval, the estates in Trogir that they had inherited (...*diuiserunt inter se domum, paratineas et camardas dicte eorum matris...*). MT I/1, p. 481, doc. 410. MT I/1, p. 483, doc. 415.

150 MT I/1, p. 225, doc. 56. KLAJČ, Nada, *Povijest grada Trogira. Javni život grada i njegovih ljudi* [History of Trogir: The public life of the city and its people]. Trogir: Muzej grada Trogira, 1985, p. 202.

151 MT I/1, p. 451, doc. 355. The Sorgo brothers in Dubrovnik divided the property, which included the inherited patrimony in *Pile*, but also some wooden houses that they had inherited in (permanent) lease on the land of the monastery of St Mary de Castello. MHR IV, p. 140, doc. 532.

152 MHR IV, p. 109, doc. 393.

153 ZS, L. III, t. 28, c. 139.

154 SS, L. III, c. 74. CVITANIĆ, A. *Uvod...*, p. 163. ST, L. III., c. 35, 115.

155 ST, L. III, c. 34.

also had claims over the property.¹⁵⁶ This indicates that if the brothers and sisters lived separate lives, the law encouraged official property division.¹⁵⁷ In the Statute of Split, one can likewise observe a gradually more liberal disposal with common property, which included its easier division among the siblings.¹⁵⁸ In case the siblings or family members could not agree on the division of property, the rector and the curia of Split could appoint a "divisor" according to the statute.¹⁵⁹ The Statute of Dubrovnik likewise included detailed regulations on property division among siblings.¹⁶⁰

Lease

The legal action in which the basic verb was *cedere* or *concedere* primarily consisted in long-term or permanent cession of rights to a property. However, it was rather often combined with the terms *dare*, *vendere*, *locare* (thus, the official records use the formulation *dare et cedere adque vendidit*).¹⁶¹ This formulation replaced the older one for ceding the rights to use a land plot (such as the *emphyteusis*, which implied

156 If there was no division and one of the descendants used a land plot in or outside the city (*locum, terra vel paratinea*), surrounded by a wall at least one *passus* wide (*muro uno passu de cana*), after the mother's or father's death, and accounted for that land for at least ten years without anyone suing him, he had a full claim on it. ST, L. III, c. 36. The Statute of Zadar also included a regulation according to which anyone who erected a wall up to 1.5 *passi* above ground and possessed the estate undisturbed would be considered its *dominus et possessor*. ZS, L. II, t. XIX, c. 115. A similar regulation is included in the Statute of Šibenik: if someone built a wall around an estate that was at least one fathom above ground and possessed it for at least a year, he was to be considered its rightful owner. ŠS, L. III, c. 56. In the legal context of the time, a stone house built on a land plot prejudicated full ownership on that land. The Statute of Dubrovnik foresaw a penalty for those who tried to acquire ownership of land plots that they had no claim upon by means of such constructions: whoever built a structure made of solid material on their house or land plot was to announce it; thus, everyone claiming the property could react in time (*habere petere racionem*). SD, L. V, c. 13.

157 The Statute of Trogir contains regulations on property rights after the division, especially the one on usucaption. If someone held a property for five years without any disturbance after a division that had not been defined in a notarial document, it was as if the document had been written. Divisions without a document were valid after a five-year period. ST, L. III, c. 34. Moreover, if someone used a land plot after his father's or mother's death, surrounded by a wall that was at least a *passus* high (*muro uno passu de cana*), he was accountable for that land up to ten years, and if nobody sued him during that period, he acquired full ownership. ST, L. III, c. 36. Similar regulations are found in the statutes of Zadar and Šibenik. The Statute of Zadar also decreed that brothers and sisters who lived separately were to divide their (common) property within a ten-year period, or the one who possessed it would become its permanent owner. ZS, L. II, t. XIX, c. 116. Cf. ZS, L. III, t. XV, c. 60. In Šibenik, there was an usucaption regulation concerning the patrimony: if the property was not divided after ten years and the siblings still lived separately, the estate belonged to the one who had possessed it for those ten years. ŠS, L. III, c. 57. ŠS, L. IV, c. 63. The statutes encouraged noting down all property divisions among siblings in order to avoid disputes. ZS, L. III, t. XV, c. 58. ŠS, L. IV, c. 61. ZS, L. III, t. XV, c. 59. ŠS, L. IV, c. 62.

158 According to the Statute of Split, if a brother wanted to sell real estate from common acquired property in a fraternal community, it was first to be offered to one of the brothers; if he refused it was to be divided and then sold. ŠS, Nove statutarne odredbe, c. 6 (1336). However, division was encouraged only in the city: regulations for the extraurban territory were different. ŠS, R, c. 81 (1364).

159 ŠS, L. III, c. 95.

160 According to the Statute of Dubrovnik, the division of patrimony among brothers was to be carried out in the following manner: the youngest brother (regardless of whether he was a layman or a cleric) was in charge of dividing the possessions (houses, huts, shops, bread ovens, lime ovens, extraurban estates, gardens, and mills). After that, the eldest brother chose his share, followed by the second eldest, and so on. The youngest brother was the last to choose. SD, L. IV, c. 69, 78, and 79.

161 In Rajnerije: *dedit et cessit atque mandavit*; in Bencivenne: *dedit et cessit atque vendidit*; in Salatiel: *dedit et cessit adque vendidit / titulo venditionis dedit, cessit atque mandavit*; in Rolandin: *ex causa uenditionis dedit, cessit, transtulit et mandavit*. GRBAC, B. Notarijat..., p. 145.

extensive rights *in rem*).¹⁶² Regarding the fact that the real-estate market had gained in momentum, and the adaptation of Roman law to the actual situation on site, these formulations changed as well.¹⁶³ Official notarial documents still contained the legal action of *emphyteusis*,¹⁶⁴ but the formulation *do et concendo*¹⁶⁵ or *vendo et concendo tibi pro pretio* (with payment)¹⁶⁶ started to be used very early. The notion of cession was often confused with terms referring to lease.¹⁶⁷

The verbs *dare* and *concedere* were mainly used when rights to an estate were ceded within the family and without payment. Thus, several documents have been preserved in Split using the formulations *dare, deliberare et concedere, or concedere, dare et tradere*,¹⁶⁸ or *confirmare, rectificare et aprobare in totum concessionem, dacionem et tradicionem*¹⁶⁹ and they refer to a permanent cession of property rights with or without payment. From the mid-13th century, Zadar's documents contained the formulation *dare et concedere* (e.g. referring to the division of inherited property).¹⁷⁰ In Dubrovnik,

162 In Roman law, it was classified as *usufructus*, but medieval jurists used it as an example for *dominium utile*. VARKEMAA, Jussi (Ed.). *Conrad Summenhart's Theory of Individual Rights (Studies in Medieval and Reformation Traditions)*. Leiden : Brill, 2011, p. 227. Even though the status of the *emphyteusis* was in practice interpreted in wildly varying ways – as the owner or the leaser – the *emphyteusis* was defined as early as Late Antiquity as “the third right” to be distinguished from sale and lease. MARGETIĆ, L. *Srednjovjekovno... stvarna...*, p. 102.

163 In 12th- and 13th-century Italian cities, these two notions (*emphyteusis* and *cessio*) were used in parallel or even confused. LANGELI BARTOLI, Attilio. *Notai. Scrivere documenti nell'Italia medievale*. Rome: Viella, 2006, p. 160. WICKHAM, Chris. *Medieval Rome: Stability and Crisis of a City, 900 – 1150*. Oxford: Oxford University Press, 2014, p. 78.

164 GRBAVAC, Branka. *Svjedočanstvo o stvarnosti ili fikcija. Zadarski notari između formulara i prakse* [Evidence on reality or fiction. Zadar's notaries between form and practice]. In: *Acta Histriae*, 2011, vol. 19, no. 3, p. 397.

165 The right to a built land was thereby ceded for several generations. RINALDI, Rossella. *Forme di gestione immobiliare a Bologna nei secoli centrali del Medioevo tra normativa e prassi*. In: FARON, Olivier – HUBERT, Etienne (Eds.). *Le sol et l'immeuble. Les formes dissociées de propriété immobilière dans les villes de France et d'Italie (XIIe-XIXe siècle)*. Actes de la Table ronde organisée par le Centre interuniversitaire d'histoire et d'archéologie médiévales et le Centre Pierre Léon (Université Lumière Lyon 2, Ecole des hautes études en sciences sociales, CNRS). Rome : École française de Rome, 1995, p. 49.

166 Generally, on cession: RINALDI, R. *Forme di gestione...*, p. 59. Cf. PIÑOL ALABART, Daniel. *El notariat públic al Camp de Tarragona: Història, activitat, escriptura i societat (segles XIII-XIV)*. [PhD-dissertation] [online]. Barcelona : Universitat Rovira i Virgili. Departament d'Història i Geografia, 2000, [cit. 8. 2. 2018]. Available on the Internet: <<http://www.tesisenred.net/handle/10803/8615>>. In 12th-century Italian cities (e.g. Pistoia), the formulations *vendere suam rationem* or *vendere ius suum* indicated the sale of someone's right to usufruction rather than the sale of property (*venditionis secundum tenorem concessionis*). HUERTAS, Emmanuel. *La rente foncière a Pistoia (11e-12e secle)*. *Pratiques notariales et histoire économique*. [PhD-dissertation] [online]. Paris : Université Paris-Est, 2008, p. 287. [cit. 8. 2. 2018]. Available on the Internet: <<https://halshs.archives-ouvertes.fr/tel-00468588/document>>

167 Cf. MASĚ, Federica. *Patrimoines immobiliers ecclésiastique dans la Venise médiévale, XI-XVe siècle: un lecture de la ville*. Rome : Ecole française de Rome, 2006, p. 92. In Dalmatian cities, documents on the lease of ecclesiastical property were written in the form of *instrumentum locationis*. GRBAVAC, B. *Svjedočanstvo o stvarnosti...*, p. 400. In Venice, for example, the most frequently used verbs, besides *concedere*, were *dare, vendere, locare, and investire*. In the late 13th century, the Venetian formulations were: *damus, locamus et concedimus / dedit, concessit et investivit*, i.e. besides the verbs that usually describe sale or donation (*intromittendi, habendi, tenendi, vendendi, dandi, donandi, cummutandi vel faciendi*) one finds *elevandi, domum super eam edificandi* if the land was not built upon; cf. MASĚ, F. *Patrimoines immobiliers...*, p. 155.

168 CD V, p. 97, doc. 613. CD VI, p. 2, doc. 2.

169 CD VI, p. 68, doc. 61 (1274).

170 CD IV, p. 142, doc. 130 (extrarban property). When dividing the inheritance of his wife Stana, Prevonig ceded to his nephews a land plot in the city (...do, dimitto et reffuto...), while they ceded to him a vineyard in Petřčane (...damus, dimittimus et concedimus...). CD VI, pp. 334-335, doc. 280.

the formulation *dare et concedere* was also used for the division of family property.¹⁷¹ In Trogir, the terms *dare et concedere*¹⁷² were used next to *dare*, *cedere*, *tradere*, and *donare*.¹⁷³ Rights were not ceded (temporarily) without payment only within families, but sometimes in other circumstances as well. In a document from 1272, the abbot of the Benedictine monastery of St John in Trogir ceded the right to short-term (one year) use of the kitchen for the needs of the new communal palace (without payment).¹⁷⁴ It may have been because it was a public ("higher") interest, agreed between the abbot and the city's *potestas*. Temporary cession of land is also documented in an agreement from Split (1261).¹⁷⁵

A combination or confusion of the verbs *cedere* and *vendere* can usually be observed when the rights to a property were ceded with payment (selling the *rights* to a property).¹⁷⁶ In Zadar, there is a case from 1289 where the possessor sold two documents referring to a property with all the rights (*cum omni meo iure, racione, actione, robore et vigore*), stating that it was a concession.¹⁷⁷ According to the Statute of Zadar, an authorized person could sell his right to usufruction by means of an official document (*vendere ius quod habet contra alium*).¹⁷⁸ In a document from Split (1258), a person ceded the rights to a property against payment (*uendidi atque in perpetuum concessi*),¹⁷⁹ while notary Frane Lucijev from Trogir used the formulation *dare, vendere, tradere et concedere*.¹⁸⁰ In documents on ceding the rights to a property, legal protection

171 Thus, Mara, widow of Petrana de Bonda, ceded all rights to using her house (*domum magnam*) to her sons. MHR II, p. 305, doc. 1226. A similar example is that of Mara, widow of Dragiša de Gatello, who ceded the rights to her house (...*dedit et concessi*...) to the husband of her granddaughter Stana. MHR II, p. 180, doc. 785.

172 (...) *dedit et concessit filio suo* (...) *supra partem paratineam suam cum camarda positam in burgo* (...) MT I/1, p. 468, doc. 386.

173 MT I/2, p. 174, doc. 2. Thus, in Trogir Copta Radinich ceded (...*sua bona voluntate dedit et concessit*...) to his son Scarlata a part of his property. In another example, Libero, son of the late Gostiša, ceded (...*iure pure, mere et irrevocabilis donacionis, que datur inter vivos dedit, cessit, tradidit et donavit*...) a small house in Trogir to his niece Katarina. MT I/2, p. 14, doc. 30. Cf. MT I/1, p. 303, doc. 62. MT I/1, p. 314, doc. 79.

174 MT I/1, p. 439, doc. 329. The communal palace in Trogir was built in 1272 at the eastern side of the square. According to a document from November 28, 1272 the *potestas* and the council, with the approval of the bishop and the abbot of St John the Baptist, decided to tear down the church of St Stephen next to the "communal house", the monastery of St John the Baptist, and a land plot owned by the said monastery, cf. BENOVSKY LATIN, Irena. *Srednjovjekovni Trogir: prostor i društvo* [Medieval Trogir: Space and Society]. Zagreb: Hrvatski institut za povijest, 2009, p. 49.

175 CD V, p. 199, doc. 705.

176 Approximately until the mid-12th century, notaries in Italian cities differentiated between being vested into property by means of sale, exchange, or inheritance on the one hand, and by means of *buying the right* to long-term use, which implied paying a (yearly) fee. From the mid-12th century, purchase of concession rights is also formulated as *venditione secundum tenorem locationis*, unlike the purchase of exclusive ownership (*ad veram hereditatem perpetuamque proprietatem*), or in the early 13th century (*ad veram et mundam proprietatem*). Later on, these details become blurred and it is often not quite clear what the term *vendere* actually implies, cf. LANGELI BARTOLI, A. *Notari...*, passim.

177 SZB I, pp. 40-41, doc. 149. According to Margetić, this was taken over from Venetian law. MARGETIĆ, L. *Srednjovjekovno...obvezno...*, p. 225.

178 The rights were sold *cum robore et vigore*. According to the Statute of Zadar, such rights could not be purchased from foreigners. ZS, L. III, t. VIII, c. 30.

179 CD V, p. 97, doc. 613.

180 GRBAVAC, B. *Notarijat...*, p. 147. Cf. e.g. SMIČIKLAS, Tadija – GUNJAČA, Stjepan – STIPIŠIĆ, Jakov (Eds.). *Diplomatički zbornik Kraljevine Hrvatske, Dalmacije i Slavonije / Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae. Listine godina 1386 – 1394*. Zagreb: JAZU, 1981, vol. 17 (hereinafter CD XVII), p. 104, doc. 77; p. 482, doc. 411. Thus, Martin, son of the late Jakov Marchi from Trogir, sold (...*vendidit, tradidit adque dedit et concessit*...) to his brother Marko some parts of the house (...*sedium, quod habere debet in androna in capite*

was guaranteed (*promissio de legitima defensione*) as in all other documents on property transfer.¹⁸¹ Temporary cession of property rights against payment was gradually replaced by the formula of location. Rights to use a property could be renewed (up to 29 years in order to avoid limitation). In long-term use, the property could “separate” from its original owner, which often happened with ecclesiastical property in the cities.¹⁸² Immovable property obtained in permanent use could also be inherited and shared (as the possessor had rights *in rem*).¹⁸³ In 13th-century documents, one no longer finds any trace of concessions (especially ecclesiastical) and the difference between ownership and long-term possession can only be detected by chance.¹⁸⁴

Legal actions related to the cession of property rights were gradually (from the 13th century onwards) replaced by the generic term *locatio*, which contained elements of the older actions (*emphyteusis*, *cessio*, *livella*),¹⁸⁵ although not always with the same meaning. The notion of cession continued to be confused with that of location, including the official forms (*locavit et concessit*, *concessit et locavit*).¹⁸⁶ Thus, in Trogir the formula of concession was confused with terms that were typically used for lease (*dedit et concessit ad conturam*, *ad fructandum*).¹⁸⁷ In Zadar, the instrument of location was likewise confused with that of cession (*damus, concedimus et affictamus; damus, locamus atque concedimus*).¹⁸⁸ In Dalmatian notarial documents, lease was, in the 13th century, mostly formulated by means of *instrumentum locationis*, which described the use of a specific thing (immovable property) against payment (rent or lease) using the verbs *dare*, *locare* (*dedimus et locavimus pro affictu*), *locare et concedere*,¹⁸⁹ or the noun *locatio*.

placche scalarum ipsius Marchi etius et anditum quod habere debet per scalas et placcam ipsius Marchi... pro precium.... CD XVII, p. 482, doc. 411.

181 GRBAVAC, B. *Notarijat...*, p. 216.

182 On the dispute: CD VI, p. 230, doc. 199. CD VI, p. 232, doc. 200.

183 Thus, the Sorgo brothers from Dubrovnik divided the inheritance, consisting, among other things, of a wooden house, having (permanently) inherited the right to use it. MHR IV, p. 140, doc. 532.

184 It is evident from a dispute that the Sorgo brethren inherited the said house with the right of use (the original owner being the monastery of St Mary de Castello). The dispute about the estate boundaries (boundary stones) between Pasko Volcassio and Marin Sorgo also mentions the nuns from the said monastery. MHR IV, p. 140, doc. 532. BENOVSKY LATIN, I. – LEDIĆ, S. *Posjed obitelji...*, p. 38. On a dispute in Zadar, see: CD VI, pp. 230-231, doc. 199 (1278). CD VI, p. 232, doc. 200. Cf. HUBERT, Étienne. *Gestion immobilière, propriété dissociée et seigneuries foncières à Rome aux XIIIe et XIVe siècles*. In: *Le sol et immeuble, Les formes dissociées de propriété immobilière dans les villes de France et d'Italie (XIIIe-XIXe siècle)*. Actes de la table ronde de Lyon (14 – 15 mai 1993). Rome : École française de Rome, 1995, pp. 192-193.

185 Thus, in Pistoia, the term *livello* disappeared from the notarial documents in the late 11th century and was replaced by various *notae* that recorded investitures *per tenimentum* or *per affictum*; cf. HUERTAS, E. *La rente foncière...*, p. 130.

186 HUBERT, Étienne (Ed.). *Rome aux XIIIe et XIVe siècles : Cinq études*. Collection de l'École française de Rome 170. Rome : École française de Rome, 1993, pp. 329-330. The official forms from the 13th century use the following formulas for location: *dedit et locavit* (Rajnerije); *dedit et locavit* (Bencivenne); *tradidit et locavit, dedit et locavit / locavit et concessit, locavit et tradidit* (Salathiel); *concessit et locavit* (Rolandin). GRBAVAC, B. *Notarijat...*, pp. 87, 144-145, and 149.

187 MT II, p. 23, doc. 51 (damaged). Also in Trogir, Desa, son of the late Čuirci, confirmed that after the division among brothers (... *secundum tenorem instrumenti diuisionis...*) he ceded his half of the house to his sister Draga (... *dedit et concessit ad fructandum sorori sue Draghe...*) without payment (... *aliqua contura uel nauo...*). MT II, p. 363, doc. 169 and 170. It was about two shops next to the owner's house (which used to belong to his late wife). MT II, p. 23, doc. 51 (damaged).

188 GRBAVAC, B. *Notarijat...*, p. 149. CD VII, p. 273, doc. 237 (1297). CD VIII, p. 108, doc. 98 (1305).

189 GRBAVAC, B. *Notarijat...*, pp. 147-150. In the formulas *dedit et locavit* (Rajnerije) or *concessit et locavit* (Rolandin).

According to Cvitanić, a rent deal meant that the landlord (*locator*) obliged himself to cede to the tenant (*conductor* or *inquilinus*) a property to use against payment. The rent was called *contura* or *pensio*.¹⁹⁰ Thereby, entitlement to property was not put down in writing, since in principle it was not a form of permanent property transfer.¹⁹¹ If such actions were listed, they mostly referred to use or usufruction, not possession: e.g. *edificare, gaudere, dominare*, and so on.¹⁹² In Zadar, for example, according to the preserved documents, the formulations used were *afficto et ad pensionem do*¹⁹³ or *do, loco et afficto (dare et affictare)*.¹⁹⁴ In the few extant documents concerning leases from 13th-century Split, various formulations can be found. In a document from Zadar (1289) referring to immovable property in Split, the formula from Zadar's lease contracts is used (*loco et afficto atque ad apensionem do*),¹⁹⁵ whereas the remaining two use the formulations *posuit et locauit*¹⁹⁶ and *dedit... pro cuius pensione*.¹⁹⁷

Depending on the circumstances, a lease could be short-term, long-term, or permanent.¹⁹⁸ Whereas long-term leases varied between 29 years (with the possibility of prolongation) and 5 generations, permanent (eternal) lease was referred to as *in perpetuum*.¹⁹⁹ With the exception of some rare cases, long-term lease was renewable for an equivalent period of time until *in perpetuum*, with payment (*renovatio*).²⁰⁰ Variations in the length of lease can be interpreted as depending on the type of property and the density of buildings in the city where the land plot was situated. In the periods of intense market activity and real-estate demand, short-term lease made it possible to correct the price more often. Thus, they were often applied in case of shops and other properties in the highly frequented (and most profitable) trade zones in the city. In Dalmatian cities, another characteristic type of lease contract included those based on public auctions (the best offer won the right to lease communal income).²⁰¹ Shorter, *ad hoc* leases of public surfaces for economic purposes (on a daily, weekly, monthly,

190 According to Cvitanić, if a property was given for use in order to gain profit, the rent was called a lease, cf. CVITANIĆ, A. *Uvod...*, pp. 200-203.

191 Thus, in the following lease contracts: (...) *cum ingresibus et egresibus ad omnem tuam utilitatem, comodum et profectum* (...) SZB I, p. 149, doc. 101. SZB I, pp. 223-224, doc. 268.

192 GRBAVAC, B. *Notarijat...*, pp. 188-189.

193 SZB I, p. 136, doc. 76; or (...) *loco, afficto et ad pensionem* (...) SZB I, p. 154, doc. 108; or (...) *loco, afficto et ad pensionem do* (...) SZB I, p. 223, doc. 268.

194 (...) *do et afficto* (...) SZB I, p. 149, doc. 101; (...) *loco et afficto* (...) SZB I, p. 175, doc. 158; (...) *do, loco et afficto* (...) SZB I, pp. 190-191, doc. 197.

195 SZB I, p. 135, doc. 75.

196 CD VII, p. 135, doc. 114 (an extraurban property).

197 CD V, p. 103, doc. 619.

198 Medieval *ius comune* differentiated between short-term leases (*locatio simplex* or *ad modicum tempus*), which mostly functioned as a separate institution, without the rights enjoyed by long-term leasers (*locatio ad longum tempus*); ZIMMERMANN, Reinhard. *The Law of Obligations: Roman Foundations of the Civilian Tradition*. Oxford: Clarendon Press, 1996, p. 359. See generally on the subject: GROSSI, Paolo. *Locatio ad longum tempus: locazione e rapporti reali di godimento nella problematica del diritto commune*. Naples: Morano, 1963.

199 In Italy, *emphyteusis* was likewise agreed for a period of 2-3 generations, and from the 12th century also for a one-year period. RINALDI, R. *Forme di gestione...*, pp. 55-56. MARGETIĆ, L. *Srednjovjekovna...stvarna...*, p. 9.

200 Cf. HUBERT, É. *Rome aux XIIIe...*, pp. 297-298.

201 In public auctions, one could change the leaser as well as the annual sum. LUČIĆ, Josip (Ed.). *Knjiga odredaba dubrovačke carinarnice 1277. / Liber statutorum doane Ragusii MCCLXXVII*. Dubrovnik: Historijski arhiv Dubrovnik, 1989, p. 22, c. 15; pp. 52 and 54, c. 56.

or yearly basis) resulted in the construction of provisory and temporary structures.²⁰² Private properties (*statio, domus et statio*) were also given in short-term lease, for example in Zadar (*domus et statio*)²⁰³ and Trogir.²⁰⁴ The commune of Dubrovnik rented private houses for the needs of communal officials or for economic activities.²⁰⁵ With time, the commune started to build communal houses on its land and periodically gave them in lease to those who offered most.²⁰⁶

Under circumstances of increased residential mobility and instability of urban texture, leases of residential plots were usually short-term. One of the reasons for this was to avoid disputes around property claims.²⁰⁷ In 13th-century Dubrovnik, for example, there was a considerable amount of communal land and the commune gave singular plots in lease with the right to erect (wooden) housing structures.²⁰⁸ The contract defined the lease of empty land plots (entire or partial) *ad incasandum* or *ad superedificandum*, and the users could build wooden houses over which they had rights *in rem* (they could sell or sublet the house, as well as leave it in inheritance, with the approval of the land owner). In such cases, only the landowner had the right to build permanent structures (*ius aedificandi*). A statutory regulation from Dubrovnik regarded wooden structures as movables: *quod nullum laborerium lignaminis habeat possessionem vel terminum stabilem*.²⁰⁹ Because of the possible need for removal, such structures on leased land had to be wooden and easily disassembled. When the lease term was over, either the house was disassembled or the lease prolonged.²¹⁰ The conditions of such arrangements mostly stated that the tenant had to take good care of the land plot and pay the annual fee regularly, usually on a particular day in the Church calendar.²¹¹ Such plots were usually leased for fifteen years, after which the contract could be renewed (*renovatio*) or the plot was returned (emptied) to its owner.

202 In Zadar, shop leases were also short-term (e.g. two years). Thus, on November 12, 1289, a *statio* was given in lease for the price of (...) *libras X denariorum uenetorum paruorum, pro quibus loco et afficto tibi stationem meam* (...) (payment of *affictum*) for a two-year period. SZB I, p. 175, doc. 158-159.

203 SZB I, p. 154, doc. 108. Cf. SZB I, p. 136, doc. 76. SZB I, p. 175, doc. 158. SZB I, p. 223, doc. 268. SZB I, pp. 190-191, doc. 197.

204 In Trogir, Sfila, widow of Dominik Ossčana, and their son Bogidaša, gave in lease (...*dederunt et locauerunt ad conturam seu ad nauulum*...) their taverns in Trogir to Desa Čamara for a period of three years (the location of the property is described with regard to the surrounding streets) ...*pro contura seu pro nauulo*... for 12 *solidi* per year (1271). The document also defined that they should not alter the tavern in any way for the duration of lease (...*non auferre nec auferri facere nec aliter locare usque ad finem dicti termini*...) MT I/1, p. 142, doc. 25.

205 MHR I, p. 48, doc. 178.

206 In the area around the communal square in Dubrovnik, communal shops in annual lease are mentioned in the 1280s and 1290s. MHR II, p. 261, doc. 1068.

207 Cf. BEHRMANN, Thomas. The Development of Pragmatic Literacy in the Lombard City Communes. In: BRITNELL, Richard (Ed.). *Pragmatic Literacy, East and West, 1200 – 1300*. Woodbridge : Boydell Press, 1997, p. 28.

208 BENYOVSKY LATIN, Irena – ZELIĆ, Danko (Eds.). *Knjige nekretnina Dubrovačke općine (13 – 18. st.). Libri domorum et terrenorum communis Ragusii deliberatis ad affictum (saec. XIII-XVIII)*. Dubrovnik : HAZU, Zavod za povijesne znanosti HAZU, 2007, vol. 1, p. 27.

209 SD, L. V, c. 11.

210 In fact, legally such structures were not regarded as immovable property but as movable, since they could be moved if needed. On the other hand, in the legal framework of the time, a stone house prejudicated full ownership over the land on which it was built. The Statute of Dubrovnik defined penalties for those who used such structures to claim land that they had no right to: "Whoever builds a structure on his house or land plot in permanent material, he had to be registered in order that all those who laid claim on that property (*habere petere rationem*) could react". SD, L. V, c. 13.

211 Cf. MASĚ, F. *Patrimoines immobiliers...*, p. 156.

Wooden structures were, among other things, an indicator of the level of urbanity in a particular area of the city.²¹²

Regarding the rights *in rem* that the tenants had over the wooden houses they had built, data on the persons and their property can be found in various types of source: sale contracts, last wills, dowries²¹³ and pawn contracts, whereby it was always stated on whose land the structures were located.²¹⁴ Only a few documents from the 13th century survive that contain lease contracts between land owners and tenants with the right of building wooden structures.²¹⁵ Mostly, such data is preserved in the form of receipts,²¹⁶ debenture notes, or obligations.²¹⁷

Dalmatian city statutes contain regulations on lease, but mostly concerning short-term leases of houses owned by others. As a rule, the laws protected the tenants from the arbitrary behaviours of the owners, who could raise the rent or take another tenant as a result of fluctuations in the market. Generally, leases with building rights were protected until the leasers wanted to use the land plot "for themselves" (this was especially the case with private owners).²¹⁸ Regarding the length of leases, the stability of urban texture in specific areas of the city (land division) and the permanent fire hazard²¹⁹ influenced these limiting legal regulations, leading to contracts on long-term or permanent leases with the right to build permanent (stone) houses. Houses on private, communal, or ecclesiastical land leased for several generations or *in perpetuum* with annual payments, were built of more permanent materials.²²⁰

212 Thus, in Dubrovnik such leases of communal land plots with the right to build (wooden) structures were linked to the urbanistically still unstable area of the *burgus* (land partition and street tracing).

213 MHR I, p. 129, doc. 447.

214 Thus, brothers Raden, Bratoslav, and Bratoveč, sons of the late Putnik, a goldsmith from Dubrovnik, divided the patrimony among themselves: a land plot outside the city and a wooden house (*domus lignaminis*) on communal land (... *positam in territorio comunis in burgo...*), which they could use according to the contract made with the commune. MHR IV, p. 109, doc. 393. Cf. MHR I, p. 216, doc. 693.

215 BENYOVSKY LATIN, I. – LEDIČ, S. *Posjed obitelji...*, p. 46.

216 A receipt from Trogir shows that the verb of location was confused with that of concession: Gruba, widow of Volcasio, confirmed that she had received (... *confitetur se recepisse et sibi solutas esse...*) from Radoš, son of the late Dražen, 5 *librae* as a nine-year rent for her land plot in the city (... *pro curturam cuiusdam sue paratingne...*). After the precise description of the location, the following formulations are found: (... *pro quibus locauit et concessit ei dictam paratineam ad habendum, tenendum in ea ipse et sius heredes...*). The property could not be sold within the said period. MT I/1, p. 87, doc. 182.

217 MT I/1, p. 172, doc 80. There are similar cases from Dubrovnik. MHR II, p. 30, doc. 125; p. 78, doc. 337.

218 Thus, according to the Statute of Split, if someone built a wooden house on another person's property, he was protected until the owner wanted to use the hut for himself, and he could not be evicted from the land by the owner, except if he should alter the house without the owner's approval. SS, L. VI, c. 26-27. CVITANIĆ, A. *Uvod...*, p. 172. According to the Statute of Dubrovnik, if a house in lease (... *dare ad catasticum ad terminum...*) was sold or given in dowry, it could be taken away from the tenant and the latter had to pay the rent only for the period during which he had lived there. SD, L. V, c. 31, 32. Cf. ST, L. III, c. 31. ZS, L. III, t. XVI, c. 63, 65, and 66; ŠS, L. IV, c. 41, 44, and 68. MARGETIĆ, L. *Srednjovjekovno...stvarna...*, pp. 249-250. In Split, houses next to the bulwark were not to be given in lease without the special permission of the commune (for strategic reasons). SS, L. VI, c. 74. Cf. SS, R, c. 107 (1370).

219 Stone houses were generally given preference over the wooden ones, even if the owner of a wooden house (*domus lignaminis*) was at the same time the owner of the land plot. Thus, according to the Statute of Split, a stone house was given priority in construction (a wooden house, if built next to a stone one, was to be adapted to it and not cause damage). SS, L. VI, c. 25.

220 In Rome, such concessions were also given with the right *ad domum faciendam odnosno ad incasandum* (Genoa and Bologna). MASÉ, F. *Patrimoines immobiliers...*, p. 157. HUBERT, Étienne. *Espace urbain et habitat à Rome du Xe siècle à la fin du XIIIe siècle*. Rome : École française de Rome, 1990, p. 131.

On communal land, it was easy to replace wooden houses with stone ones, namely by remunerating the owners of wooden structures and building new ones made of stone.²²¹ In the 13th century, ecclesiastical institutions gave immovable property in long-term lease (for a lifetime or for three, four, or five generations) in order to have the buildings maintained and obtain annual payment.²²² Thus, in 1280 the chapter of Dubrovnik gave a property in lease (*confitemur quod unam stationem ... dedimus et locavimus*) to cobbler Ilija de Arbisina (the location is described in relation to other properties). The cobbler was to pay a small amount of money yearly to the chapter *pro affictu*.²²³ There are also examples from the very beginning of the 14th century.²²⁴ Moreover, members of certain families in Dubrovnik gave their property in long-term lease on behalf of ecclesiastical institutions. Probably the reason was the aforementioned prohibition on making last-will legations to the Church (although there is no such regulation in the 13th-century statute).²²⁵ Thus, some noblemen in Dubrovnik intended their property to be used *in perpetuum* for pious purposes, and left instructions for perpetual lease in their legations. Their heirs (the future owners) were obliged to pay annual fees or to define the income from lease. Thus, it was either about the sums that corresponded to the lease or the lease itself on behalf of the Church.²²⁶

The use of a property on someone else's land could, over a lengthy period of time, result in detaching the owner from his property and creating a form of possession –

221 Such decisions were made in Dubrovnik in the 14th century, after the city had greatly suffered from fire on several occasions. The users of building plots above Prijeko obtained the right, if building stone houses, to claim "eternal usufruct" of communal land plots for themselves and their descendants (for an unchangeable annual fee). Nevertheless, a decision in the Statute of Dubrovnik from 1372 stated that the sale of stone houses on someone else's territory (communal or ecclesiastical) had to be announced in the same manner as all other sales, and that the owner and the rent had to be indicated (as had been the case with wooden houses on someone else's territory in 13th-century notarial documents). SD, L. V, c. 35.

222 HUBERT, E. *Rome aux XIIIe...*, p. 300. There were several types of long-term lease in Rome.

223 MHR I, p. 98, doc. 358. Cf. MHR I, p. 98, doc. 357.

224 Thus, a document from Dubrovnik on long-term lease (1300) states that Jelena Binčola, a nun from the monastery of St Simon, with the approval of the entire monastery, gave a monastic property in lease to Marko de Celana. The document confirms that the property was leased (*...dedimus et locavimus...*) up to the third generation (*...usque in terciam generationem...*). Marko was allowed to build a house (wooden or stone) on the property, but at his own expense (*Marcus labore dictum casale ad suam voluntatem et faciat omne laborerium tam lapidum quam lignem ad suas expensas...*). MHR IV, p. 53, doc. 152. Another such case is documented in Dubrovnik that same year, where the location instrument (*...dedimus et locavimus...*) was likewise used: Pavao, abbot of the monastery of Lokrum, together with the entire monastic community, gave a monastic house (domum) in the city in long-term lease. MHR IV, p. 60, doc. 185. Cf. MHR IV, pp. 115-116, doc. 428. Margetić has argued that all such long-term or permanent leases may have hidden sales behind the mask of a "lease", especially with property that could not be sold legally: ecclesiastical property could not be sold or donated. Margetić, however, used a case from 14th-century Dubrovnik (outside the city) in which ecclesiastical land was given into lease for a 1000-year period for 1 *perper* annually. This small annual fee was in fact an encumbrance on any future lessee of that land. MARGETIĆ, L. *Srednjovjekovno... obvezno...*, p. 242.

225 Cf. with other statutes: SS, Nove statutarne odredbe, c. 25. ZS, L. III, t. V, c. 14. ZS, L. III, t. X, c. 41 and 42.

226 Thus, in 1282 Pasko Volcassio, a nobleman from Dubrovnik, defined in his last will that after the death of his wife Desa, the treasurers of St Mary's should be given 15 *perperi* per year, which corresponded to the sum that they would have obtained from giving a house and shop *in campo* in lease. ZELIĆ, D. *Liber affictuum...*, pp. 43-69. His heirs were to continue the lease on behalf of the treasurers. Pasko's brother Damjan Volcassio appointed his wife Desica (his son Marin was still a minor) to administer the lease (*conductura seu pensione*) of a house *que est in campo* and another located next to the church he had commissioned, the income of which was to be distributed for pious purposes, among others to the friars (1296). If the rent from these houses proved insufficient, he allowed that his house in Venice should be given in lease as well. MHR IV, pp. 278-280, doc. 1296.

permanent "ownership for use" – by the *possessor* and his heirs.²²⁷ The owner could lose ownership over the land plot if he did not use his rights; in this way, requirements were met for another person who possessed the property to acquire the exclusive right to use and dispose of it (i.e. a *de facto* permanent claim). Usucaption was one of the original ways of gaining ownership; nevertheless, it could be forestalled by the owner raising charges (for unauthorised possession) if there was a legal title (*iustus titulus*), i.e. lease contract.²²⁸ This, however, could not be applied in case of communal ownership – permanent lease of a land plot in the city was hereditary and no other claim was allowed (the right to use that land plot could not be sold without permission).²²⁹ Legally, limitation could not lead to ownership, but only to the right to undisturbed usufruction; however, this practice was legalized with time. Thus, the position of the possessor was regulated, while usucaption needed good faith and an adequate legal title. Limitation also revealed the link between the possibility of gaining ownership by means of usucaption and citizenship as opposed to honest and peaceful usufruction.²³⁰ Namely, a possessor could become the owner of a property only if he was a citizen (*cives*), which proves that there was a link between possessing municipal land and citizenship. Others could only rent a land plot or a wooden/stone house in the area of the city that corresponded to their financial situation and urban planning, but even these rules were subject to change depending on the "population policy" of individual cities in specific periods.

Pawn

One of the ways in which property could be acquired was by pawning. The institution of pawning in Dalmatian cities was a result of the development of credit and monetary trade, whereby real estate functioned as a warrant for paying back debt – usually as a last resort, especially if it was an urban house and a family residence.²³¹ The statutes

227 KUEHN, Thomas. *Law, Family and Women: Toward a legal Anthropology of Renaissance Italy*. Chicago: University of Chicago Press, 1991, p. 108.

228 According to Cvitančić, ownership in Dalmatian cities could be acquired originally and derivatively: the former meant that it was established and the latter that it was transferred. CVITANIĆ, A. *Uvod...*, pp. 162-166. Acquiring ownership by means of building on someone else's land belonged to the first type, cf. MARŠAVELSKI, Aleksandar. Građenje na tuđem zemljištu kao temelj za stjecanje prava vlasništva [Building on someone else's land as a base for gaining ownership rights]. In: *Pravnik: časopis za pravna i društvena pitanja*, 2007, vol. 41, p. 174. Postglosator Bartolus noted that the completion of usucaption implied usufruction ownership, but even before that there was pseudo-ownership (*quasi-dominium*), which was in case of loss of possession protected by means of *actio publiciana* (if there was law and good faith). MARGETIĆ, Lujo. Perspektive znanstvenog istraživanja pravno-povijesnih tema [Perspectives of scholarly research on topics related to the history of law]. In: *Zbornik radova Pravnog fakulteta u Splitu*, 2006, vol. 43, no. 3-4, p. 328. The time of limitation was often related to the maximum of lease of rent time. Statutes of Dalmatian cities described in detail the conditions of limitation and usucaption. ZS, L. II, t. XVIII, c. 105, 106, and 109. SS, L. III, c. 74.

229 Thus, the Statute of Zadar defined that whoever obtained possessions (*possessiones*) in fief (i.e. "hereditary lease") from the commune was not allowed to sell or donate them, only leave them to his heirs. ZS, L. III, t. XVIII, c. 89.

230 Moreover, according to the Statute of Split, the possession of real estate *bona fide* was required – ownership by way of limitation could not be acquired by a person who held the property *iniuste*. SS, L. III, c. 56. According to the Statute of Trogir, every citizen who held a property "in good faith" for longer than thirty years became its owner (except if it was communal real estate). CVITANIĆ, A. *Uvod...*, p. 163. ST, L. III, c. 34, 35. According to the later Statute of Šibenik, if someone owned an estate undisturbed for ten years, based on a document on sale, donation, or exchange, he became its real owner on the principle of usucaption. SS, L. III, c. 49.

231 According to Margetić, in the earlier phase, pawning had its main purpose in the law of obligations: rather than ensure the return of a debt to the creditor, it was a sign (*signum*) that the contract was valid. MARGETIĆ, L. *Srednjovjekovno ...obvezno...*, p. 217.

regulated the pawn law²³² and there was also judicial pawn law, its purpose being to force an accused fleeing the court to participate in the trial. If an accused person ignored a court summons, the judges authorized the accuser (through court officials) to use a part of the former's property, mostly immovable. In cases where the accused still refused to approach the court, the accuser gained ownership over the pawned property. The accuser could use the property as long as the pawn law was in force.²³³ In some cases, these affairs were regulated through sale contracts rather than the institute of pawn law, especially when the loan was very large; in such cases, the creditor did not have to bother with the debt and the complicated procedure of public auction to obtain his money from property sale should the debtor fail to return the debt.²³⁴

In the notarial records, this type of document used the formulation *dedit ad pignore*, as well as *pignori obligare* or *pignori locare*.²³⁵ For example, Marin de Sörgo, a nobleman from Dubrovnik, pawned his estate in Dubrovnik's Pile in 1283: first the location of the estate is described with regard to the neighbours and then the legal act (*dedit in pignore*).²³⁶ Thus, although the estate remained the property of the debtor, he could not – even before the deadline for repaying the loan – dispose of it or collect rent, as the pawn creditor had the right to usufruct the pawned property (as interest).²³⁷ Pawn rights also belonged to the rights *in rem* of the owners of wooden houses on someone else's land (e.g. in Dubrovnik²³⁸ and Zadar²³⁹). According to Margetić, there were two

232 On Zadar, see: ZS, L. II, t. XXII, c. 136. ZS, L. III, t. XVI, c. 63. ZS, L. III, t. V, c. 17. Pawn agreements in Zadar are described in ZS, L. III, t. XIII, c. 50-53; for Split: SS, L. III, c. 70 and 81; for Šibenik: ŠS, L. II, c. 74-76 and 78; on Dubrovnik: SD, L. V, c. 31; on Trogir: ST, L. III, c. 41. According to the Statute of Dubrovnik, if the debtor sold the pawned property (especially if it was for the dowry of daughters or sisters), the creditor was first to proceed against him, not the buyer. SD, L. V, c. 38. In the Statute of Dubrovnik, pawning is also mentioned in the regulations on lease. SD, L. V, c. 31.

233 POPIĆ, T. *Krojenje pravde...*, pp. 124-128.

234 POPIĆ, T. *Krojenje pravde...*, pp. 143-144.

235 GRBAVAC, B. *Notarijat...*, p. 188. For example, in Trogir, Stana, widow of Nikola Greci, borrowed some money (12 *librae*) from his relative Dragoš. The city's *consules*, Valentin and Desa, gave the pawn licence on her house to Dragoš (...*dederunt sibi licentiam de eorum consensu predictam domum subpignorandi et obligandi pro quantitate predicta...*) and Stana promised to repay the loan (*Stana vere confessa et contenta fuit mutuo recepisse...*). Dragoš could use the house until the loan was repaid (1275): (... *ad habendum, tenendum et habitandum pro se et sua familia donec dictam quantitatem XII librarum dictus Dragoss vel eius heredes rehabebunt* (...)) MT II, p. 105, doc. 227. Cf. SZB I, p. 31, doc. 114.

236 This was followed by the creditor's name and the size of the debt. It was remarked that the creditor could use the estate and the incomes it brought (...*dictum territorium et omnes introitus habebat sibi...*) until Marin returned the debt, and then the estate would be his again. MHR II, p. 81, doc. 353.

237 Cf. POPIĆ, Tomislav. *Zadarski sud "Curia maior ciuilium" i njegovu djelovanje* [Zadar's court "Curia maior ciuilium" and its operation]. [PhD-dissertation]. Zagreb : Filozofski fakultet Sveučilišta u Zagrebu, 2011, p. 138.

238 In Dubrovnik, for example, the goldsmith Pervonja pawned his cottage (...*confiteor quod(...) dedit in pignore...*) located on communal land to Matej, son of the late Petar de Crossi, for a certain sum of money in 1282; the document first defines the property and the land owner and then the locality with regard to the neighbours. MHR II, p. 59, doc. 253. It was stated that, should Pervonja fail to repay the loan by a predefined date, Matej had the right to sell the house and settle the debt (...*predicto termino in antea dictus Matheus habebat potestatem uendendi...*). Pervonja's neighbour Poveresco de Talava also pawned (...*dedit in pignore...*) his cottage on the land of Jakov Crossi (...*capannam meam positam in territorio Jacobi de Crossio...*) in 1283 to Orsat de Zereva. A deadline was set by which Poveresco was to repay the loan, and should he fail to do so, Orsat could dispose of the cottage. MHR II, p. 85, doc. 367. Cf. BENOVSKY LATIN, Irena – HANIČAR BULJAN, Ivana. Digital Mapping of Noble Estates in 13th-century Dubrovnik's Burgus. In: PLOŠNIĆ ŠKARIĆ, Ana (Ed.). *Mapping Urban Changes*. Zagreb : Institut za povijest umjetnosti, 2017, pp. 154-183 and 246.

239 In a case from Zadar, the party (unnamed in the document) pawned a house to Pavao de Carbone (...*obligo tibi (...) ad pignus totam meam domum...*). If the debt was not repayed within a preset period of time, the house

types of pawn contracts: with or without a predefined deadline for repaying the loan.²⁴⁰ In such cases, it was in the creditor's interest not to set a deadline, since he could use the property. If the deadline was predefined (*ad dictum terminum...*) and the debtor did not repay it in time, the pawned property was confiscated and the creditor could sell it in order to secure the repayment of his loan.²⁴¹

Property acquisition through auction was one of the derivative ways of gaining property in medieval cities, but it was related to only a few options, such as confiscation.²⁴² Nevertheless, in practice the situation was more variegated. Analyzing court disputes in the 14th century, T. Popić has concluded that, even though according to the statute one could choose what property of the accused would be pawned to his benefit, the practice shows that it was the tribunes who did the assessment, which the accuser could then accept or reject.²⁴³ The notarial records preserve examples of auctions in 13th-century Zadar and Split.²⁴⁴ The notary put together an auction breviary (*breviarum incantus*) based on the information supplied by the seller of property – he

could be sold in public auction (...*facere incantari, uendi, et deliberari (...)* cum carta et sine carta, et si per eam non...). SZB I, p. 31, doc. 114.

240 Margetić has argued that the latter was the older (transitional) type of pawn. Thus, property is mentioned there that has been pawned "until they [the debts] are returned". MARGETIĆ, L. *Srednjovjekovno... obvezno...*, p. 219.

241 To be sure, property could be confiscated for debts even without having been pawned. In this case, it was first announced and then sold in a public auction. The auction procedure and the rights of both debtor and creditor were regulated by the statutes. After the deadline set for returning the debt, the auction breviary was written up (*breviarum incantus, cedula incantus*). The property could also be bought by the confiscator (for a price that equalled the debt) if no higher bid was placed. SS, L. III, c. 121. SS, L. III, c. 22. ŠS, L. IV, c. 52. ST, L. III, c. 40. ZS, L. II, t. XXII, c. 134. SS, L. III, c. II. Cf. ZS, L. II, t. VI, c. 43-47. ZS, L. II, t. VII, c. 51. ZS, L. II, t. VIII, c. 54. ZS, L. III, t. IX, c. 32. ZS, L. III, c. 35. The Statute of Zadar defined what could be confiscated and what not: for example, the house in which the debtor and his family lived was exempted from confiscation. Cf. POPIĆ, Tomislav. *Mechanisms of Immovable Property Transfer in a Medieval Town: The Case of Zadar*. In: BENYOVSKY LATIN, Irena – PEŠORDA VARDIĆ, Zrinka (Eds.). *Towns and Cities of the Croatian Middle Age: Authority and Property*. Zagreb: Hrvatski institut za povijest / Croatian Institute of History, 2014, pp. 470-471 and 483. According to the Statute of Dubrovnik, the creditor was vested into the debtor's property that was double the value of the debt, and the debtor even had to pay 10% of the debt value to the count for the expenses of the procedure. There was also a procedure called *aptagi*, where the confiscation did not take place at once; instead, some sort of arrangement could be met within a set time. Moreover, if the confiscation started, first movable property was confiscated, then vineyards, and only afterwards houses. The so-called *Aptagi de misericordia* was introduced in 1328 and henceforth the procedure around returning a debt was conducted without paying a 10% fee. SD, L. III, c. 46. A regulation in the Statute of Dubrovnik mentions the sealing of a pawned house. SD, L. VI, c. 32. (But we find it already in the document of 1296; MHR III, p. 299, d- 897). According to the Statute of Split, debts were to be repaid from the inheritance and if needed also from sold property. SS, L. III, c. 20.

242 CVITANIĆ, A. *Uvod...*, p. 165. Acquiring property through auction was limited to a few cases foreseen by the statute: based on confiscation due to an unpaid debt and the adjudication of a common property to individual co-owners in division disputes, e.g. when dividing inheritance. SS, L. VI, c. 6-12.

243 POPIĆ, T. *Mechanisms of Immovable...*, pp. 475-476 and 477. Cf. POPIĆ, T. *Krojenje pravde...*, pp. 86-87 and 148-152. In the legal practice of Zadar, confiscation of property (real estate) could take place if the object of the dispute was a monetary debt, based on a verdict, or because the accused person did not appear at the court. Popić has used examples from 14th-century Zadar to demonstrate the procedure in case of default (*contumatio*), where pawn licence (*districta*) could be given over the debtor's property.

244 There is a case from 1284 in which the creditor bought a property in auction. Breitenfeld mentions a case from Zadar where the monastery of St Nicholas bought an estate of Stanoje, sold because of an unpaid debt of 84 sheep, which the author has indicated as evidence that the creditor could also buy the property in auction. CD VI, 494, doc. 411. BREITENFELD, F. *Pravni poslovi...*, p. 134. In the breviary of a public auction from 13th-century Zadar, Petar de Prefce bought a house in 1289 located (...) *in quarto uico in confinio sancti Siluestri (...)* The next known breviary of a public auction (for Radoš) is dated August 2, 1289. SZB I, pp. 123-124, doc. 53. SZB I, p. 124, doc. 54.

had to prove his ownership and supply information on the property (the auction initiator, the debt value, the measurements, and so on).²⁴⁵ Even though the notarial records of Split do not describe the auction procedure in details, there is a document from 1269 according to which an estate was submitted to auction.²⁴⁶ In Trogir, the sale of a house in auction for reasons of debt (incurred by renting a ship in 1279) is documented.²⁴⁷

Property could also change owners by confiscation for reasons of political disloyalty²⁴⁸ or a grave crime.²⁴⁹ Specifically, property was taken away from those who had lost citizenship and were exiled or convicted (which was also to their heirs' detriment). The confiscation of urban estates interrupted the physical and symbolical continuity of habitation for some families, especially if the main estate of a noble clan was confiscated. Family property was an indicator of the clan's material status in the commune. For this reason, confiscation of estates was an especially grave penalty – not only were the members of a clan exiled from the community: they were also symbolically deprived of their past.²⁵⁰ In Dubrovnik, for example, estates could be confiscated as a penalty for crime.²⁵¹ But confiscations could also be motivated by the "common good" or "public interest", such as the construction of fortifications. In such cases the estate was substituted through another of the same value (or a sum of money).²⁵² Since such exchanges were usually forced, there were disputes with the

245 GRBAVAC, B. *Svjedočanstvo o stvarnosti...*, p. 39. Dobroslav, a communal *preco*, publicly announced the sale of a property of the cobbler Radoš (... *incantau totam unam domum ipsius Radosci...*) in 1289. The document gives its location in the city and indicates that the house was built on land owned by the same Radoš. Petar de Prefča offered 100 *librae* for the house, which was the value of Radoš's debt. According to the notarial records, the sale was proclaimed for an entire month "as decreed by the statute and customs of Zadar" in case someone might offer more. Since nobody did, the house was sold to Petar. SZB I, p. 124, doc. 53.

246 CD V, p. 502, doc. 969.

247 CD VI, pp. 292-293, doc. 246.

248 BENOVSKY, Irena. Politički sukobi u srednjovjekovnom Trogiru i njihov utjecaj na posjedovne odnose u gradu [Political conflicts in medieval Trogir and their impact on property relations in the city]. In: BUCZYNSKI, Alexander – KRUEK, Milan – MATKOVIĆ, Stjepan (Eds.). *Hereditas rerum croaticarum*. Zagreb : Hrvatski institut za povijest, 2003, pp. 44-51.

249 Cf. "Obligations from crime" in: MARGETIĆ, L. *Srednjovjekovno ...obvezno...*, pp. 250-252. According to the Statute of Dubrovnik, murderers were to be punished by death, and if they fled, they were to be exiled forever and deprived of all their property, which was to be transferred to their male descendants or close relatives along the male line. SD, L. VI, c. 1. A similar penalty was foreseen for the founders of conspiracy groups. SD, L. VI, c. 2. The Statute of Trogir also decreed that the murderer, besides the penalty, should also be deprived of a half of his property (both movable and immovable), which should be transferred to his closest family. If his parents had not divided their property, they had to do it at once, forwarding a half of the part intended for the murderer to his relatives and the other half to the commune. ST, L. II, c. 13. However, in 1436 a reformation was issued in Trogir that abolished this regulation on the grounds that "it was neither just nor reasonable, since thus the poor murderer's descendants should unjustly suffer for their parent's crime". ST, R, II, c. 46.

250 BENOVSKY LATIN, I. *Srednjovjekovni Trogir...*, pp. 25-26. JANEKOVIĆ RÖMER, Zdenka. Rodbinski odnosi u dalmatinskom društvu XIII. i XIV. stoljeća [Family relations in the Dalmatian society (13th – 14th c.)]. In: *Historijski zbornik*, 1992, vol. 45, p. 183. MR I, p. 88.

251 For example, Miha Bincola from Dubrovnik built a house on the spot where the house of Šimun Miha de Bincola, his uncle, had been (which the commune ordered to be torn down because Šimun had committed a murder). MR I, p. 88.

252 In 1286, in order to build a bulwark around Trogir's Prigrade, the commune confiscated the previously distributed land in this area and paid out its former possessors. STIPIŠIĆ, Jakov (Ed.). *Ivan Lučić : Povijesna svjedočanstva o Trogiru* [Johannes Lucius : Historical sources on Trogir]. Split : Čakavski sabor, 1979, vol. 2, p. 991. A number of examples of "forced confiscations" are found in 15th-century Trogir and Zadar, related to the construction of fortifications (Kamerlengo and Citadella). BENOVSKY LATIN, Irena. Izgradnja gradskih fortifikacija u Trogiru od 13. do 15. stoljeća [Construction of fortifications in Trogir (13th – 15th c.)]. In: *Zbornik Odsjeka za povijesne znanosti Zavoda za povijesne i društvene znanosti HAZU*, 2010, vol. 8, pp. 24-25. For

owners.²⁵³ This shows that the “public (communal) interest” was above the private right to property.²⁵⁴

Legal disputes

In the 13th century, legal disputes were still written down in the form of notarial documents. These are a very important source when researching urban history,²⁵⁵ since they often reveal various understandings of property relations (common law, legal regulations, possession of documents) in the researched period, as well as various details on immovable property that cannot be found in the formalized descriptions of other legal actions. An example of different understandings of legal institutes and entitlements is found in a dispute between the commune of Dubrovnik and citizens from the suburbs concerning some land plots “on communal territory”: the citizens claimed that these lands had “belonged to them from ancient times” and that they were entitled to them.²⁵⁶ In this case, the communal lawyer summoned some witnesses, who confirmed that the land was communal. However, no party in this dispute had a written notarial document – they only referred to witnesses and the principle of *ab antiquo tempore*. The medieval legal order protected the possessors of immovable property (especially if they met certain requirements, such as good faith, undisturbed possession, and a suitable legal title).²⁵⁷ Legally, limitation did not entitle one to ownership, but could mean that the possessor was no longer to be disturbed. Such a situation could

a similar situation in 14th-century Zadar, cf. BEGONJA, Sandra. *Uloga gradskoga plemstva u urbanom razvoju Zadra u vrijeme Ludovika I. Anžuvinca (1358. – 1382.)* [The role of the urban nobility in the urban development of Zadar at the time of Louis I of Anjou (1358. - 1382.)]. [PhD-dissertation]. Zagreb : Filozofski fakultet Sveučilišta u Zagrebu, 2017, p. 42.

253 In Dubrovnik, such “communalization” of private property during the construction of the northern bulwark led to disputes. MHR III, p. 77, doc. 232. MHR III, p. 50, doc. 135. Cf. BENOVSKY LATIN, Irena. *Murus versus montem : Construction of the Dubrovnik fortifications around the suburbs up to the end of the thirteenth century*. In: *Review of Croatian History*, 2013, vol. 8, no. 1, pp. 7-36. In the Statute of Split, it is written that the commune was obliged to buy houses *extra civitatem* in order to tear them down and create a clearing needed for the city's defence – and if an owner refused to sell his, he was no longer allowed to live in it. SS, L. VI, c. 33. For comparative examples, see: HEERS, Jacques. *Les villes d'Italie centrale et l'urbanisme : origines et affirmation d'un politique (environ 1200 – 1350)*. In: *Mélanges de l'École française de Rome. Moyen Age*, 1989, vol. 101, p. 350.

254 Bartolus de Sassoferrato defined the city's authority over the entire municipal territory: sequestration or forced exchange of land was justified only for common or public interest (in the medieval period, law was often identified with common interest). BENOVSKY LATIN, I. *Introduction...*, p. 23. Cf. REYNOLDS, Susan. *Before Eminent Domain : Toward a History of Expropriation of Land for the Common Good*. Chapel Hill : University of North Carolina Press in association with the American Society for Legal History, 2010, pp. 24 and 86-87. RIGAUDIÈRE, Albert. *Donner pour le Bien Commun et contribuer pour les biens communs dans les villes du Midi français du XIIIe au Xve siècle*. In: LECUPPRE-DESJARDIN, Elodie – VAN BRUAENE, Anne-Laure (Eds.). *De Bono Communi. The Discourse and Practice of the Common Good in the European City (13th – 16th c.) / Discours et pratiques du Bien Commun dans les villes d'Europe (XIIIe-XVle siècle)*. Turnhout : Brepols, 2010, pp. 11-55. DANI, Alessandro. *Il concetto giuridico di 'beni comuni' tra passato e presente*. In: *Historia et ius. Rivista di storia giuridica dell'età medievale e moderna*, 2014, vol. 6, pp. 1-48.

255 It has already been mentioned that court trials were recorded in 13th century (Dubrovnik and Trogir) in the form of notarial documents, with the aim of obtaining the right to remuneration.

256 The commune was in dispute with Bela, the widow of Ivan Sergije Dujmov, since she had allegedly encroached upon communal territory (...*tu tenes et perintraſti in terrenum comunis...*) and demanded of her to leave it (...*uolumus, quod eum dimittas...*). CD IV, pp. 600-601, doc. 518. MHR I, p. 323, doc. 1096. Cf. CD V, p. 70, doc. 590.

257 LONZA, N. *Pravna kultura...*, pp. 1209-1211. According to Cvitanić, there was no protection of possession in Dalmatian cities independently from questioning entitlement to property. In his opinion, the legal disputes did not enter the question of disturbing possession, but the question of entitlement to possession. CVITANIĆ, A. *Uvod...*, p. 163. Cf. MARGETIĆ, L. *Perspektive znanstvenog...*, p. 328.

be legalized with time.²⁵⁸ In the Dubrovnik case, however, the commune won the case, as limitation could not be applied to communal land (at that time the commune was regulating the suburban areas).²⁵⁹ It is also evident from this case that proofs of ownership included not only the witnesses' testimonies, but also boundary stones with the mark of the owner (*comunis*). Such marks (the initials of the owner) were carved into stones, which were then buried along the estate's boundaries.²⁶⁰ According to a statutory regulation from 1272, these boundaries (*termini*) and stones (*fundamenti*) had to be respected, even though they were gradually losing importance in the urban area.²⁶¹ In other statutes, one also finds regulations linked to boundary stones (mostly related to extraurban areas).²⁶²

Besides the location of individual houses and land plots,²⁶³ legal disputes also reveal information on houses and parts of houses that cannot be found in other notarial documents. Thus, documents from Dubrovnik,²⁶⁴ Trogir,²⁶⁵ Zadar,²⁶⁶ and Split²⁶⁷ specify various parts of houses (external staircases, doors, stairs, porches, passages, joint walls, and so on). Besides the appearance of houses, disputes supply information on

258 The owner could lose his entitlement to a land plot if he did not use his rights, in which case the conditions were met for another person (who was in possession of the property) to gain exclusive entitlement to use and dispose with it (*de facto* permanent ownership). Usucaption was among the more original ways of gaining ownership, but could be interrupted if the owner raised charges on account of unauthorized possession if there was a legal title (*iustus titulus*) or a lease contract. Cf. MARŠAVELSKI, A. *Građenje na tuđem...*, p. 174. MARGETIĆ, L. *Srednjovjekovno... stvarn...*, pp. 79-82.

259 Thus, the Statute of Trogir decreed that usucaption and limitation (*usucapio seu prescriptio*) should not be applied against the commune: if someone held communal land, the time period did not lead to limitation. The Count of Trogir was to monitor what land belonged to the commune and ensure that those who held plots left before a preset deadline. ST, L. I, c. 14. ST, L. II, c. 66. MARGETIĆ, L. *Srednjovjekovno... obvezno...*, p. 209; cf. an example from Split in: SMIČIKLAS, Tadija (Ed.). *Diplomatički zbornik kraljevine Hrvatske, Dalmacije i Slavonije / Codex diplomaticus regni Croatiae, Dalmatiae et Slavoniae. Listine godina 1101 – 1200*. Zagreb: JAZU, 1904, vol. 2 (hereinafter CD II), pp. 99-100, doc. 96.

260 In the suburban area, estate boundaries were marked by stones, and this practice persisted into the following centuries in extraurban territories. Cf. BENYOVSKY LATIN, I. – LEDIĆ, S. *Posjed obitelji...*, p. 29.

261 *De fundamentis inventis sub terra: Fundamentum inventum subtus terram vel equale ad terram, habeatur pro termino et fine illius territorii in quo invenietur (...)* SD, L. V, c. 18. A dispute in 1282 between Pasko Volcassio on one side, and Marin Sorgo and the abess of the monastery of St Mary de Castello on the other (*... questione inter Marinum de Sorgo et abbatissam monasterii sancte Marie de Castello agentes ex parte una, et Pasquam Volcassii defendentem ex altera...*) concerned (...) *quodam fundamento quod disctus Pasqua fieri faciebat in angulo domus sue quam facit edificari iuxta territorium dicti Marini et dicti monasterii*. There (...) *in dicto angulo est una magna petra in qua est una littera 'F', que petra est pro termino dictorum territoriorum (...)* MHR II, p. 351, doc. 1315. Cf. MHR II, p. 267, doc. 1089.

262 The Statute of Split decreed harsh penalties for those who intentionally removed boundary stones, since that violated the regulations on land ownership. SS, L. IV, c. 86. Something similar is found in the Statute of Trogir. ST, L. II, c. 68, 69, and 70. ST, L. III, c. 26 and 27.

263 Thus, in Split: CD III, p. 210, doc. 184; CD VII, p. 374, doc. 330 (1300).

264 In a case from Dubrovnik (1284), a court decision by the count and the judges concerning the prohibition of construction has been preserved; it lists parts of houses in detail (stairs, doors). MHR III, p. 50, doc. 132. Another dispute from Dubrovnik (between Pasko Cipana and Marija Perdačento) reveals information on the external staircase of a house (such staircases were later forbidden by the Statute). Allegedly, Marija built the staircase by encroaching upon Pasko's land, although she claimed that the staircase had been there since ancient times. MHR II, p. 371, doc. 1337.

265 MT II, p. 24, doc. 52.

266 For example: SZB I, pp. 181-182, doc. 172 (1289). CD VI, p. 557, doc. 473. SZB I, p. 216, doc. 256. SZB I, pp. 217-218, doc. 258. CD VI, p. 424, doc. 360. In Zadar, disputes over common walls on estates have been preserved; CD IV, p. 4, doc. 4 (1236).

267 Split: parts of the monastery, CD VII, p. 46, doc. 35; androna, CD VII, p. 374, doc. 330.

the relationship between public and private, or between two private properties.²⁶⁸ Due to the frequency of disputes, the so-called abstract document types were increasingly put down in writing ("defensive documents" without a dispositive character), such as debenture notes and receipts, which documented temporary relations in case of dispute. In cities where the real-estate market was especially dynamic, legal transactions by papers alone existed as early as the mid-13th century.²⁶⁹

Debenture notes, receipts, bonds, and other documents

Debenture notes are instruments acknowledging debt in a legal action (*instrumentum mutui*). They could consist of formulas acknowledging debt, promising its repayment, defining penalty in case of failure to do so, promising a remuneration of damage and expenses, warranting by means of property, or renouncing at appeal. A considerable part of notarial records in Trogir and Dubrovnik,²⁷⁰ Zadar,²⁷¹ and Split²⁷² consist of simple statements given by debtors.²⁷³ Thus, in a document from Dubrovnik (1283), Marija, daughter of Fusko de Valerica, acknowledges debt for half of the cottage she has purchased.²⁷⁴ Many debenture notes in Trogir were written after the sale contract, which shows that the payment was made later.²⁷⁵ Besides sales, debenture notes were issued when lending money, and some cases mention immovable property pawned in warrant.²⁷⁶

268 A dispute between Martol de Cereva and the commune of Dubrovnik reveals that Martol's grandfather had built a private tower for the defence of the city "at a time when the new wall did not exist" and that in 1282 the commune wanted to tear it down as it was situated *infra muros* and went against the ideas of the late 13th-century communal system on controlling urban space. MHR II, p. 345, doc. 1305.

269 LONZA, N. *Pravna kultura...*, p. 1228. RAUKAR, Tomislav. Srednjovjekovna trgovina dalmatinskih gradova – istraživačka dostignuća i problem [Trade in medieval Dalmatian cities and towns : State of research and current issues]. In: *Historijski Zbornik*, 1978 – 1979, vol. 31-32, pp. 349-357.

270 VOJE, Ignacij. Knjige zadolžnic, posebna notarska serija dubrovnika arhiva [Books of debenture notes, a special notarial series in Dubrovnik's archive]. In: *Zgodovinski časopis*, 1968, vol. 22, pp. 207-223.

271 E.g. in SZB I, p. 31, doc. 114; SZB I, p. 191, doc. 198 (1290) (not immovable property); SZB I, p. 169, doc. 141 (not immovable property).

272 CD V, p. 420, doc. 891.

273 Based on debenture notes from Dubrovnik, Margetić has analyzed the extent of obligation in these 13th-century abstract contracts, before the introduction of the clause on renouncing references to the statute. According to him, there was a problem with the validity of abstract contracts in legal disputes, since the official forms emphasized that "bare agreements" were not obliging, nor could they serve to raise charges, as they led to appeal rather than charge. Margetić argues that the abstract notes in the books of Dubrovnik were a transitory stage in writing up documents that disappeared with the increasing impact of Roman law. MARGETIĆ, L. *Srednjovjekovno... obvezno...*, pp. 195-197.

274 *Confiteor quod super me et super mediam meam capannam positam in territorio Domagne de Guererro quam emi a Desaçã de Domagna debeo dare Mauro Rogadeo de Rauello solidos denariorum grossorum quinque (...)* MT II, p. 76, doc. 326.

275 For example, Nikola, the buyer of a house in Trogir following a sale contract (*post contractum uenditionis*), confirmed to the seller a debt of 90 *librae*. MT I/1, pp. 70-71, doc. 147; cf. *Promixit dare et soluere (...)* *pro precio paratinee vendite (...)* MT I/1, p. 370, doc. 185. Similarly: MT I/1, p. 372, doc. 188 and 189.

276 In a second example, Stana, daughter of Stjepan Filije, confirms in a debenture note (*...se debere et dare ex causa mutui...*) in 1279 that she had borrowed 10 *librae* from her sister Petronja, in exchange for which she pawned (*...tali pacto quod ... ante posuit et in pignore dedit...*) her cottage (with a described location) and a land plot outside the city. Petronja and her descendants could use the property in accordance with the custom (*...tenentur restituere sibi dictam domum et vineam aptatas et reparatas congrue ut juris et moris est, sub obligatione...*) and an annual repayment of the debt was agreed upon. MT II, p. 201, doc. 89.

Similar information on real estate is found in receipts, instruments confirming the repaying of debt (*instrumentum finis* or *securitatis*).²⁷⁷ For example, in 1232 in Trogir, Stana, widow of Petriša Runa (*cum filliis*), confirmed (*profiteor et protestor*) that she had received (*accepisse... nomine pretii pro domo*) from Treguan, the Bishop of Trogir, 20 *perperi* for a house that had belonged to her late husband.²⁷⁸ In Zadar in 1290,²⁷⁹ information on a division of property between brothers and sisters has been preserved in the form of a division receipt (*carta securitatis de diuisionis*). Prevonig, *habitor* of Zadar, son of the late Deminča from Nin, and Petar, Šimun, Marija, and Gruba, children of Marin de Criuoglauo Jadratino, confirmed by means of a receipt that they had divided (*diuidimus et partimur*), with the approval of Prevonig's father (*cum uoluntate dicti Martini patris nostri*), the inheritance (*bona hereditatis*) of his late wife Stana and the sister of the late Desača, her mother.²⁸⁰ The receipt lists various entitlements that they and their descendants obtained with the property. As most receipts, this one also consists of the *formula promissionis* and *pena*. In Dubrovnik, for example, Marin Predraga confirmed in an *instrumentum dotis*, a form that was very similar to the receipt, that in 1282 he had received money as dowry (*pro perchiuio*), as well as a house from Rogerije de Rugota, father of Rada.²⁸¹ The contract is written in a form in which a party confirms (*confiteor quod*) an object of the contract as dowry.

Information on immovable property is also found in bonds (*obligationes*), which besides the direct form (with the verbs *obligare* and *promittere*) include the one defining a debt in the form of a receipt and then states the obligation of repayment in a separate formula.²⁸² In Trogir, one finds a larger number of such bonds, especially related to property pawned for debt. For example, in Trogir a debtor acknowledged the receipt of 10 *librae* that he had borrowed for a six-year period and then stated the obligation of repayment (*obligavit*) pawning his cottage with the land plot.²⁸³ In this document, the

277 Receipts could consist of the formulas *contrahentes, finis et refutacio, cessio, absolutio et liberatio, promissiones*, and *pena*, but according to Grbavac, there was no unified use of these formulas in Dalmatian cities; instead, it depended on individual notaries. GRBAVAC, B. *Notarijat...*, pp. 87 and 155.

278 CD III, p. 357, doc. 310 (1232).

279 CD VI, p. 334, doc. 280 (1290).

280 Prevonig confirmed that he was ceding (...*do, dimitto et reffuto...*) to Petar, Šimun, Marija and Gruba a plot of land (*locum copertum et discopertum*) belong to Stana and her aunt, located in the area of St Silvester (*ad castrum nouum*), next to the described neighbours. In exchange, Petar, Šimun, Marija, and Gruba ceded to Prevoinig (...*damus, dimittimus et concendimus...*) a lifelong entitlement to use a vineyard (...*habeas, teneas, gaudeas et possideas...*) outside the city that Stana and her aunt had possessed (...*reddit sibi septimum pro terratico...*). In Venice, the *terraticum* referred to the use of land plots on which it was permitted to build a wooden cottage (*fabricam ligneam*). DORIGO, Wladimiro. *Venezia Romanica. La Formazione Della Città Medioevale Fino all'Età Gotica*. Venice; Verona : Cierre Edizioni and Istituto Veneto di Scienze Lettere ed Arti, Regione del Veneto, 2002, vol. 1, p. 103.

281 MHR II, p. 191, doc. 836.

282 GRBAVAC, B. *Notarijat...*, p. 157.

283 (...) *pro quibus X libris obligavit dicto Claniçe suam camardam cum paratingna positam in burgo Traguriensi iuxta uiam et paratingnam Bastiani et alia latera (...)* MT I/1, p. 172, doc. 80.

cottage is located in the city and the document defines the creditors' entitlement to its use.²⁸⁴ In both Split and Zadar, pawn documents were written in the form of bonds.²⁸⁵

Contracts on the construction or restructuring of a house were often made in the form of bonds. In Dubrovnik, for example, Tripon Georgio, one of the wealthier noblemen in the late 13th century, commissioned a door for his house.²⁸⁶ In the notarial records of Trogir, one finds various examples of construction of external staircases (*facere scalas super portam canaue*).²⁸⁷ Contracts from Trogir also contain data on the construction of houses and parts of houses (staircases, doors, and balconies). Such documents rarely include a description of the location.²⁸⁸

Information on real estate is also found in authorizations (*instrumentum procurationis, curatoris, tutoris, syndici*). For instance, in Dubrovnik, in 1284, Radosta Subb authorized Dragoš Zuparije to ask on her behalf for a wooden house on the land of Benedikt Gondola.²⁸⁹ In Split, a division was recorded in an authorization document from 1289.²⁹⁰ Contracts on business partnership occasionally contain information on immovable property in the city and on its owners. In this regard, in a contract from Trogir, some partners agreed (*dixerunt et concordēs fuerunt se*) that they would invest in a tavern (*unam canauam que fuit Laurencij Mandre*) in the form of an association/partnership (*in comuni societate habere*). It was also agreed who would keep the tavern after the end of their association.²⁹¹ In the 14th century, there were also instruments *vigoris et roboris*, in which individuals sold the rights to carry out a verdict over a third party, since immovable property was mostly the object of auction for such reasons. However, no such examples have been found in the 13th century.²⁹²

284 (...) *dictus Claniče habitare debet usque ad finem dicti termini dictorum VI annorum (...)*; A similar case is of a pawn agreement in bond form: Marin Draganni acknowledged (...*confessus fuit se mutuo recepisse...*) that he had borrowed 7 *librae* from Bratoslav Pervenni, guaranteeing the payment with his immovable property (... *canava, granarium cum pauimento...*), whereby the creditor was entitled to use the property for rent. MT II, p. 80, doc. 173.

285 Thus, in Split, Kataldo pawned his house for a debt to the monastery (...*quam loco pignoris obligauit ei...*) in a document from January 5, 1267. CD V, p. 420, doc. 891. Another example of pawning a house comes from Zadar, whereby the formulation *ad pignus* is used. SZB I, p. 31, doc. 114.

286 Tripon Georgio also commissioned seven balconies for the same houses from stonemason Benevent, and they agreed upon the deadline and the form of payment. MHR III, p. 323, doc. 1020. Later on, Georgije's neighbour to the east, Matija Mence, commissioned the same type of door. MHR III, p. 328, doc. 1040. MHR III, p. 293, doc. 859.

287 MT I/1, p. 481, doc. 410.

288 Thus, master Raden, a *carpentarius*, worked on the house of Desa Petrov from the Lucić clan. They agreed upon the construction of the house, the staircase, doors, and windows, for 28 *librae* (...*item pro construendis duobus solaris, pro apponendis trabibus superioribus figendis ipsis...*). MT I/2, pp. 201-202, doc. 58. Even though the sources rarely reveal the names of builders when it comes to residential houses, they may have included stonemasons mentioned in 13th- and 14th-century sources. FISKOVIĆ, Cvito. Romaničke kuće u Splitu i Trogiru [Romanesque houses in Split and Trogir]. In: *Starohrvatska prosvjeta*, 1952, vol. 3, no. 2, pp. 162-163 (the *murarii* are mentioned). FISKOVIĆ, Cvito. *Zadarski sredovječni majstori* [Zadar's medieval masters]. Split : Matica hrvatska, 1959, p. 11.

289 MHR II, p. 48, doc. 121.

290 SZB I, pp. 107-108, doc. 21 (1289).

291 MT I/1, p. 349, doc. 143.

292 Thus, person A won the case against person B and the court issued the verdict. Then person A sold the verdict and the right to carry it out to person C (be it because he could get the money faster or because he owed something to person C), after which person C participated in carrying out the verdict and the potential acquisition of property (if the dispute had been about property) or selling it in auction to person D (if the dispute was about money debts), who thus became the new owner of the property (originally owned by person B). Cf.

Sites of document compilation

Information on immovable property is occasionally found in the *actum* formula, which defines the site of contracting a business. It was mostly used with regard to communal chancery, but could also refer to the house where one of the parties lived. In that case, a *domus* is mentioned (or a part of it: the *curia* and so on), but in the sense of a home rather than a piece of property with a description. Moreover, these documents do not always allow us to identify the owner with certainty, although they always inform us about the residents (but these two things need not be identical). Legal business was often contracted in streets, in squares, in front of (or within) city churches, in shops, and so on. Thus, the earlier sources often mention the urban church of St James in Šibenik as the site where documents were written down,²⁹³ but documents from 1292²⁹⁴ and 1297²⁹⁵ mention the (new) communal palace in this role. In documents from Zadar, the site of document compilation was given in the Protocol merely with the city's mark, without mentioning the actual locality. The specific location is not found in the *actum* formula within the eschatocol either, only the formulation *actum est hoc est confirmatum*.²⁹⁶ In Šibenik, the situation is the same.²⁹⁷ In most of Split's documents from the first half of the 13th century (1209 – 1251 and 1255), the *actum* formula does not specify the site of document compilation. However, in the second half of the century, urban churches are increasingly indicated in this function,²⁹⁸ and so are various other public places,²⁹⁹ houses, stores, and palaces, or the area in front of them.³⁰⁰ In Split, documents also mention the archiepiscopal palace,³⁰¹ the archdeacon's palace,³⁰² and

POPIĆ, T. *Krojenje pravde...*, pp. 96-97, and doc. 7 in the appendix as an illustrative example (although it was a land plot, not a property in the city).

293 CD SUPPL I, p. 110, doc. 70; CD SUPPL II, p. 113, doc. 47. See also: ... *cum sederemus pro tribunali ante ecclesiam Sancti Iacobi...* KOLANOVIĆ, Josip – BARBARIĆ, Josip (Eds.). *Šibenski diplomatarij. Diplomatarium Sibenicense. Zbornik šibenskih isprava*. Šibenik: Muzej grada Šibenika, 1986 (hereinafter DS), p. 151, doc. 72. In 1263, the Peace of Trogir (*publicum parlamentum*) was also signed in front of St James' Church. CD V, p. 247, doc. 749; cf. ZELIĆ, Danko. *Postanak i urbani razvoj Šibenika u srednjem vijeku* [The emergence and urban development of Šibenik in the Middle Ages]. [PhD-dissertation]. Zagreb: Filozofski fakultet Sveučilišta u Zagrebu, 1999, p. 71.

294 *Actum est hoc et firmatum in palatio communitatis Sibenicensis*. DS, p. 154, doc. 72.

295 There is a document from June 2, 1297 in which the commune of Šibenik confirmed that the Church of St Chrysogonus belonged to St Cosimas and Damian and thus the district of Zadar. The formula *actum* is in the eschatocol and mentions the communal palace as the site of compiling the document (*Actum est hoc in palatio comunitatis*). CD VII, p. 282, doc. 242.

296 CD IV, p. 378, doc. 344. CD IV, p. 440, doc. 380. CD VI, p. 537, doc. 456.

297 SZB II, p. 6, doc. 12.

298 CD III, p. 5, doc. 6. For example: (...) *ante ecclesiam sancti Domnii, in ecclesia sancti Johannis de Fonte* (...) CD V, p. 104, doc. 619. CD VII, p. 143, doc. 121.

299 (...) *in plathea Spalati* (...) CD V, p. 421, doc. 891; (...) *infra ambas portas* (...) CD VII, p. 47, doc. 35.

300 (...) *in domo dicti Rombaldi* (...); (...) *in domo Tiche* (...); (...) *ante domum Martini Plexe* (...) CD V, p. 97, doc. 613. CD V, p. 156, doc. 663. CD V, p. 213, doc. 717; (...) *in camera dicte abbatisse Stane* (...) CD VI, p. 68, doc. 61.

301 (...) *in curia domini archiepiscopi* (...) CD V, p. 199, doc. 705. CD V, p. 494, doc. 961.

302 (...) *in palacio domini archidiaconi* (...) CD V, p. 344, doc. 833.

notarial chanceries.³⁰³ In Dubrovnik and Trogir, documents were written down in public places³⁰⁴ or in private houses.³⁰⁵

Data on the possessors

An important set of data includes information on the individuals/institutions related to urban immovable property, which can mostly be found in contracts on permanent property transfer or temporary possession, since they indicate the main participants in the legal action: namely, individual or institutional parties that signed the contract as equal or unequal parties. Relevant data is also found in legal disputes, construction contracts, and so on. The owner/possessor of real estate could be individual or collective. The nominal formula offers an insight into his position within the family (in case of women, the father's or husband's name is given; with adult men, occasionally the grandfather's name).³⁰⁶ Owners could engage in a legal action directly or through their representatives. In the case of minors, their guardian's (or tutor's) name was given, and in the case of persons who could not take care of their affairs, a *curator* was appointed. Absent persons were represented by their proxy holders (*procuratores*), who could be family members (parents, spouses).³⁰⁷ Collective owners/possessors included institutions (churches, chapters, or monasteries), associations (confraternities or *societates*), or the commune. Immovable property could also be part of a patrimony, e.g. a community of father and sons or of brothers (*fraterna*).³⁰⁸ In this case, besides the directly involved parties, the contract mentions all those who might have legal interest in the action (for example, minor sons, if a party was their mother; brothers; or often spouses).

303 (...) *in camera mei notarii* (...) / (...) *in hospicio mei notarii* (...) CD V, p. 503, doc. 969. CD VI, p. 2, doc. 2. CD SUPPL, p. 168, doc. 123.

304 In Dubrovnik, a document concerning a legal dispute (litigation) in 1284 was compiled in the square in front of Pasko Volcassio's house (... *de foris in platea ante domum Pasque Volcassii*...) MHR III, p. 177, doc. 474.

305 MT I/1, p. 189, doc. 109. BABIĆ, Ivo. Trogirski knez Ilija i njegova žena Stana [Ilija, the Count of Trogir, and his wife, Stana]. In: BABIĆ, Ivo – MILOŠEVIĆ, Ante (Eds.). *Zbornik Tomislava Marasovića*. Split : Sveučilište u Splitu and Muzej hrvatskih arheoloških spomenika, 2002, pp. 383-385. Cf. ANDREIS, M. – BENYOVSKY, I. – PLOŠNIĆ, A. *Socijalna topografija*..., pp. 13 and 44.

306 A fine example of various identifications of witnesses is a document from Trogir (*Presentibus Cerneccha Miche Cortesie, Stançe Goysclavi et Barti filio domini Grissogani Mauri de Jadra et Stephanelle domini Duymi de Cega de Tragurio*. MT I/2, p. 129, doc. 6) which gives affiliation to the father, occasionally to the grandfather, and mentions an established surname: Cega. As for married women and widows, sometimes only the husband is mentioned (*Myra, relicta Frisogoni condam comitis Helie*. SZB I, p. 84, doc. 47), sometimes the father. See, for example, the identification of a noblewoman from Zadar: since the document is damaged, her personal name has been lost, but she is identified as the *filia Iohannis Badoarii olim comitis Arbensis et uxor Marini Ziualelli, filii Laurencii*. SZB I, p. 50, doc. 13.

307 In Zadar, Madije de Varikaša is mentioned in 1290 as the *curator* of the heirs to the late Artuik from Pula and his wife Šelča. In this appointment, he pays to the husband of Prija, daughter of the deceased couple, her dowry and a part of the patrimony, which consisted of a shop near the main square and an estate worth 300 *librae* above the city harbour. SZB I, p. 231, doc. 284. Dominicija, wife of the spice merchant Orlandino, appointed him as her proxy (*nuntium, procuratorem et generalem auctorem*) to represent her in Rab at the property division with her niece. SZB I, p. 79, doc. 138. Cf. BREITENFELD, F. *Pravni poslovi*..., pp. 120-121. FLORENCE FABIJANEČ, Sabine. Žensko upravljanje nekretninama u drugoj polovici 14. stoljeća u Zadru [Women administering immovable property in Zadar during the second half of the 14th century]. In: *Historijski zbornik*, 2006, vol. 59, pp. 42-43. JANEKOVIĆ RÖMER, Z. *Rod i grad*..., pp. 87-90, 91-93, and 106. POPIĆ, T. *Zadarski sud*..., pp. 131-132.

308 Thus, in Zadar, a damaged document from the 1270s mentions a man called Blaž, who held a vineyard *in fraterna societate* with his brothers Jurgije, Diminja, and Dragovan. SZB I, p. 24, doc. 88. There is also the case of Stanča and Jura, sons of Henrik Mali and Dabrica, in which the mother decreed in her last will from 1297 that the money from the sale of her house should remain *in comuni et fraterna societate*. SZB I, p. 93, doc. 52.

Besides featuring as parties in a legal action, individuals or institutions were also mentioned as neighbours (owners or users) of the concerned property in the description of its boundaries or the site where the legal action was effected. Along with the name of the owner/user, his or her social and civic status was mentioned (as part of the document's nominal formula), as well as his profession or office. Identifying individual persons from the nominal formula is easier when they were members of urban elite, since such individuals were usually identified by affiliation or some sort of relation to their ascendants, sometimes identifiable from earlier documents. In this period, identification (at least with the elite) is often facilitated by the increasing use of surnames, even though this differs from one city to another. In Zadar, almost all noble families had adopted a surname by the end of the 13th century, and the situation in Dubrovnik was similar. Some Tragurian elite families also took a surname, but far fewer than in Zadar or Dubrovnik; in Split, most noble families started using a surname only in the late 14th, 15th, or even 16th centuries.³⁰⁹ As for the commoner families, adoption of surnames largely happened in emulation of the nobility in the late 14th, 15th, and 16th centuries.

Conclusion

In the 13th century, due to the growth of urban populations, Dalmatian cities experienced far-reaching transformations in terms of the size and dynamics of the real-estate market, and saw increased investment in urban land. Familial property was gradually transformed into individual holdings. All these changes resulted in the more flexible stance of legal systems covering the real-estate market. Even though Roman law (i.e. its reception) served as a basis for norms concerning property relations and the law of obligations in the high Middle Ages, the considerable time gap and the impact of other legal institutions resulted in numerous adaptations and modifications in formulating new legal regulations and concepts.

Various entitlements and modes of use had considerable implications for the possession of urban space, which was in practice understood in terms of use or access.³¹⁰ Moreover, in this period, a fast growth in literacy can be observed and the number of documents related to urban immovable property doubled, including those related to the communes and the functioning of public authority (privileges, statutes, books of incomes and expenses) as well as those written for individual commissioners (last wills, sale contracts, and so on). The development of this genre was accompanied by the evolution of legal terminology and procedures, owing to the increased power and restoration of possession rights. But even after the introduction of a written standard for legal affairs, old legal forms and various (sometimes hybrid) legal acts, justified

³⁰⁹ Without being familiar with the genealogical ties within the family, it is difficult to identify even noble individuals in the documents. As for the 13th century, systematic genealogical research has been carried out for Trogir and Dubrovnik. Cf. ANDREIS, Mladen. *Trogiško plemstvo do kraja prve austrijske uprave u Dalmaciji (1805.)* [Trogir's nobility until the end of the first Austrian administration in Dalmatia]. Trogir: Muzej grada Trogira, 2006. VEKARIĆ, Nenad. *Vlastela grada Dubrovnika* [The nobility of Dubrovnik], 8 vols. Zagreb and Dubrovnik: Hrvatska akademija znanosti i umjetnosti and Zavod za povijesne znanosti u Dubrovniku, 2011 – 2017. On the origin of noble families' names in Split, Trogir, and Zadar during the 13th and 14th centuries and their genesis, see: NIKOLIĆ JAKUS, Z. *Obitelj dalmatinskog plemstva...*, pp. 69-72. NIKOLIĆ JAKUS, Zrinka. *The Formation of Dalmatian Urban Nobility: Examples of Split, Trogir and Zadar*. [PhD-dissertation]. Budapest: Central European University, Department of Medieval Studies, 2004 (MS Word version supplied by the author), pp. 194-201. BEGONJA, S. *Uloga gradskoga...*, pp. 48, 55-56, and 59-63.

³¹⁰ BENYOVSKY LATIN, I. *Introduction...*, p. 16. HARDING, V. *Space, Property...*, pp. 553 and 569.

in a particular setting, were still trusted.³¹¹ In the early period of notarial records, elements of different legal customs were noticeable in Dalmatian cities, especially those related to property relations.³¹²

Although there was an aspiration towards standardization, even notarial forms were not identical. Moreover, individual notaries brought experience from other cities where they had held appointments. Notaries who came to Dalmatian cities had to be involved in processes of memorizing and credibly putting down in writing a large number of sale contracts, family transactions, last wills, and other documents on a daily basis. Even though written "first-hand", these sources abound in information that requires caution.

Notarial documents remain an exceptionally valuable source for understanding property relations and the dynamics of the real-estate market in the city. Of course, they were not written for the purpose of our research, but to meet a series of legal and administrative demands in which descriptions of localities were accidental or of minor importance. The specific purpose of these private-public documents determined their limitations in terms of what data they included – only the key information for defining the boundaries, ownership, or value of an estate was included, which means that some details (perhaps crucial to us today) were omitted. Still, when dealing with a building or land plot within the city, the compilers of these documents defined its position, boundaries, and appearance, and mentioned the owner/possessor of the property in question as well as the neighbouring estates. Such documents can be used to inform conclusions about various discourses concerning space, depending on their purpose and date of writing. The scarcity of historical sources in general (especially the lack of continuity) is the basic reason why data on real estate and its owners is also incomplete.

Descriptions of immovable property were adapted to their legal and administrative purpose, thus some details on property relations were not put down in writing, but rather regulated by the mechanisms of the "universally known" custom law. Moreover, formalized documentation on property transfer does not always reveal the actual situation *in situ*, or describe the relationship between the parties in detail, but largely depends on the notarial skills, the limitations of formulas, and so on. When using these documents in research, a systematic approach is essential. It is only in a systematic and comparative analysis that the notarial documents yield results that will contribute to our knowledge of medieval urbanity.

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³¹¹ On the "scribes-protonotaries", see: LONZA, N. *Pravna kultura...*, pp. 1213-1215. HUERTAS, E. *La rente fonciere...*, p. 78.

³¹² CVITANIĆ, A. *Uvod...*, p. 124. LONZA, N. *Dubrovački statut...*, p. 16. CVITANIĆ, A. *Uvod u trogirsko...*, p. xxxvii.

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