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The Affairs of Death:

The dispute over the validity of a Jewish will in medieval Iberia

Court documents can be interesting records of the past, and they can show surprising similarities to the present, even those from nearly a millennium ago. In 1268, for instance, there was a probate trial in Barcelona, in the Crown of Aragon within the Iberian Peninsula. The trial came about due to the deaths of two men and the interaction of their estates. The men were Benvenist de Porta, a Jewish financial official,¹ and Bonanat de Besalú, who was also Jewish. The trial left behind four documents that have since made it to the present,² and those documents tell a story about medieval probate proceedings in Barcelona. These documents, with contemporary wills acting as supplementary sources, demonstrate the similarity of medieval Iberian probate norms and the legal structures of today.

What caused this probate trial and what it entailed was interesting, but not all that different from the probate proceedings of today. The affairs of two dead men, who interacted in life, were affecting their children. Bonanat de Besalú had left half of his estate to his daughter, Sara, and half to Benvenist. His son, Belshom, petitioned the court for the half left to Benvenist, with the help of his guardian, Salomó ibn Adret. The records, kept in Latin, say that a "quarrel or opposition was turned before us by Giacomo el Gracia, earl of Barcelona and Urgel and lord of Montpellier, with Salomó ibn Adret, a Jew, guardian of Belshom, the son of Bonanat, the Jew of

¹ Francisco de Bofarull y Sans, *Los judíos en el territorio de Barcelona* (Barcelona: Imprenta de Francisco J. Altés, 1910), 146.

² Robert I. Burns, *Jews in the Notarial Culture: Latinate Wills in Mediterranean Spain, 1250-1350*, (Berkeley: University of California Press, 1996), 145-149.

Besalú, on one side."³ The argument made by Salomó was that Bonanat died intestate, and with Benvenist now dead, the half of Bonanat's estate left to him ought to go to Belshom rather than the estate of Benvenist. This argument was unsuccessful, and the records say that "the guardian did not prove that the said Belshom had right in half of the goods of the said Bonanat."⁴ The outcome of this trial, these proceedings, and the court records left behind reveal quite a bit about the affairs of death in medieval Iberia. What we have here shows the existence of concepts such as intestate, will dispute resolution, and the role of the government in Jewish will disputes. It paints a picture of medieval Iberian probate procedure not dissimilar from that of today. Most of all, it tells us what happened when these people died, and what kind of mess it left behind.

The documents have all been dated, and in the case of Benvenist and Bonanat, we have four records that are dated the third and fourth of September in 1268. Their location is noted too, and they are all either from Barcelona or Vilafranca del Penedés. Vilafranca del Penedés is a town near Barcelona, and they were both areas were in the Crown of Aragon under the rule of King Jaume I in 1268.⁵ King Jaume I, or Jaume el Conqueridor, is better known for his roles in the inaccurately named *reconquista* or in the Crusades,⁶ but in this case he--or someone administrating on his behalf--was acknowledging customs and presiding over probate trials for his Jewish subjects.

³ "Barcelona, Dominican house. 3 September 1268. Trial record," translated by Emma Jane Hopper, Arch. Crown, Cancelleria, reg. 15, fol. 117rv.

⁴ "Barcelona, Dominican house. 3 September 1268. Trial record," translated by Emma Jane Hopper, Arch. Crown, Cancelleria, reg. 15, fol. 117rv.

⁵ "Barcelona, Dominican house. 3 September 1268. Trial record," translated by Emma Jane Hopper, Arch. Crown, Cancelleria, reg. 15, fol. 117rv.

⁶ María Jesús Coeña del Real, "Conocemos nuestro pasado: la reconquista cristiana," *Innovación y experiencias educativas* no. 47 (October 2011): 7.

In 1268 the so-called *reconquista* had already begun, and by 1270 the only kingdom in Iberia left under Muslim rule was Granada.⁷ The Crown of Aragon was a Christian kingdom, but Jews did play a large role in the structure of the Crown of Aragon's bureaucracy during this era. They were so prominent, in fact, that backlash to their prominence in 1283 led to a drastic curtailing of their duties.⁸ As mentioned earlier, Benvenist de Porta was himself a financial official. His influence was great enough to have prevented the banishment of his brother for the crime of blaspheming Jesus during a religious discussion.⁹ Benvenist and Bonanat were Jews living in a Christian kingdom under a crusading king, but it is known that Benvenist had a fair bit of influence.

That influence, however, doesn't mean Benvenist, Bonanat or all of the other Jews in the Crown of Aragon faced no persecution for their religion. These trials were also only five years after the Disputation of Barcelona in 1263, where the same King Jaume I tried to prove that the Talmud proves that Jesus was the Messiah, and that ancient rabbis knew it. This claim was disputed by Rabbi Moses ben Nahmanides, but because this was a claim beneficial to Christians in a Christian kingdom, Nahmanides lost. Jews were forced to attend conversionary sermons, and Nahmanides was banished, but for many Jews in the Crown of Aragon--like Benvenist and

⁷ Travis William Ritt, "Reconquista and Convivencia: Post-Conquest Valencia during the Reign of Jaime I, El Conquistador: Interaction Between Christians and Muslims (1238-1276)," Master of Arts diss, Florida State University, 2004, 13.

I say "so-called" because the name is inaccurate. These are Roman Catholic kings are attempting to align themselves with the Visigoths, who were unrelated Arian Christians who lost control to Muslim conquerors a few centuries earlier.

⁸ Robert I. Burns, *Jews in the Notarial Culture: Latin Wills in Mediterranean Spain, 1250-1350*, (Berkeley: University of California Press, 1996), 15.

⁹ Francisco de Bofarull y Sans, *Los judíos en el territorio de Barcelona* (Barcelona: Imprenta de Francisco J. Altés, 1910), 156.

Bonanat--life went on.¹⁰ Until they died. Still, the context of the time period is crucial to understanding the status of Jews in the Crown of Aragon during the probate trial.

Before considering the trial documents themselves, the concept of wills needs to be addressed. A will is a document people leave behind addressing what to do with their assets after death. This was the case in 1268, just as it is the case now. The concept of wills was adopted from Roman norms, and wills were often notarized.¹¹ That the proceedings of the dispute over Bonanat's estate made it to the present speaks volumes about the archival culture within which our subjects existed.

While the wills of Bonanat and Benvenist are not available, and the first court document says explicitly that Benvenist's was in Hebrew, it is likely that they were not ethical wills due to their appearances in court. The Jewish custom of the ethical will, or tzava'ot, is a more private document left to those closest to the deceased, with instructions on what to do with the body, life tips, and reflections.¹² The tzava'ot is not a legal document, and so it can be deduced that the wills in question were official based on their being upheld in court and used for probate proceedings.

One can tell the political and cultural context of these proceedings based on just the date, location, and some basic information given by the court documents. Looking deeper exposes even more. While neither Benvenist's nor Bonanat's wills were available, the trial documents that did last are potentially more valuable than the wills themselves would have been. Benvenist de Porta died leaving behind a will, and this document is alluded to in the first of the trial records.

¹⁰ Nina Caputo and Liz Clarke, *Debating Truth: The Barcelona Disputation of 1263, A Graphic History* (Oxford: Oxford University Press, 2016), 19.

¹¹ Jaime Piqueras Juan, "Permanecer a través del tiempo: estrategias sucesorias y transmisión de los patrimonios en la sociedad valenciana del siglo XV," *Hispania* 72, no. 241 (2012): 398.

¹² "Ethical Wills," Jewish Virtual Library, American-Israeli Cooperative Enterprise, accessed December 6, 2021, <https://www.jewishvirtuallibrary.org/ethical-wills>.

On September 3, 1268, an acknowledgement of Jewish customs regarding the will of Benvenist de Porta by King Jaume I was filed, where it was said "you will not be bound in the future to display any other inventory, cause of extra charge, nor even any other reason."¹³ This first document reveals that wills filed in the Crown of Aragon in the "custom of the Jews" were not beholden to showing inventory of the estate of the decedent.¹⁴ This also implies that non-Jewish wills were expected to show inventory, though that assumption cannot be drawn based on this document alone. This first document, the least directly related to the trial itself, already proves useful in discovering norms in medieval Iberian probate.

The second document details the arguments and outcome of the trial. The dispute at hand was over the estate of Bonanat. According to the trial document, "Salomó ibn Adret, appointed guardian of Belshom, the son of Bonanat, the Jew of Besalú, proposed that the father of Belshom himself died intestate, leaving behind two children, namely Sara and Belshom, and a portion of the property of the said Bonanat came to his daughter Sara."¹⁵ Unfortunately for Belshom, and the reason for the trial, "the other part of the property came to Benvenist de Porta, the Jew of Villafranca."¹⁶ The son of Bonanat and ward of Salomó ibn Adrat, Belshom, was left with nothing. The half of Bonanat's estate not going to Sara would go to the estate of the deceased Benvenist instead. While the records do not acknowledge the reason for such an arrangement in Bonanat's will, the will still existed, by the ruling of the court. The argument of Salomó ibn Adrat, on behalf of his ward, was that Bonanat had died intestate.

¹³ "Villafranca del Penedés. 3 September 1268. No inventory," translated by Emma Jane Hopper, Arch. Crown, Cancelleria, reg. 15, fol. 116v.

¹⁴ "Villafranca del Penedés. 3 September 1268. No inventory," translated by Emma Jane Hopper, Arch. Crown, Cancelleria, reg. 15, fol. 116v.

¹⁵ "Barcelona, Dominican house. 3 September 1268. Trial record," translated by Emma Jane Hopper, Arch. Crown, Cancelleria, reg. 15, fol. 117rv.

¹⁶ "Barcelona, Dominican house. 3 September 1268. Trial record," translated by Emma Jane Hopper, Arch. Crown, Cancelleria, reg. 15, fol. 117rv.

The argument that Bonanat had died intestate did not stand in court. To be intestate is to die without a will, but according to the courts, Bonanat had died with a will which left all he had to Sara and Benvenist. The money from Bonanat's estate, "forty-eight thousand morabitini and more," went to Vidal, the son of Benvenist, the wife of Benvenist, and any other heirs to the estate.¹⁷ According to the court, the guardian Salomó ibn Adret "...did not prove that the said Belshom had right in half of the goods of the said Bonanat, considering also the cession and gift made by us to the said Benvenist of the goods which belonged to the said Bonanat, as in a sealed charter with our seal pending it is more fully contained: for these reasons and to many others which may be considered, that the said liberators above assembled themselves and other free-managers from the petition of the said guardian of Belshom, as we have thought above, to be absolved in sentence."¹⁸ Salomó ibn Adret was recorded as being unsuccessful in his petition on Belshom's behalf, and half of the estate of Bonanat was to remain a part of the estate of Benvenist.

Thus far considered there has been a court document allowing the executors of Benvenist's estate to proceed without showing inventory of his goods, and a court document detailing the trial that affirmed the will of Bonanat. From these documents alone there are the beginnings of a picture of medieval Iberian society: one where Jews were allowed to proceed without showing inventory, one where the concept of intestate exists and affects probate proceedings, and one where fathers leave their daughters with half of their estate and their sons with nothing. One must wonder if the son was disinherited for a reason. There are also mentions

¹⁷ "Barcelona, Dominican house. 3 September 1268. Trial record," translated by Emma Jane Hopper, Arch. Crown, Cancelleria, reg. 15, fol. 117rv.

¹⁸ "Barcelona, Dominican house. 3 September 1268. Trial record," translated by Emma Jane Hopper, Arch. Crown, Cancelleria, reg. 15, fol. 117rv.

of official seals and witnesses in these documents, which is evidence of norms present in probate proceedings during this era in the Crown of Aragon.

The records left behind from the case of Bonanat and Benvenist do not end there, though. The next day, on September 4th, 1268, a record was filed preventing future petitions against the estate by Belshom or anyone else, protecting the claim to ownership of Vidal, son of Benvenist.¹⁹ Interestingly, the same day a record was filed protecting Vidal and the estate of Benvenist from legal action from the crown itself.²⁰ The latter document seems to serve the purpose of affirming the court's decision from the day prior.

Of the two documents that were filed following the trial document, the one that prevents the Crown from future legal action is particularly interesting. While it confirms the court's ruling, the existence of the document also hints at another reality from this period. The king had the right to inheritances left by those without heirs.²¹ The document states that the Crown "will not come in any way contrary to the terms of the instruments themselves," meaning it will allow Vidal to do what he pleases with his inheritance.²² By confirming the ruling and Vidal's status as heir, the Crown relinquished any claim to Benvenist's estate. This procedure and documentation is a valuable primary source for discussions around asset seizure and what happened to heirless estates in the 13th century Crown of Aragon.

In the last document to be considered, Vidal is given protection from any further suits against the estate. The court declared that they "grant to you that Benvenist de Porta, formerly

¹⁹ "Villafranca del Penedés. 4 September 1268. Protects from legal action by Belshom," translated by Emma Jane Hopper, Arch. Crown, Cancelleria, reg. 15, fol. 116v.

²⁰ "Villafranca del Penedés. 4 September 1268. Remits any future legal action by the crown," translated by Emma Jane Hopper, Arch. Crown, Cancelleria, reg. 15, fol. 116v.

²¹ Alessandro Buono, "The King Heir. Claiming Vacant Estate Succession in Europe and in the Spanish World (13th-18th Centuries)," *L'Atelier du Centre de recherches historiques* [En ligne] 22, (2020): paragraph 37. *This source was online and without page numbers, but it did have paragraph markers.*

²² "Villafranca del Penedés. 4 September 1268. Remits any future legal action by the crown," translated by Emma Jane Hopper, Arch. Crown, Cancelleria, reg. 15, fol. 116v.

Benvenist, and Vidal, son of the same Benvenist, are not bound to respond or make rights to the son of the late Bonanat de Besalú, nor to his guardian, nor even to any other persons, on any petitions or demands made or made to you by reason of the goods of the aforesaid Benvenist."²³ Interestingly, Vidal was protected from claims by "any other persons" and not just from claims by those connected to the estate of Bonanat. This document confirmed Vidal's ownership over Benvenist's estate, Benvenist's estate's ownership over half of the estate of Bonanat, and prevented Belshom or Salomó ibn Adret from pursuing further legal action.

The case of the estate of Bonanat leaves researchers with a wealth of information about the period. For one, the records show that the property of one deceased person could be transferred to the estate of another and then passed onto the second estate's heirs. It is unlikely that this concept was specific to Jewish will proceedings, considering the Crown made the ruling. It is possible that Salomó ibn Adret brought the case before the king in an effort to circumvent Jewish norms, but given the ruling by the court, it seems more likely that the outcome was also a Christian norm in probate proceedings. We also see the concept of intestate, or being without a will, and the idea that if a will cannot be found or is found invalid then the property should be split equally among the decedent's children. The information in these documents does not end there, either.

The trial records also display familial and gender norms for the affairs of death in the medieval Crown of Aragon. Salomó ibn Adret's role in the trial shows that a guardian was able to petition the court on behalf of his ward during this period. Belshom's absence from his father's will shows that being disinherited by one's father was also a known concept. For whatever reason, Belshom was left with nothing, while his sister Sara took home half of their father's

²³ "Villafranca del Penedés. 4 September 1268. Protects from legal action by Belshom," translated by Emma Jane Hopper, Arch. Crown, Cancelleria, reg. 15, fol. 116v.

estate. While that might be surprising to some, there is plenty of notarial evidence of widows being in charge of their own finances and women leaving their own wills. The will of Regina, wife of Bondia Coras, Jew of Puigçerda, was written in Catalonia in 1306, about 40 years after the case at hand but still under the Crown of Aragon. In Regina's will she left money and goods to her daughters and female friends,²⁴ and while it was a few decades later, it still stands as an example of the active role women played in inheritance and probate during this place and period. While at first glance the trial records regarding the wills of Bonanat and Benvenist may not be quite as illuminating when it comes to gender politics as the will of Regina, they still provide preliminary information about gender that, with proper supplementary research, might allow for conclusions to be drawn about disinheritance and gender and inheritance.

These documents also provide an example of the steps involved in disputing a will in medieval Iberia. The records available include not one, but two affirmations of the court ruling, along with the ruling itself. They also acknowledge executors for the estate of Benvenist. This can be seen in other wills from the period and place as well. It seems that Benvenist had six executors of his estate, including his wife, though in the lawsuit brought forth by Salomó ibn Adret only four were named. In other wills from the period there are named witnesses,²⁵ so the lack of mentioning such witnesses in the court documents implies different notarial procedures were being used in different settings. There were witnesses named for the trial itself, but while the executors of Benvenist's will were named, the witnesses to the will were not. There were also no witnesses named for either the post or pretrial documents. It should be noted, however, that

²⁴ "Will of Regina, wife of Bondia Coras, Jew of Puigçerdà (Catalonia, Spain), October 23, 1306," translated by Dr. Sarah Ifft Decker, Arch. Hist. Puigçerdà. Protocols: M. d'Alb/B. Mauri, Liber testamentorum, 1306–1307, fol. 12v.

²⁵ "Will of Regina, wife of Bondia Coras, Jew of Puigçerdà (Catalonia, Spain), October 23, 1306," translated by Dr. Sarah Ifft Decker, Arch. Hist. Puigçerdà. Protocols: M. d'Alb/B. Mauri, Liber testamentorum, 1306–1307, fol. 12v.; "The Will of Duran de Sant Ponç (June, 1346)," translated Abigail Agresta, Arxiu de Girona, Ca 215, fols. 18v-20r.

the concept of witnesses in trial proceedings in particular requires further primary sources to confirm. Overall, this information is invaluable when it comes to uncovering the procedures involved in medieval probate.

Finally, Benvenist and Bonanat were both Jewish, and these documents show that Jews had slightly different rules when it came to the affairs of death. We have records of King Jaume I releasing the executors of Benvenist's will from having to show inventory of the deceased's estate, as was the custom, and Benvenist's will was written in Hebrew, according to the acknowledgement of this release.²⁶ These are also important details that shed further light on the probate norms for Jews in the mid 13th century Crown of Aragon.

There are limitations, of course, to what these documents can say. When they stand alone it is irresponsible to draw any broad generalizations from the records themselves. Records from similar cases in the same area and time would go a long way in legitimizing conclusions drawn from the trial proceedings discussed here. They are also relevant to a specific set of circumstances, and without further research it is impossible to say whether these proceedings were influenced by a variety of factors. The prominence of Benvenist de Porta in the government prior to his death could have influenced the ruling, or the religion or gender of the subjects. Still, the snapshot that they provide of everyday life in the Crown of Aragon is still an important piece of the puzzle that is uncovering the past.

These documents are also limited by the skill of their translator. While those to do with the trial were recorded in Latin by Robert Burns, they were then translated into English by the author of this paper. The author's Latin skills are rudimentary at best. The supplementary wills consulted were translated by Dr. Sarah Ifft Decker, whose Latin skills are far superior. Dr.

²⁶ "Villafranca del Penedés. 3 September 1268. No inventory," translated by Emma Jane Hopper, Arch. Crown, Cancelleria, reg. 15, fol. 116v.

Decker also checked over the author's work, which lends it more credence, but the translation should still be considered a limitation.

Finally, the supplementary wills consulted were from 1306 and 1346, a half and a full century after the proceedings regarding the estates of Bonanat and Benvenist. While this does not mean that the wills consulted are completely useless, it does mean they are not contemporary enough for merit serious comparison. They are worth referencing generally, as they have been referenced here, but for this topic their use is limited.

Overall, none of these limitations prevent the documents covering the probate proceedings regarding the estates of Bonanat and Benvenist from being insightful. While these are things to keep in mind while considering the conclusions drawn in this paper, they do not leave what can be gleaned from these documents without merit.

While these documents may have had limitations, they still revealed quite a bit about probate proceedings in the Crown of Aragon during the mid-13th century. Through careful evaluation they provide evidence for many different realities of the period, from the different roles necessitated by a trial to gender norms and potential familial strife. The documents show the existence of executors for the estates of the deceased, witnesses for trial proceedings and wills, disinheritance, guardianship, and the concept of intestate. They also show a father favoring his daughter over his son, at least in his will. They show the concept that a portion of an estate could be transferred to the estate of a second decedent, and they show the concept of intestate existed in medieval Iberia. Overall, while the documents deal with a specific case, they also provide an important case study from which a multitude of concepts and norms can be deduced.

In the case of the estates of Benvenist de Porta and Bonanat de Besalú, the records left behind are both informative and bittersweet. They are an example of how disputed wills were

dealt with in court, not unlike like how they are dealt with today, and much like today, they tell the story of a family divided. A father who disinherited his son and did not live long enough to reconcile with him, a guardian fighting in the courts for that inheritance, a case that ended with at least one party disappointed. This case is an example of the continuity of the Western legal system, but it is also an example of the continuity of human nature, at least in the affairs of death.

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