

## THE YOUNG WIDOW ON GOZO WHO REMARRIED TOO SOON, 1465-68 \*

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Lisa's relatives were among the richer landowners of Malta and Gozo. Her father was Antonius de Vagnolu or Bagnolo, prominent in the affairs of Malta in the first half of the fifteenth century, and several times *hakem* or *capitano* (mayor) of Gozo. Her mother belonged to the Vaccaro family, which held separately two money fiefs on Malta ever since they helped King Martin overcome a local rebellion in Malta in 1398. Her husband Antoni de li Nasi or de Naso (or even Nasio) had also been *hakem* of Gozo for several years, frequently alternating with her own father since they had bought the office some years before. Her father had died in 1453,<sup>1</sup> leaving her and her brother Antonello, both minors, under the tutorship of Federicu de Pontremolo.<sup>2</sup> In 1447 both her father and Antoni de Naso were described officially as too old for the office.<sup>3</sup> Yet she lived to marry Antoni de Naso and he did not die before 1465.<sup>4</sup> It is highly probable that he was much older than Donna Lisa. Perhaps not surprisingly, they did not have any children. A Franciscus de Platamuni was town mayor on several occasions between 1432 and 1458, and Chanchius de Platamone was himself town mayor or *hakem* by 1466.<sup>5</sup> These circumstances are essential for a proper understanding of the facts of the case.

The court case is highly interesting in many ways. It provides a clear insight into the everyday affairs of several of the most prominent families on Gozo such as is not otherwise available. It contains much information on the common customs of Gozo at least where upper class families are concerned in such matters as bereavement and marriage, two primary facts of life, and surprisingly also on the practice of music and

\* This study is one of ten similar studies of court cases from Malta and Gozo dating between 1449 and 1533 which the author is preparing for publication.

1. 'pridie sicut Domino placuit Anthonius ipse mortuus', 13 August 1453, Archivio di Stato, Palermo [ASP], Real Cancellaria, vol. 89, fol. 376.
2. Parts of will drawn up by Antoni de Vagnolu himself in Sicilian not the usual Latin, 22 July 1452, was opened on 2 July 1453 by Not. Andrea de Beniabin, 1545 copy in Archiepiscopal Archives, Floriana [AAF], *Registrum Foundationum Beneficiorum Insulae Gaudisii*, fol. 38<sup>v</sup>-41; also in Notarial Archives, Valletta [NAV], Not. D. Portelli, R 399/7, fols. 280-282<sup>v</sup>.
3. Provisio, 29 March 1447, inserted in Provisio, 1456: ASP, Protonotaro, vol. 47, fols. 326<sup>v</sup>-327.
4. Antoni de Naso's will dictated by him to *clerico* Paulus de Jurritutino before notary Andreas de Beniabino and other witnesses on 10 September 1465 was opened on 10 December 1465 after his death: 1545 copy in AAF, *Registrum Foundationum Beneficiorum Insulae Gaudisii*, fols. 45-45<sup>v</sup> bis; NAV, Not. D. Portelli, R 399/7, fols. 284<sup>v</sup>-286.
5. See below, page 140

use of musical instruments. The legal argumentation itself, though not everyone's cup of tea, is certainly of interest to the legal person and not without relevance to the study of the medieval mind in general. After all, hardly anything of that nature has survived from the fifteenth century and certainly not from such out of the way places as the Maltese islands then were.<sup>6</sup>

On 23 December 1465, some time after the death of the notable Antoni de Naso, Donna Lisa or Aloysia, his widow, reached an agreement over her dowry and dower through her *mundualdum* or legal protector before notary Andreas de Benjamin with her late husband's young nephews and heirs, the notables Antonius and Paulus de Naso, both of whom lived in the town or citadel of Gozo.<sup>7</sup>

The day before, Donna Lisa had asked the court of the town mayor to exact the sum of 141 florins on the estate of her late husband in recognition of the dower promised her on the day of her marriage according to Gozitan custom and various other sums amounting to a total of eighty eight florins, three Venetian ducats and a half, as well as half of the value of a house in Malta and that of a *cortina* which her late husband had accepted as the dowry obtained from her family. However, her late husband's young nephews contested the size of the sum due to Donna Lisa. To avoid costly litigation it was now agreed that they accepted their liability to the amount of three hundred florins, promising to pay by the following mid-August the sum of fifty florins. For the remaining two hundred and fifty florins, they surrendered to Donna Lisa the town house which belonged to her late husband, situated near the church of St. Mary in the town of Gozo (nowadays the Cathedral of Gozo) on the opposite side of the street, next to the house of Andreas Chappisa and that of Antoni de Tillirixio. They could, however, redeem the building at any time within the period of eight years, during which they promised to deliver to her annually at harvest time two salmas of wheat and two salmas of barley - to which they ceased to be liable once they redeemed the house. They also promised to compensate her for any repairs she made to the room of the same house in which she was actually staying. Lisa for her part and the two brothers for theirs surrendered any further claims they had on each other.<sup>8</sup>

However, the two nephews failed to honour the agreement. An entry dated 27 January 1466 abstracted from the records of the town mayor's court<sup>9</sup> related to the

6. To be sure, nothing beats the original Latin text itself. Samples in article by J. Busuttill, *infra*. This version is a considerably shortened one with minor points omitted and overlapping evidence telescoped somewhat similar to court reports in modern newspapers.

7. The witnesses were Rogerius de Carbone, Petrus de Pontremulo, Matheus Rapa, Orlandus Caxaro, the cleric Paulus Juributino and Petrus Mannara: Cath. Mus., Mdina, Curia Episcopalis Melitensis, Acta Originalia, vol. 3, fol. 358.

8. *Ibid.*, fols. 358-359<sup>v</sup>.

9. On 31 August 1468 these court documents were produced before the ecclesiastical court in a later case

seizure by court order of property of the de Naso brothers because they had failed to provide Donna Lisa the two and a half canes of mourning cloth conferred on her by her late husband, their uncle, in his last will and testament.<sup>10</sup> On 13 February 1466 witnesses were heard. The nobleman Fridericus de Pontremolo declared that, after the death of her husband, during the period of mourning, Donna Lisa had on three occasions personally asked him as the executor of her late husband's will to obtain the mourning cloth left her by her late husband for her own wearing. The same request was made by Antonius de Vagnolo, Donna Lisa's brother, and by Rogerius de Carbone. All this happened before her second marriage. However, he had been unable to find any such cloth on the island or among the effects of the late Antoni de Naso.<sup>11</sup> Rogerius de Carbone confirmed this and added that Lisa had also asked the two brothers de Naso themselves. All had answered that none was available either in Malta or in Gozo.<sup>12</sup> Vintura, the widow of Rogerius Bonavia, said that three or four days after Antoni de Naso's death, his nephew Paulus travelled to Gozo from Malta to pay a visit to Donna Lisa, then in mourning for her husband. She asked him why he had not brought her the mourning cloth from Malta. He answered that not a hand's span of black cloth was available in Malta.<sup>13</sup> Notary Andria de Benjabin said that when the de Naso brothers and Antonius Vagnolo appeared before him as judge of the town of Gozo to settle the disputes between Donna Lisa and the heirs of her late husband, Vagnolo asked the others for the cloth of mourning, but the de Naso brothers said that none was available even in Malta: 'You can see how not even we ourselves have been able to wear black', they pleaded.<sup>14</sup>

In reply the de Naso brothers claimed that Chanchius de Platamone, Lisa's second husband, was the town mayor of Gozo and it was thus prejudicial to their interests for the case to be heard in his court. He stated in answer that in fact the judge hearing the case was notary Andria de Benjabin.<sup>15</sup> It was further argued that the cloth for mourning was left by her late husband but Donna Lisa had not performed any mourning for him. Her second husband, however, submitted that she had shown her anguish during her late husband's illness.<sup>16</sup> It was then alleged that Donna Lisa had re-married during the period of mourning and, instead of any mourning, she had celebrated a feast to the sounds of trumpets and other instruments in her late husband's house without showing

concerning an accusation of usury made by the de Naso brothers against Lisa. They are particularly interesting since the records of the town mayor's court have not survived except in a few similar circumstances.

10. seizure: 'execucio in bonis', *ibid.*, fol. 334.

11. *Ibid.*, fol. 334<sup>v</sup>.

12. *Ibid.*, fol. 334<sup>v</sup>.

13. *Ibid.*, fol. 335.

14. *Ibid.*

15. *Ibid.*, fol. 335<sup>v</sup>.

16. *Ibid.*, fol. 336.

any sadness. Her husband replied that she had celebrated her marriage to him about the fortieth day after the death of her late husband, but the wedding festivities took place a fortnight later.<sup>17</sup> On 21 February 1466 Salvus de Luchia, a musician, stated that a few days after the death of her first husband Donna Lisa married Chanchius de Platamone, and the wedding was celebrated to the sound of instruments - trumpets, viola and lute. This occurred about forty days after the death of Antonius de Naso, some said two days before the fortieth day, others two days after. He was himself the lute player at the wedding.<sup>18</sup>

The cleric don Paulus Jurributi said that the marriage took place before the fortieth day after the death of her husband. On the quadragesima day Fridericus de Pontremoli had masses said for his soul as the executor of his will. He charged Jurributi with the task of preparing the grave for the day's ceremonies 'according to custom'. He had therefore sent one of his disciples to Donna Lisa for a silver goblet to contain frankincense and a bed coverlet of light silk<sup>19</sup> to cover the grave, but she sent for him and told him, 'Do not be astonished that I did not send you the cup or blanket. I refused to give them to you because Nardu de li Nasi has taken from me the key of the store-room of the wild thorns (used until recently for fire-wood) and he won't let me have any of the thorns to bake bread. That is why I am not willing. Go to the heirs who will give you the blanket and the goblet.' He therefore had to prepare the grave without getting the goblet and the blanket from her.<sup>20</sup> Matheus Rapa confirmed that the marriage took place definitely before the quadragesima day of the death of Antonius de Naso and the wedding a couple of days before or after that day and it was celebrated to the sound of trumpets, a lute and a viola.<sup>21</sup>

The nobleman Fridericus de Pontremoli, who had been her guardian after her father had died in 1453, stated that the late Antoni de Nasi had sent for Donna Lisa during his illness and told her, 'See how I am about to die. Do not remain a widow. Take a husband immediately.' He had himself gone to him that day and found him dictating his last will and testament to notary Andria de Beniabin and having it recorded by the cleric don Paulu de Jurributino. His brother, Pinus de Nasio, came in and his importunate language aroused Antoni de Naso's anger and disquiet. It was then that he sent for his wife, Donna Lisa, and told her, 'All you have told me is true. Therefore I tell you when I am dead, on the third day take a husband and do not

17. *Ibid.*

18. *Ibid.*

19. 'cindato', *zendado*, *zendale*, specie di drappo fine, propriamente di seta; English 'sendal', thin silk fabric or shawl. I would like to thank Dr. V. Depasquale for putting me on to the correct meaning of this word.

20. *Ibid.*, fol. 337.

21. *Ibid.*, fol. 337<sup>v</sup>.

withdraw yourself to your brother or to anyone of your relatives.'<sup>22</sup> On 10 March 1466 the judge, notary Andria de Benjamin or Benjabin, passed sentence, that the distraintment on the goods of the two de Naso brothers should be revoked.<sup>23</sup> These were the papers of the town mayor's court which were transferred and passed on to the ecclesiastical court of the bishop's vicar on the island of Gozo.

Over two years later, on 3 August 1468, Antoni and Paulus de Naso appeared before Don Mattheo de Brunecto, the *Vicar of Gozo*, and submitted that various clauses in the agreement were usurious and fraudulent, and they were therefore not obliged to observe them.<sup>24</sup> Three days later they presented their detailed pleas against Chanchius de Platamone who had in the meantime married Donna Lisa. Briefly, they said that they had already paid the fifty florins out of the 300 by the date they were due. However, they now submitted that the clause whereby they bound themselves to hand over quantities of wheat and barley every year so long as the house was unredeemed was an adjunct to the sale and not included in the price. The mere fact that such payments had to stop on the redemption of the house was a clear indication of fraud. They also claimed that the town house was worth much more than 250 florins: it was situated in one of the principal and most dignified positions in the town, for which reason they thought it was worth some 400 florins.<sup>25</sup>

Further legal arguments were adduced. It was very well known in law that sales at less than a just price with the reservation of the right of re-purchase should be regarded and were presumed to be in contravention of the laws against usury. Anything above and beyond the just price was usurious.<sup>26</sup> Any simoniacal transaction was null and void.<sup>27</sup> Donna Lisa or her husband Chanchius Platamone in her name had already received one payment of wheat and barley, getting a donkey in lieu of the wheat and barley for the first year.<sup>28</sup> In view of all this, the plaintiffs asked the court of the bishop's vicar in Gozo to condemn Donna Lisa to return four salmas of wheat and four of barley, to declare that they did not have to make any payments in future, and that Donna Lisa or Chanchius calculate the *pensionem in sorte seu in summa dictorum ducentorum quinquaginta florenorum*.<sup>29</sup>

The witnesses for the plaintiffs were next heard. Don Pinus Bonichi stated that the house was one of the principal and best placed in the town of Gozo. Owing to its size

22 *Ibid.*, fols. 337<sup>v</sup>-338.

23 *Ibid.*, fol. 338<sup>v</sup>.

24 *Ibid.*, fol. 359<sup>v</sup>.

25 *Ibid.*, fol. 313<sup>v</sup>.

26 *Ibid.*, fol. 315<sup>v</sup>.

27 *Ibid.*

28 *Ibid.*, fol. 316.

29 *Ibid.*, fol. 316<sup>v</sup>.

in his opinion it was worth more than four hundred florins.<sup>30</sup> Nardus Ballistrera said the same thing, but estimated its value at about three hundred florins.<sup>31</sup> The craftsman Johannes de Armanno, who had lived in it with his parents sixteen years before, also estimated it at three hundred florins,<sup>32</sup> as did Johannes de Pontremoli, Demetrius Calimera. Johannes de Manuele also known as Mullica, Johannes de Bonichio, Antonius de Tillirixio, Thomeus Chini and the craftsmen (stone masons or carpenters) Antonius Cadumi, Paulus Venecianus and Antonius de Sansone, while Don Hugo (?) de Biscone put its value at 330 florins, the craftsman Nicolaus Hochiur (?) at fifty five uncie of good money, the master mason Paulus de Brancato, as the one who had seen the place and considered it well, valued it at 350 florins, and Marcus de Bonnichio at 400 florins.<sup>33</sup>

The defence pleas of Chanchius de Platamone were presented to the court on 12 August 1468.<sup>34</sup> The contract was an agreement concerning the money due to Donna Lisa by way of dower and dowry,<sup>35</sup> established at 300 florins, though she had intended asking for more than 350 florins. The plaintiffs did not have the wherewithal to pay the sum of 300 florins in cash. That was the reason for the sale of the town house to Lisa for 250 florins with the right of re-purchase for eight years by the de Naso brothers and the annual payment of a quantity of wheat and barley during those eight years.<sup>36</sup> It was not prohibited for someone unable to make full payment to give other property instead, and what was not prohibited was allowed.<sup>37</sup> Formal usury, which was prohibited by both civil and canon law, does not occur in this contract of sale, on which there was common law.<sup>38</sup> Usury was the concern only of contracts of lending. If usury was presumed in contracts of sale on account of pawned goods, especially immovable property, two conditions must exist: the price must be less than the just price by one half, and there must be a clause of re-purchase.<sup>39</sup> In the present instance, the price was not so low, since the house was worth some fifty uncie of general weight.<sup>40</sup> Even if it be conceded for the sake of argument that Donna Lisa wanted to resort to usury, she still was not subject to restitution, since that was only a mental fault. After all, what she really wanted was the restitution of her dower and dowry. By law both civil and canonical and nowadays also by the new enactment,<sup>41</sup> delayed payment of dower and

30. *Ibid.*, fol. 317.

31. *Ibid.*

32. *Ibid.*

33. *Ibid.*, fols. 317-318<sup>v</sup>.

34. *Ibid.*, fols. 320-323.

35. 'dotarius' and 'dota'.

36. *Ibid.*, fol. 320<sup>v</sup>.

37. *Ibid.*, fol. 321.

38. 'Jura vulgaris': *ibid.*

39. *Ibid.*, fol. 321<sup>v</sup>.

40. *Ibid.*

41. 'de jure quam civili quam canonico et hodie de ritu novissimo hoc declarato': *ibid.*, fol. 322.

dowry was usurious and subject to interest at five per cent. Therefore she could all the more profit from the possession of the house and the acquisition of the wheat and barley until she received her fifty uncie for dower and dowry for which she was owed interest until she had actually received them. If she gained anything in this way, it should be allowed her until she was paid her dowry and dower. And this did not make the contract unlawful or usurious, especially as she was not asking for more than what she intended to ask as dower and dowry.<sup>42</sup> She had really intended to ask for the sum of 400 florins.<sup>43</sup> Nothing she had received really approached this sum in size. When a proper calculation was made, it would be found that she received nothing but her capital back.<sup>44</sup>

Chanchius de Platamone had already presented his witnesses' evidence on 6 August 1468. The nobleman Matheus de Sahona said that he had that day seen the town house in question and thought that its proper value was some 300 florins.<sup>45</sup> Lanceas Rapa valued it at fifty uncie of good money, equivalent to 300 florins.<sup>46</sup> Nicolaus Riera, Don Nicolaus Gurreri, Orlandus de Caxaro, Don Petrus de Sansone, Nicolaus de Algaria and Antonius de Augusta all gave the same valuation.<sup>47</sup> Nicolaus Xiriha was taken to the place, which he entered and examined attentively, then he declared that he valued it at 200 Gozitan uncie, equivalent he said to twenty eight uncie and ten tarenis of good money.<sup>48</sup> Don Petrus de Tillirixio preferred Don Petrus de Sansone's valuation as one who had bought his own house and had built walls.<sup>49</sup> Petrus de Pontremoli thought that according to its quality and condition the house was worth fifty uncie of general weight and no more. He said this as the buyer of a house: that would be the price at which he would have sold it.<sup>50</sup> The barber surgeon Johannes de Dato valued it at fifty uncie, Simon Berberi, considering its dilapidated state, put its value at 200 florins, the craftsman Johannes Xelluki at 250, Gullielmus de Bisconis at 300 florins. Thomeus de Sansone agreed with the latter, Angelus de Manuele raised it to 260 florins; Johannes Finara, Johannes de Tillirixio and Gullielmus Gurreri all agreed with Angelus de Manuele.<sup>51</sup>

On 18 August 1468 Paulus and Antonius de Naso presented their reply to the

42. *Ibid.*

43. *Ibid.*, fol. 322<sup>v</sup>.

44. *Ibid.*

45. *Ibid.*, fol. 324.

46. *Ibid.*

47. *Ibid.*, fol. 324<sup>v</sup>.

48. *Ibid.*, 324<sup>v</sup>.

49. *Ibid.* No doubt, he had built walls in the sense that he had been responsible or had paid for their construction.

50. *Ibid.*

51. *Ibid.*, fol. 325<sup>v</sup>.

defence pleas.<sup>52</sup> After a summary of the latter, they proceeded to rebut them in detail. They argued that at the time of the sale of the house, they were still minors in patria potestate.<sup>53</sup> It was not necessary for a sale to be judged usurious for it to have been made at less than half of its just value.<sup>54</sup> The first article of the contract of sale had not left any room for further payment, showing that the article concerning the payment of grain was usurious.<sup>55</sup> This was further proved by the agreement that the grain payments should stop on the recovery of the house by the plaintiffs.<sup>56</sup> As to Donna Lisa's intention to ask for more than 300 florins in dower and dowry payments, she had left the matter obscure before the drawing up of the contract.<sup>57</sup> Documents could be produced to show that they were not liable to any further payment.<sup>58</sup>

It was further argued that as Donna Lisa had remarried within the period of mourning, they had intended to deprive her of her dower which was included in the sum of 300 florins.<sup>59</sup> Both by civil and canon law, she could be deprived of anything which she had obtained by the liberality of her late husband owing to her ingratitude. To show her ingratitude, they submitted that she had taken Chanchius de Platamone as her second husband within the period of forty days of mourning, wearing a purple dress and other wedding accoutrements, celebrating with dancing and singing to the sound of trumpets, drums and other musical instruments in the very house and room of her late first husband.<sup>60</sup> Her second husband admitted that the wedding had occurred before a year had elapsed after the death of her first, but he could not remember whether it had occurred actually within forty days.<sup>61</sup>

It was also argued by the plaintiffs that whenever there was a reservation of the right of re-purchase and anything was paid above the agreed price, then such a sale was presumed to have been usurious.<sup>62</sup> Donna Lisa was not entitled, either by civil or canon law or by virtue of the new right, to five per cent on her dower and dowry until they were paid, and she therefore had no right to the payment of wheat or barley.<sup>63</sup> If the house was worth 250 florins, the gain was not included in that price and therefore

52. *Ibid.*, fols. 327-333.

53. *Ibid.*, marginal entry on fol. 327<sup>v</sup>, dated 23 September 1468.

54. *Ibid.*, fol. 328.

55. *Ibid.*

56. *Ibid.*, fol. 328<sup>v</sup>.

57. *Ibid.*, fols. 328<sup>v</sup>-329.

58. *Ibid.*, fol. 329.

59. *Ibid.*

60. *Ibid.*, marginal entry on fol. 329<sup>v</sup>: 'dicta Donna Lisa induit se vestes purpureas et se paravit modo et tenore sponsarum et sonari fecit tubas et timpanas et alia instrumenta et fecit dancias et canciones propter festum matrimonii'.

61. *Ibid.*, fol. 329<sup>v</sup>, dated 23 August 1468.

62. *Ibid.*, fol. 330.

63. *Ibid.*, fol. 330<sup>v</sup>.

did not have to be paid.<sup>64</sup> In ecclesiastical litigation, secular law could not be cited.<sup>65</sup> All civil law or legal practice against canon or evangelical law was null.<sup>66</sup> All canon and evangelical law prohibited and punished usury.<sup>67</sup> Usury was prohibited by law for Jews who were outside, and they had to make restitution: how much more therefore was it prohibited for Christians.<sup>68</sup> The emperor wished, commanded and expressly demanded what the Church herself had ordained in four councils, among which that of Nicaea.<sup>69</sup> At this Nicene Council all usury was prohibited and restitution ordered under a penalty clause.<sup>70</sup>

On 2 September 1468 Chanchius de Platamone returned to his defence pleas. He argued that formal usury was adjudicated in courts of law, but other forms of usury can only be judged in a penitential court where the judge was God himself.<sup>71</sup> Donna Lisa was herself a gentle lady unused to the ways of the world, pure and simple, never used to the practice of usury, a good and pious Christian who agreed to this transaction with the plaintiffs purely in order to recover her own money and property.<sup>72</sup> If the house was bought for fifty uncie of good money instead of sixty it might be worth, this was not usury, since it was not a clear cut sale, but one which left the seller the right of re-purchase. Such a condition justified any such slight difference in price.<sup>73</sup>

To the allegation that Donna Lisa had remarried within a year of the death of her first husband, this had nothing to do with the charge of usury.<sup>74</sup> According to canon law, a widow could remarry at any time after the death of her husband without incurring any penalty.<sup>75</sup> Nor did the plaintiffs for such a remarriage have a right to deprive her of her dower.<sup>76</sup>

On 5 September 1468 Chanchius de Platamone presented his witnesses. Matheus Sahona testified to the good character of Donna Lisa, who was the daughter of the late knight Antoni de Vagnolo. She had never practised usury.<sup>77</sup> Lanceas Rapa confirmed this, adding that, having entered her house with her husband Chanchius and spoken

64. *Ibid.*, fol. 331.

65. *Ibid.*, fol. 332.

66. *Ibid.*

67. *Ibid.*

68. *Ibid.*, fol. 332<sup>v</sup>.

69. *Ibid.*

70. *Ibid.*

71. *Ibid.*, fol. 339<sup>v</sup>.

72. *Ibid.*, fol. 342.

73. *Ibid.*, fol. 343.

74. *Ibid.*, fol. 343<sup>v</sup>.

75. *Ibid.*

76. *Ibid.*, fol. 344.

77. *Ibid.* fol. 345.

to her three or four times, he thought that she hardly knew what usury was.<sup>78</sup> Don Angelus Parnisi said that on her mother's side she belonged to the Vaccaro family, and was thus related to the principal gentry of Malta. He had known her for all her life and had never seen or heard that she had practised usury. He had frequently seen her go to church as good Christian women do and, in his opinion, she had accepted the transaction with a pure and simple mind.<sup>79</sup> Nicolaus Riera, don Franciscus Chappisa and don Petrus de Sansone all agreed with Lanceas Rapa.<sup>80</sup>

Finally the plaintiffs responded on 7 September 1468 by repeating their allegations and rebutting the pleas of the defence.<sup>81</sup> Usurious gains had to be returned.<sup>82</sup> In the present case, though formal usury was not present in an express loan it came in as part of a tacit one under the guise of a sale.<sup>83</sup> Though both sides had taken an oath to observe the arrangement, oaths should bind only in lawful matters. They should not extend also to prohibited matters like usury. The plaintiffs themselves did not intend to swear in favour of usury.<sup>84</sup> In any case, they had been absolved from the oath by the bishop's vicar, and the absolution was recorded in the deeds of the court.<sup>85</sup> The plaintiffs were so frightened by the fear of distraintment of their goods for the alleged debt that they swore the oath only through fear that their goods would be sold at a cheap price, almost for nothing, by court order, and they therefore agreed to Donna Lisa's suggestion to the conditional sale of the town house.<sup>86</sup> Though they had sworn that both sides were satisfied with the arrangements, this really only extended to the sum of 300 florins about which the plaintiffs were not raising any objection. Certainly it did not extend to the undue payment of annual quantities of grain.<sup>87</sup> For usury in price to be proved it was not necessary that the price should be less than half the just price as in cases of the quashing of sales on grounds of deception, a different matter from the present.<sup>88</sup> No syllable in law must be missing or superfluous: those who draw up the law are required neither to be too short nor too prolix. Purchases at less than half the just price were simply more usurious.<sup>89</sup>

They had been defrauded fifty florins on the price of the house: fifty florins in the town of Gozo and the city of Malta and elsewhere owing to poverty was regarded to

78. *Ibid.*

79. *Ibid.*, fol. 345<sup>v</sup>.

80. *Ibid.*

81. *Ibid.*, fol. 346<sup>v</sup>.

82. 'omni foro et contencioso et penenciali et de jure fori et de jure penali': *ibid.*, fol. 346<sup>v</sup>.

83. *Ibid.*

84. *Ibid.*, fol. 347.

85. *Ibid.*, fol. 348.

86. *Ibid.*

87. *Ibid.*, fol. 348<sup>v</sup>.

88. *Ibid.*, fol. 349<sup>v</sup>.

89. *Ibid.*, fol. 350.

be sufficiently large to enable an industrious and capable person there to earn much money with his honest industry and work in the buying and selling of cotton, of cloth and other things.<sup>90</sup> This was not a deception of one florin or one uncia, but of fifty florins.<sup>91</sup> It did not matter that Donna Lisa was a gentle woman who never practised usury and she should be excused on that account; after all, if she was not accustomed to practise it, she could permit it and start practising it herself.<sup>92</sup> Nowhere in the law, at least in canon law, can it be found that conditional sales fetched a lesser price than the just one.<sup>93</sup> Donna Lisa had intended to obtain from them the sum of 270 florins or more, but this she indicated in a vague and obscure manner.<sup>94</sup> They now intended to reduce the sum by that of her dower had the contract not supervened, on grounds of ingratitude to her late husband, dishonouring him by remarrying within the quadragesima day of his death as was shown in the proceedings concerning mourning cloth. She admitted *joculaturi alias joculari et sonaturi de lihutu et vihola et altri sturmenti et volgari eloquio et fachenduballari seu alias danzari* in her late husband's own house in which she should have wept and been saddened by his death.<sup>95</sup> She should have mourned as her late husband had himself wanted her to do leaving her cloth for the purpose.<sup>96</sup> She should also have donated bread on the quadragesima day and the anniversary day for his soul as was customarily done by others.<sup>97</sup> Nor did she provide the goblet or the bed coverlet to decorate the grave of her late husband during the requiem masses and other ceremonies performed on the quadragesima day. Although canon law by apostolic authority no longer imposed legal infamy on widows remarrying within the period of mourning, the dower could be taken away from her.<sup>98</sup>

On 10 September 1468 the witnesses for the plaintiffs were heard. The craftsman Johannes Theuma said that 250 florins in Gozo were considered to be a good sized capital sum of money *ut vulgariter dicitur pro bon caviali* owing to the poverty of the place. An industrious person with fifty florins in cash in Gozo could by trading in the buying and selling of either merchandise or cotton, cloth and other goods in a short time earn much money.<sup>99</sup> The nobleman Palamonus de Alagona confirmed this and added also that fifty florins in the town and island of Malta were a good sum and enabled one to earn one's living by trade.<sup>100</sup> Demetrius Calimera thought that one

90. *Ibid.*, fol. 350<sup>v</sup>.

91. *Ibid.*, fol. 352.

92. *Ibid.*

93. *Ibid.*, fol. 352<sup>v</sup>.

94. *Ibid.*

95. *Ibid.*, fol. 353.

96. *Ibid.*

97. *Ibid.*, fol. 353<sup>v</sup>.

98. *Ibid.*

99. *Ibid.*, fol. 355.

100. *Ibid.*

could earn five florins a year on a capital of fifty florins invested in the cotton and other trade.<sup>101</sup>

The sentence of the bishop's court of Malta was read out and promulgated on 17 May 1470. Having first heard the opinion of the lawyer Johannes de Martinis and also given absolution from the oath given by the plaintiffs in the contract, Donna Lisa was condemned to return to the plaintiffs the whole quantity of wheat and barley she had received from them by virtue of the unlawful contract drawn up between the two sides, and the plaintiffs were freed from any obligation to continue to hand over any such grain to Donna Lisa. The latter however was freed from any obligation to return the price of the town house.<sup>102</sup>

101. *Ibid.*, fol. 355<sup>v</sup>.

102. *Ibid.*, fol. 319. Some twelve years later, Chianchius de Platamone was accused by Johannes Palamos of violating his daughter Chanche and other crimes, while other accusations were made against his wife Aloysia (Lisa). All the accusations were withdrawn by notarial deed drawn up by notary Petri de Grasso (Palermo), dated 26 April 1480, and a payment of a compositio of ten uncie was made to the royal court. The case was consequently dropped, 29 April 1480: ASP, Real Cancelleria, vol. 142, fol. 390.