



EIGHTH INTERNATIONAL
ROMAN LAW MOOT
COURT COMPETITION
Vico Equense • 15 – 18 April 2015

LIBELLVS MMXV

Ianuarius, Cyrus et Filumena *contra* Civitatem Aequanam et Iohannem Episcopum Surrenti Vermundus *contra* Theobaldum

Background

1. In AD 475, in the ancient Campanian city of *Neapolis*, for centuries a favourite retreat of the imperial nobility (and also home to an important academic tradition), a baby girl is born, the only daughter of a mixed Roman-Barbarian marriage. The baby, named Eugenia, is the fruit of love, albeit a love at first opposed by the families of her parents, the noble Goth Ulfila and Emilia, a Roman woman of senatorial rank. Emilia's family owned extremely valuable estates in the fertile land along the coast of the Bay of *Neapolis*. Ulfila hailed from the north; his family had settled as allies (*foederati*) of Rome in an area of what had been the Diocese of *Pannonia*, before it was ceded to the Huns and conquered by the Ostrogoths. He had arrived in Italy in AD 474 to convalesce after sustaining a severe leg wound in battle; this had turned into an extended vacation; then, after he met and married Emilia, he established himself permanently in Italy.
2. Politically, these are troubled times. Barely a year after Eugenia is born, the Barbarian Odoacer deposes the Western Roman Emperor, Romulus Augustus, who is exiled to the *Castrum Lucullanum* on the small island of *Megaritis*, near the city of *Neapolis*. After the Emperor's abdication, Italy is in the hands of the Barbarians. Various Germanic tribes battle each other for control of what had once been the very centre of the Empire. The Roman people, at one time rulers of the known world, find themselves at the outer margins of power.
3. As a child, Eugenia has the opportunity to know the last Emperor of the West. The young exile, himself the son of a mixed marriage, is a dozen years older than

her, and lives in his magnificent island villa, built by Lucius Licinius Lucullus, fortified by Valentinian III and lately transformed into a monastery, at the insistence of his mother, fit to support a community of monks and to receive the relics of saints. Eugenia's periodic visits to the island monastery foster in her a certain detachment from material goods (probably assisted by the fact of her wealth) and an ascetic disposition that conceals her innate sensuality.

4. In AD 490, Odoacer is defeated in battle at the River Adda and is forced to retreat to *Ravenna*. After a lengthy siege, he surrenders in AD 493 to Theoderic the Great, King of the Ostrogoths. Theoderic rules over a vast dominion, including Italy and *Pannonia*, and is also—as regent for his grandson Amalaric—effectively king of the Visigoths and master of their lands in southern Gaul. Theoderic, who boasts the title of Patrician (*patricius*), formally exhibits great respect towards the Emperor in Constantinople. He does not fail, moreover, to legislate for his own dominions, above all through the well-known *Edictum Theoderici*, by which he explicitly assumes the title of King (*rex*). The social and financial position of Eugenia's family in fact improves somewhat in this period: her father, who is a friend and confidant of Theoderic, becomes a high-ranking official in the Ostrogothic administration of southern Italy, receiving significant benefices from the royal treasury.
5. Time passes and Eugenia, sole heir of her parents, finds herself owner of a vast estate, predominantly land—villas, apartment buildings in *Neapolis* and other Campanian cities and enormous agricultural holdings in which her father had invested. She manages this immense wealth with great frugality and disinterest—and she manages herself with a certain stiffness of manner, at least in public. Although outwardly very religious, having been raised in orthodoxy by her mother, Eugenia is not, however, always evangelical in her conduct. She does not marry and has no children; her secret love is the steward of one of her country houses, Theobald, the illegitimate son of her father's brother from the north (and, accordingly, her natural cousin). Theobald's brother Wermund, faithful manager of Eugenia's estates, is particularly jealous of their relationship.
6. Eugenia lives in relative solitude, save for visits from a small circle of friends, from whom fate soon subtracts the former Emperor Romulus Augustus. As a result of her upbringing, wealth and standing in society, she enjoys the company of members of the senatorial aristocracy as well as the church—bishops and learned monks are amongst her regular entourage.
7. In time, with the outbreak of the violent war of Italian 'reconquest' by the armies of the Emperor Justinian I, Eugenia leaves her residence in *Neapolis* (before the city is besieged in AD 536) and moves to her villa in *Aequa*, a charming coastal

town not far from *Neapolis*, in a sheltered location between *Stabiae* and *Surrentum*. Some say at the time that she is fleeing the city in fear of her life. In any case, the large estate at *Aequa* is certainly safe: it is defended from approach by the Tyrrhenian Sea, in virtue of its position atop a 100 metre tuff cliff, and from approach by land, in virtue of an impassable mountain range and a fortified access road. Eugenia's villa, situated in the centre of a substantial garden that she tends herself (with the help of some slaves), had been constructed as a castle and is positioned to enjoy panoramic views of the coast – also useful for observing *Neapolis* itself, as well as movements in the Bay and on the handful of weathered coastal roads.

8. Meanwhile, the steward Theobald, in AD 536, obtains from Vitiges, King of the Ostrogoths, some Campanian land on *Mons Lactarius*, in formal legal terms the property of Eugenia. In fact, with a series of land grants, Vitiges wisely continues his predecessor Theoderic's policy of distributing land in Italy to the Goths in order to secure their loyalty. Theobald occupies this parcel of land in relative peace for nearly twenty years, due to the loving intimacy he shares with his outwardly chaste cousin Eugenia, now resident in *Aequa*, who leaves him to enjoy the possession and fruits of this tract undisturbed.
9. By AD 550, Eugenia is very old and very rich, though somewhat soured by loneliness and by her unsympathetic disposition. Fearing for her future and lacking descendants, she decides to write a will. The document is very brief, entirely in keeping with the style of the testatrix. By dint of her aristocratic eccentricity, it is written in Latin, though Eugenia, who is trilingual, normally speaks and writes in Greek, the language of *Neapolis*. The will is written on parchment, sealed with superscriptions (*superscriptiones*) of seven witnesses and is delivered to the Bishop of *Surrentum*, Iohannes. Its content is generic: the will simply and coldly provides for the disinheritance of "all cousins" and for a legacy of 500 solidi to be paid to the Church of *Surrentum* to support the poor and to pay for prayers and for celebration of the mass. It concludes with a clause providing as follows: *ταύτην τὴν διαθήκην βούλομαι εἶναι κυρίαν ἐπὶ πάσης ἐξουσίας*. The disinheritance clause is quite bare: no reasons are expressed for excluding the cousins. However, it appears from the evidence of her friends that Eugenia had often spoken ill of her three surviving cousins – Ianuarius, Cyrus and Filumena, the sons of Fausta, a sister of Eugenia's mother – even to her priest, calling them on many occasions ungrateful, delinquent and unworthy to succeed her. One view, albeit nowhere formally alleged, was that Eugenia's flight from *Neapolis* had been connected with a death threat: Ianuarius had promised to "cut off her head" if she did not divided her city holdings between him and his siblings.

10. In AD 552, news reaches *Aequa* that hostilities have flared up between the Ostrogoths, now commanded by King Totila, and the Byzantines, under the command of General Narses, with the two armies poised for an encounter somewhere between *Samnium* and *Campania*. Eugenia, in a moment of fear, with the war coming dangerously close to her own gates, writes a document in her own hand and sends it, in a sealed envelope, to Bishop Iohannes (who has custody of the will already sealed). In this new document, Eugenia expresses, in Greek – and, indeed, in a rather inelegant fashion for a lady of her culture and education – the desire to institute as heir the city (*civitas*) of *Aequa* itself, the small township in which she had lived for so long, the village between the sea and the mountains on the doorstep, as it were, of her residence. At the same time, she confirms the legacy of 500 *solidi*, explicitly referring to the earlier will.
11. In AD 556, not long after the triumph of Justinian’s armies and the formal re-annexation of Italy to the Empire, Eugenia dies. The will and the envelope containing the handwritten document, both kept at *Surrentum* by Bishop Iohannes, are opened. The process is formal and takes place before the local magistrates. Iohannes presents the documentation to them intact. Three witnesses acknowledge their seals (*signa*) and superscriptions on the will. The magistrates ask about the other four seals and superscriptions, not attributable to anyone present. The three witnesses attest that, at the time the will was made, four other witnesses were present and that they recognise either the seals or the superscriptions of those four. However, while the three who are present are important members of the local community (two clergyman and a layman), the magistrates know nothing about the four missing witnesses. The three witnesses further, unanimously, attest to the desire later expressed in the handwritten document and identify the seal and the superscription on the envelope as Eugenia’s. The magistrates of *Surrentum* accept the declaration and order the opening of the will; the linen is cut and the wax sealing the envelope is broken. The magistrates proceed directly to the reading of the will (*recitatio per ordinem*) before the assembled parties. Bishop Iohannes himself is there, of course, as are representatives of the *Aequani*. The latter are delighted with what they learn, and look forward to convening the town council to debate a resolution formally accepting the inheritance.
12. After these proceedings, the *Aequani* participate in the solemn celebration of Eugenia’s funeral at *Surrentum*. The whole community turns out to honour the memory of the noble lady who owned so much of the surrounding land, and they do so in the lively expectation of the enormous enrichment of their small community, the news of the inheritance having spread immediately. The Church, too, participates enthusiastically, grateful for the legacy that will replenish its

coffers at a time of great economic hardship, having regard to the period of war and famine recently endured. The solemn mass is further adorned by a magnificent contribution from a famous choir, brought from *Neapolis* especially for the occasion. Following the obsequies, the *Aequani* arrange to erect a marble statue as a tribute to Eugenia; they commission the famous sculptor Angelus Michaelis to undertake the work, paying him in advance by selling—straight away and for a very favourable price—a small palace that was part of the inheritance.

13. News of Eugenia's death and of the activities undertaken in her honour soon reaches *Neapolis* and, in particular, her three cousins. Ianuarius, Cyrus and Filumena, apprised of the events and having learned of the proceedings for the opening of the will at *Surrentum*, immediately apply to the recently re-established imperial Court in *Neapolis*. Before the Court, they claim the matter is one of intestate succession: they assert the absolute invalidity of the will and ask to be put into possession of the inheritance. The defendants are the beneficiaries under the putative will. The representatives of the city have not yet been able to accept the inheritance formally, because they have not completed the necessary administrative process, but they are in possession of the inheritance. The defendants argue for the validity of the will in its entirety, including the handwritten correspondence revealing the wishes of the deceased, wishes affirmed many times before witnesses during the final year Eugenia's life. Iohannes, the Bishop of *Surrentum*, is also a defendant; he sides with the *Aequani* in supporting the validity of the will, in order to obtain payment of the legacy, a sum that would enable him to fulfil the wishes of the testatrix and also to pay the costs of the choir that participated in her funeral.
14. Wermund, who continues to manage Eugenia's estates after her death, also brings a claim before the imperial Court in *Neapolis*: he sues his brother for the tract of land on *Mons Lactarius*, seeking to obtain revenge for the favours, emotional and financial, that Theobald had obtained from Eugenia.

Proceedings

15. Ianuarius, Cyrus and Filumena bring a *petitio hereditatis* against the *civitas* of *Aequa* and Bishop Iohannes of *Surrentum*.
16. Wermund brings a *rei vindicatio* against Theobald in relation to the tract of land on *Mons Lactarius*.

The Court directs, and all parties agree, that the law applicable to the facts at all material times is the law in force in Neapolis at the date of the libellus (AD 556).