

TERRITORIAL AND ENVIRONMENTAL IMPACTS IN THE POSSESSIONAL CONFLICTS WITH THE SUZANO AND PAINEIRAS COMPANIES IN BAIXO PARNAÍBA MARANHENSE

Ruan Didier Bruzaca¹

Universidade Federal do Maranhão (UFMA) |

Adriana Dias Vieira²

Universidade Federal Fluminense (UFF) |

ABSTRACT

The territorial and environmental conflicts caused by agribusiness in the micro-region of Baixo Parnaíba Maranhense, such as those involving companies Suzano and Paineiras, are managed by different administrative and legal instruments that may risk aggravating them, forcing the affected parties to settle, and disregarding the ethnic and cultural aspects involved. Faced with this subject, our approach was limited to the territorial and environmental modifications resulting from possessory actions involving agribusiness entrepreneurs in that micro-region. Given that, our initial aim was to highlight the situation of the use of possessory actions in Baixo Parnaíba Maranhense, emphasizing the conflicts involving Suzano and Paineiras. Next, we look into the correlations between that procedural instrument and the agribusiness. Finally, we address the cultural shock to the social groups affected by the enterprises, mainly peasants. Methodologically, we have employed bibliographical and documentary research, together with a survey of possessory actions involving said companies in Baixo Paranaíba Maranhão. Then, a case study and qualitative content analysis were combined with the overall analysis. As a conclusion, we noticed that the legal practice in line with the maintenance of the exercise of ownership in favor of the companies results in an increase in

1 Doctor in Legal Sciences by Universidade Federal da Paraíba (UFPB), with an exchange scholarship time at Università Degli Studi di Firenze (UNIFI). Master in Law and Institutions of the Justice System by UFMA. Graduated in Law by Unidade de Ensino Superior Dom Bosco (UNDB). Professor for UFMA and UNDB. E-mail: ruandidier@gmail.com

2 Doctor in Law by Università degli Studi di Firenze (UNIFI). Master in Sociology by UFPB. Master in Law by the Graduation Program in Legal Sciences. Of UFPB. Assistant Professor III of UFF Law College. Permanent Professor of the Graduation Program in Legal Sciences (PPGCJ/UFPB). E-mail: a.diasvieira@gmail.com

territorial and environmental impacts, unlike the action focused on the access to the land of the communities.

Keywords: possessory actions; agribusiness; Baixo Parnaíba Maranhense; peasants; territorial and environmental conflicts.

*IMPACTOS TERRITORIAIS E AMBIENTAIS NOS CONFLITOS
POSSESSÓRIOS COM AS EMPRESAS SUZANO E PAINEIRAS NO
BAIXO PARNAÍBA MARANHENSE*

RESUMO

Os conflitos territoriais e ambientais provocados pelo agronegócio na microrregião do Baixo Parnaíba maranhense, como aqueles envolvendo as empresas Suzano e Paineiras, são geridos por diferentes instrumentos administrativos e jurídicos que podem incorrer no risco de agudizá-los, de conformar os sujeitos afetados e de desconsiderar aspectos étnicos e culturais envolvidos. Diante dessa temática, delimita-se a abordagem nas modificações territoriais e ambientais decorrentes de ações possessórias envolvendo os empreendedores do agronegócio em tal microrregião. Com isso, inicialmente, tem-se como objetivo destacar o panorama do uso das ações possessórias no Baixo Parnaíba maranhense, enfatizando os conflitos envolvendo a Suzano e a Paineiras. Em seguida, examinar-se-ão as correlações entre o referido instrumento processual e o agronegócio. Por fim, será abordado o choque cultural mediante os grupos sociais afetados pelos empreendimentos, principalmente camponeses. Metodologicamente, utiliza-se pesquisa bibliográfica e documental, com o levantamento de ações possessórias que envolvem as referidas empresas no Baixo Parnaíba maranhense. Aqui, realiza-se estudo de caso e análise qualitativa de conteúdo, combinado com análise global. Como conclusão, observa-se que a prática jurídica alinhada à manutenção do exercício da posse em favor das empresas resulta no aumento de impactos territoriais e ambientais, diferente da atuação voltada para o acesso à terra das comunidades.

Palavras-chave: *ações possessórias; agronegócio; Baixo Parnaíba maranhense; camponeses; conflitos territoriais e ambientais.*

FOREWORD

The microregion of Baixo Parnaíba Maranhense³ is marked by several land conflicts, such as those caused by agribusiness. In this scenario, there are several economic players that intervene in the place with monoculture activities, such as soybean and eucalyptus. This situation includes companies Suzano Papel e Celulose and Comercial Agrícola Paineiras. This results in conflicts with communities and exemplifies the problem now analyzed in this scientific paper.

The context of conflicts involving the agribusiness and rural communities in Baixo Parnaíba Maranhense dates back decades. Gaspar and Andrade (2014) briefly point out that, since 1980, the region has undergone drastic environmental changes due to agro-industrial activities, such as the eucalyptus plantations by Suzano and Paineiras. During the 1990s and 2000s, activities were expanded by the inclusion of soy production. The expansion of agribusiness in Maranhão was also made possible by the state's infrastructure, with the large production flowing out through highways, railroads and ports, such as the Itaqui port. According to these authors, the advance of agribusiness has led to questionable land grabbing by businesses, while increasing the precarious situation of tenure of rural communities in the region.

Thus, the socio-legal problem dealt with in this article concerns the implications of legal practice in maintaining territorial and environmental impacts in the possessive conflicts involving Suzano and Paineiras companies. Thus, the object of investigation is the possessive actions involving those companies in Baixo Parnaíba Maranhense.

As for the overall objective, we aim at analyzing the extent to which possessive actions affect the continuity of territorial and environmental changes. Specifically, we intend to: (1) identify the possessory actions in Baixo Parnaíba Maranhense involving Suzano and Paineiras; (2) examine the correlations between that procedural instrument and the agribusiness; and (3) look into the clash with the ethnic-cultural groups affected by the enterprises.

In order to do that, we carried out a research, together with a survey of possessory actions in Baixo Paranaíba Maranhense having companies

³ The microregion of Baixo Parnaíba Maranhense is formed by the municipalities of Água Doce do Maranhão, Anapurus, Araiões, Belagua, Chapadinha, Magalhães de Almeida, Mata Roma, Santa Quitéria, Santana do Maranhão, São Benedito do Rio Preto, São Bernardo, Tutóia and Urbano Santos (BRAZIL, 2005, p. 8).

Suzano and Paineiras as parties. To do that, we used the information contained in *Jurisconsult*, the electronic procedural research site of the Judiciary Branch of the State of Maranhão as a data source. After the survey, we have selected the actions that are part of the scenario of conflicts with traditional communities. Having found three cases in Santa Quitéria do Maranhão County, a field survey was carried out on site in order to gain access to the court records.

This way, we carried out a case study combined with qualitative content analysis, which, based on Flick (2009), aims at the exact description or reconstruction of a case. Here, the significant “case” for the research problem refers to the court conflicts involving rural communities and the agribusiness, specifically the companies Suzano and Paineiras, in Baixo Parnaíba Maranhense.

Methodologically, we adopted a qualitative content analysis procedure, which is “one of the classical procedures for analyzing textual material” (FLICK, 2009, p. 291). In this paper, the textual material analyzed consisted of complaints, answers, appeals, injunctions, interlocutory appeals, court of appeals rulings and judgments in the selected cases. This way, it was possible to identify the meanings used in legal practice that either align or not with the continuity of agribusiness in the region.

Here, the technique used was explanatory content analysis, aiming to clarify excerpts of the selected material based on a “content analysis synthesis”, which is geared at summarizing the collected material (FLICK, 2009, p. 292), followed by an explanation. In addition, this content analysis was supplemented with an overall analysis that, according to Flick (2009, p. 294) provides “an overview of the thematic scope of the text to be analyzed”.

As for the theoretical framework, in the legal area, it approaches milestones of critical legal thinking and legal sociology, as is the case of Antonio Carlos Wolkmer (2001) and Michel Miaille (2005). Moreover, because it is agribusiness, this paper dialogues with authors who study the knowledge and power colonial relations and the discourse of development, such as Vandana Shiva (2003), Arturo Escobar (2007), Segato (2007), Quijano (2000; 2005) and Mignolo (2011). Finally, due to previous studies on possessory conflicts, it comes close to previous productions, such as Bruzaca and Vieira (2017), Bruzaca and Sousa (2018) and Bruzaca (2018).

The approach to these productions is due to the research related to possessory actions involving black people rural communities and large

landowners; we also did case a study and qualitative content analysis (BRUZACA; VIEIRA, 2017; BRUZACA, 2018). This allowed us to articulate with theoretical references close to those proposed here, such as questioning the establishment of a general and abstract right-holder that does not allow for the inclusion of groups marked by ethnic and cultural identities. We also aligned the usual legal forms of court practice with economic activities undertaken by large landowners.

Finally, we previously carried out studies on possessory conflicts in urban situations, together with a case study and qualitative content analysis (BRUZACA; SOUSA, 2018). The close contact with the present production can also be seen in relation to the content of rulings and pleadings aligned with the economic interests of large landowners, which did not take into account the specificities of the subjects and communities included in the conflict.

1 THE PROCEDURAL SURVEY: REFLECTIONS OF THE CONFLICT SCENARIO INVOLVING AGRIBUSINESS IN BAIXO PARNAÍBA MARANHENSE

Highlighting the conflict scenario involving agribusiness in Baixo Parnaíba Maranhense helps to understand the aggravation or not of territorial and environmental impacts due to the use of certain procedural instruments, such as possessory actions⁴. Such actions – which are object of analysis of the present article – not seldom seek the courts for settling the territorial conflict between local communities’ ways of life and the agribusiness, and may deepen these impacts, depending on the sense of “ownership” present in legal practice.

In this scientific paper, the selected possessory actions and, consequently, the meanings of “possession” identified herein concern the

⁴ On the whole, possessory actions can be understood in the Brazilian legal system as civil procedure instruments geared at the protection of possession, which is the “factual situation of power over the thing, regardless of the legal condition of those who exercise it – owners or non-owners; after all, possession falls on the good and not on the right” (FARIAS; ROSENVALD, 2014, p. 56). Possessory actions are provided for in Chapter III – Possessory Actions of Law 13,105/2015, called the Brazilian Code of Civil Procedure. In kind, they are the action of maintenance and reintegration of possession and the prohibitory interdict, which aims to guarantee the direct or indirect possession, whether by maintaining or recovering it. In the possessory judgment, “possession” is discussed, and the requirements for its protection provided for in art. 561 of the Code of Civil Procedure, according to which “it falls on the plaintiff to prove: I – their possession; II – the turmoil or debris practiced by the defendant; III – the date of the disturbance or the usurpation; IV – the continuation of possession, though disturbed, in the action for maintenance of possession, or the loss of possession, in the action to recover possession”(BRAZIL, 2015).

conflicts in the Baixo Parnaíba Maranhense microregion. This locality is actually characterized by the advance of agribusiness in the past decades, and we can see conflicts resulting from impacts on the territory and the environment.

Among the major businesses in the region is Suzano Papel e Celulose S/A⁵. Activities of that company and of Comercial e Agrícola Paineiras Ltda⁶ in eastern Maranhão – which includes Baixo Parnaíba Maranhense – began in the 1980s. These were followed later, in the 1990s, by coal exploitation activities by Maranhão Gusa S/A and Maranhão Reflorestadora Ltda. Currently, the areas previously controlled by these companies are in the hands of Suzano (MARQUES, 2016).

Thus, the economic activities carried out by Suzano are the large-scale production of primary goods, such as eucalyptus monoculture. As a result, large amounts of land are grabbed, resulting in land, possessory and environmental conflicts involving traditional communities.

Quantitatively, it is possible to survey possessory actions in the search electronic legal system of the Court of Justice of the State of Maranhão, arising from the economic activity undertaken by Suzano Papel e Celulose S/A and Comercial e Agrícola Paineiras Ltda. By conducting a survey in *Jurisconsult* having as search criteria, “Public Consultation – Trial Court – County – Search by Party – Search Key ‘Suzano’ or ‘Paineiras’”, the search returned a total of 15 possessive actions concerning “Possession Recovery/Maintenance” and “Prohibitory Interdict”. So, we have prepared following table:

Table 1 Possessory actions involving companies Suzano and Paineiras companies in Baixo Parnaíba Maranhense

| County | Suit # | Party | Plaintiff | Defendant | Preliminary injunction |
|----------------|---------|--------|-----------|-----------|---------------------------|
| Santa Quitéria | 6332015 | Suzano | | X | – |
| | 3632011 | Suzano | | X | In favor of the community |
| | 1912009 | Suzano | X | | In favor of the company |

Continua.

5 Suzano Papel e Celulose S/A is “the second largest eucalyptus pulp producer in the world, and the largest manufacturer of printing and writing paper in Latin America”. Their administrative headquarters are located in São Paulo, and one of their industrial units is located in the town of Imperatriz, Maranhão. It adopts a discourse of sustainable development by stating that they are advancing “in order to provide cost-effective and socially and environmentally sound products and services from [...] renewable forests” (SUZANO, 2018).

6 Comercial e Agrícola Paineiras Ltda is one of the companies controlled by Suzano Papel e Celulose S/A; they develop activities to “support forest production” (SUZANO, 2016, p. 2-3).

Continuação...

| | | | | | |
|----------------|----------|--|---|---|-------------------------|
| Santa Quitéria | 5072011 | Paineiras and Suzano | X | | – |
| | 822005 | Paineiras | X | | – |
| | 2402005 | Paineiras | X | | – |
| | 2442005 | Paineiras | X | | – |
| | 3412009 | Paineiras and Claudio Roberto Martelli | X | | In favor of the company |
| | 3422009 | Paineiras | | X | – |
| | 3342007 | Paineiras | X | | In favor of the company |
| | 522008 | Paineiras | X | | – |
| | 2122009 | Paineiras | X | | – |
| | 3352007 | Paineiras | X | | – |
| Urbano Santos | 7262012 | Paineiras | | X | – |
| | 10572013 | Paineiras | X | | In favor of the company |

Not all of the suits listed above involve local communities, and we chose to highlight three conflicts with peasants, all from the Santa Quitéria County: (1) case n. 1912009 (unique numbering 191-20.2009.8.10.0117); (2) case n. 3412009 (341-98.2009.8.10.0117), both with an appeal temporary decision favorable to the company; and (3) case n. 3632011 (unique number 363-88.2011.8.10.0117), with an appeal temporary decision favorable to the community.

These cases, as a result of the scenario of advance of the activities undertaken by Suzano and Paineiras, exemplify the problematic regarding possessory actions not in the Baixo Parnaíba Maranhense microregion alone. This way, it relates to other localities of Maranhão and Brazil, due to sharing the same context of agrarian and developmental conflicts.

Precisely, according to Augusto *et al.* (2015, p. 98), agribusiness is a reflection of the agrarian model resulting from globalization, where one sees a development model⁷ that undertakes “primary export specialization as a hegemonic capital accumulation project”. Then, he mentions there is a limitation to development, together with situations of threats to the environment, such as an increase in the use of pesticides.

In line with the decolonial theoretical framework, it can be understood that the association of agribusiness with the development model has

⁷ Brazilian developmentalism has gone through different phases in the last century, but this period refers to the so-called “new developmentalism” or “neo-developmentalism”. In it, we can see a reprimarization of the economy, with the presence of large enterprises focused on the production of primary products, resulting in conflicts with local populations, such as those with ethnic identities (SANTOS, 2013). We emphasize that, in the scenario of Baixo Parnaíba Maranhense, we can mainly find agribusiness, including eucalyptus and soybean monoculture.

repercussions on the continuity of domination resulting from the coloniality of power. According to Quijano (2000) the coloniality of power refers to the capitalist world power pattern marked by the classification of the world population into races. This resulted, according to the Peruvian author, in Eurocentrism, a perspective of knowledge founded on the capitalist needs of universality and the needs of the white to dominate/exploit as superior. This included conquering the colonized peoples and imposing a mirror that forced them to see themselves from the point of view of the ruler.

In summary, Mignolo (2011) states that the coloniality of power implies: the (re)classification of the planet's population, with the concept of "culture" playing a crucial role, the existence of an institutionalization to manage classifications, a definition of adequate spaces for classifications, and channeling of knowledge production. Also according to that author, "Eurocentrism therefore becomes a metaphor for describing the coloniality of power."

Thus, Europe had control of the world market, imposing its colonial rule on regions and populations. This implied historical reidentification with the attribution of new geocultural identities. As part of world capitalism, Europe concentrated the control of forms of subjectivity, culture, and knowledge production. There was the expropriation of populations, the repression of forms of knowledge, of production and their symbolic universe, and the assimilation of the culture of the dominators (QUIJANO, 2005).

Precisely, agribusiness has traces of that superiority of ways of knowing and doing in relation to others who are considered as inferior. In this sense, according to Shiva (2003), agribusiness is reflected in a uniformity of monocultures, in a way of thinking and living; it is a "source of scarcity and poverty, both for destroying diversity and alternatives, and for destroying the decentralized control of agricultural systems of production and consumption".

This development, which relates to agribusiness, is associated with what Segato (2007, p. 45) describes as an aspiration with a "modern" trait, which is "imported" as a "freighter", leading to a "development by imitation" or "mimetic". It is a search for equalization to countries considered as developed, disregarding the particularities and specificities of existing subjects, groups, cultures and life forms.

Moreover, the agribusiness economic model is related to the discourse of development⁸, associating itself with categories created within the scope

⁸ The "discourse of development" refers to the approach used by Escobar (2007) to characterize the discourse disseminated in the late 1950s by Truman, a former US president, in which he transforms

of rural development. Here, Escobar (2007) believes there is a production of reality where it is reduced according to the knowledge of experts, with no connection to “structural determinants, *let alone* common experiences of the population”.

Specifically regarding the clash in Baixo Parnaíba Maranhense, the struggle for land by peasants refers to the autonomy of “their social place”. This is threatened by Suzano Papel e Celulose S/A, whose practices result in damage to the environment and the territory, causing the death of animals and loss of native vegetation. In addition, the importance of land is seen as a part of the family economy, helping the social group itself to exist (RIBEIRO JÚNIOR; OLIVEIRA; COSTA, 2014).

If, on the one hand, in agribusiness the human-nature relationship is mediated by the market and business, on the other, cultural socio-biodiversity can be seen “in food-producing peoples, who live on the land and from the land, the water and the forest. (AUGUSTO *et al.*, 2015). As a result, community ownership on the one hand and business ownership on the other are conflicting.

Thus, legal practices that may or may not affect the protection of the territory and the environment, when close to the protection of community rights, or the continuity of monocultures, the use of pesticides and territorial appropriation by companies – this is what we will analyze in the selected court cases.

2 THE POSSESSORY ACTIONS: ON CONFLICTS INVOLVING SUZANO PAPEL E CELULOSE AND COMERCIAL AGRÍCOLA PAINEIRAS

2.1 Case n. 191/2009 (unique numbering 191-20.2009.8.10.0117)

It is a possessory action filed by Suzano Papel e Celulose S/A against Francisca, the community leader of Baixão da Coceira village, and Sebastião, the community leader of Coceira village. The pleading mentions that “there is no need to identify and qualify of defendants/invaders” in “cases of collective invasion”, based on case law. Then, it proves the ownership of the plaintiff by means of “lease agreements [...], registration certificates, indentures and descriptive memorandums, certificates, rural property registration certificates [...], and maps” (SUZANO, 2009a) .

the reality of countries and populations by creating the reality of countries eager to equate themselves to those considered “first world” countries, resulting in that reality being disregarded.

It also details that, among the areas presented, some correspond to farms that belonged to Margusa S/A and Marflora Ltda, where “they [...] engaged in economic activities of logging and reforestation, since 1989 and 1990”. It is noteworthy that there are eucalyptus cultivation fields, masonry houses and maintenance of landmarks, borders and surveillance. However, the pleading states that the defendants “led a violent invasion of approximately 50 people, all residents of Baixão da Coceira and Coceira villages [...] and paralyzed the vegetation clearance service authorized by SEMA [Secretariat of the Environment]” (SUZANO, 2009a).

Further on, it presents a preliminary injunction for trespass to try title, based on art. 928 of the Civil Procedure Code of 1973⁹, in effect at the time and corresponding to current art. 562 of the Code of Civil Procedure. It states that “all the necessary requirements for the granting of a preliminary injunction obtain, namely, the existence of possession, the harm suffered in the possession and the date when it occurred”. Again, it substantiates the proof of ownership with the acquisition by legal business, maintaining the previous “uncontested and peaceful socioeconomic interference”, as well as the existence of forestry activities. The usurpation, in its turn that has lasted for less than a year and a day they seek to prove by police incident record certificates. Finally, it states that the measure is urgent, as the “illegal invasion” may “cause a serious precedent for social instability and legal insecurity in the region” (SUZANO, 2009a).

At the beginning of the suit, the court ruled:

Pursuant art. 928 of the Civil Procedure Code [1973], and because of the arguments presented and documents attached to the pleading, in particular those on pages [sic], I find that, in a first analysis, the facts claimed by the plaintiff company are credible and plausible, which consist in the unjust deprivation of possession of a property that belongs to it, which at first sight is documented through Outcrop Contract (pgs.) [sic], Purchase and Sale Indenture proving the ownership of the property, thus the requirement of *fumus boni iuris* (prima facie evidence) obtaining.

Therefore, without hearing the defendant, I grant the preliminary injunction for trespass to try title, as a result of the reported usurpation [...] (MARANHÃO, 2009a).

Accordingly, the court ruled in favor of trespass to try title, as they believe that it was evidenced by the documents presented by the plaintiff. It is also noteworthy that the preliminary injunction was granted without hearing the opposing party, that is, without holding the discovery hearing

⁹ Article 928, Code of Civil Procedure 1973 – With evidences for the pleading duly produced, the judge will grant, without hearing the defendant, the issuance of the preliminary injunction for maintenance or recovery; **otherwise, he/she will order the plaintiff to justify the previous claims, summoning the defendant to attend the scheduled hearing** (BRAZIL, 1973, emphasis added).

provided for in the second part of art. 928 of the 1973 Civil Procedure Code.

This confirms the protection of a possession based on property deeds and formal documents, which enable the continuation of the economic activities undertaken by the plaintiff. We believe that the term “possession” ends up, in this case, aligning with the practices of agribusiness entrepreneurs, reproducing developmental notions, affecting the tracing of the territory, and impacting the environment.

Then, in that action, the community was legally represented by the Maranhão Society of Human Rights. Aiming at reconsidering the preliminary injunction and the dismissal of the action, the defense initially maintained that the request made is legally impossible, given the lack of proof of possession, but rather of ownership. Thus, it states that “all the requirements entered in this defense and the families of the people involved have legitimately exercised ownership of those lands for at least a century” (SMDH, 2009a).

Later on, it presents the characterization of the possession exercised by the communities of Baixão da Coceira, Coceira and Lagoa das Caraíbas. Thus, it stresses that:

These families have lived and worked in the area for at least three generations, living exclusively on family farming, small animal husbandry and plant gathering, especially platonias and souari nut, which are native species to the region. However, with the unbridled expansion of soybean and eucalyptus monoculture in the region, these species are no longer easily found, severely damaging the complementarity of the productive cycle of these families (SMDH, 2009a).

It also contextualizes the conflict by bringing up the scenario of the 1980s in the region, which was marked by the expansion of eucalyptus monoculture and the maintenance of steelmill activities, which caused serious social and environmental impacts. With this, it mentions that there are charges and resistance from the communities against such activities, as well as attempts of land regularization by the National Institute of Colonization and Agrarian Reform and the Land Institute of Maranhão, which even result in questioning the legality of the companies’ deeds (SMDH, 2009a).

Also in the defense, the theme of the social function of property is mentioned; it stresses that with the Constitution of the Federative Republic of Brazil of 1988, it lost its absolute character. It reiterates that communities have used the area for generations for subsistence purposes,

with the gathering of platonias and souari nuts. It concludes, therefore, that those who fulfill the social function of property are the members of the community, not the company, and thus they deserve the possessory remedy (SMDH, 2009a).

Finally, it questions the environmental licensing of the activities undertaken by Suzano Papel e Celulose S/A, noting that there is no previous environmental impact study. It even states that their activities were investigated at the time by the Federal Prosecutor's Office from Maranhão and Piauí states (administrative proceeding n. 1.19.000.001472/2007-37). As for the permits issued by the Secretariat of the Environment, in addition to believing they are riddled with illegality, they resulted in the "evacuat[ion] of land traditionally worked [by] workers who were born and raised in those communities" (SMDH, 2009a).

This way, we can see a different meaning to the notion of "possession", when we look at it from the point of view of the community. It is the use of procedural instruments with the purpose of maintaining social, economic and environmental relations kept by generations of the community members, such as the continuation of gathering activities and the maintenance of families on the land.

Due to the preliminary injunction, SMDH also filed an interlocutory appeal. It includes grounds similar to the one in the defense, especially with regard to the characterization of ownership, denying legitimacy from to the company possession, and sustaining that of the community. Again, it stresses the issue of the social function of property and the socio-environmental conflict involving the company and the community. In addition, it also claims that the acts are null and void due to the lack of intervention by the Public Prosecutor's Office, grounded on art. 82 of the Constitution of the Federative Republic of Brazil of 1988¹⁰ (SMDH, 2009b).

The retraction decision ruled for revoking the preliminary injunction and dismissing the pleading. To this end, it states that "this Judge cannot examine the request for 'boosting' the preliminary injunction without being aware of all the documents in the docket, as usual." It states further that "there is no way to comply with the request due to the complete lack of procedural representation of the plaintiff and her signatory" (MARANHÃO,

¹⁰ Art. 82, Constitution of the Federative Republic of Brazil, 1988 – It is incumbent upon the Public Prosecutor's Office to intervene:

[...]

III – in actions involving collective disputes over the ownership of rural land and other actions where there is public interest evidenced by the nature of the dispute or the quality of the party (BRAZIL, 1988).

2009c). This decision was issued by a judge other than the first one.

The company filed an appeal against that ruling, mainly upholding questions of civil procedural law regarding legal representation, but restating their peaceable and uncontested possession (SUZANO, 2009b). Then, the court again ruled on the continuation of possession (MARANHÃO, 2010a); that was a ruling issued by a third judge, other than the previous ones. In the last procedural act consulted so far, a fourth judge decided to void this last ruling, but continued the action, with the need for reviewing the preliminary injunction (MARANHÃO, 2010b).

Thus, we stress that:

[...] In relation to the preliminary injunction requested in the pleading, the case is for its review, and I do so based on the request of the National Agrarian Ombudsman and Chairman of the National Commission of Combat to Violence in the Countryside on page 682 and Provision 29/2009 of the Justice Internal Affairs Department (MARANHÃO, 2010b).

Although the case is not yet concluded, the conflict exemplifies the differentiated legal practices existing in traditional and popular law practice, as well as in the judiciary branch. It is important to note the existing strategies for keeping communities on the land, which break with a formalist view of the title and ownership, as well as the existence of avenues developed by the State for protection of those groups from rural violence, such as Provision 29/2009 of the Justice Internal Affairs Department¹¹.

11 Said provision “Provides on the recommendation to the Judges of the State of Maranhão to hear from the Public Prosecutor’s Office of Maranhão, the National Agrarian Ombudsman, INCRA and ITERMA in actions for the collective maintenance and trespass to try title involving rural properties occupied by landless rural workers” (MARANHÃO, 2009b). In it, it is recommended that: 1) “**Before ruling on preliminary injunction pleadings, let the Public Prosecutor’s Office of Maranhão, the National Agrarian Ombudsman, INCRA and ITERMA be notified**, considering that this measure, besides facilitating the execution of the National Agrarian Reform Plan in the State of Maranhão, will make it possible to provide elements that will allow for a better analysis and investigation regarding the land issues brought to court, thus preventing the judiciary from granting claims based on public deeds and unworthy titles”; 2) “Should the preliminary injunction be granted and the claims be ruled as grounded, for the fulfillment of the *decisum*, the Bodies and Agencies listed in item 1 (one) of this Provision be summoned, together with the process servers and the Military Police, **to comply, insofar as possible, with the Manual of National Guidelines for the Enforcement of Court Orders for the Collective Maintenance and Trespass to Try Title** prepared by the National Agrarian Ombudsman and approved by the Commanders-General of the Military Police at a meeting held in Brasília, at the headquarters of the National Agrarian Ombudsman, on April 11, 2008, with a view, in particular, to the possibility of the Ombudsman providing the necessary means to facilitate the peaceful eviction from the rural property object of the possessory action, such as the provision of food baskets, tarpaulins to set up a new camp, transportation to make the relocation of defendants and arrangements with INCRA to survey another rural property for the purpose of settling them, which will enable the peaceful eviction of the area under discussion, thus ensuring the effectiveness of the court ruling” (MARANHÃO, 2009b, emphasis added).

2.2 Case n. 341/2009 (unique numbering 341-98.2009.8.10.0117)

The next judicial proceeding to be analyzed concerns the possession maintenance lawsuit filed by Comercial e Agrícola Paineiras Ltda. against community leader Francisco das Chagas Sousa Amorim¹². The pleading states that the company belongs to Suzano Papel e Celulose S/A, which has been operating in Maranhão for 26 years, “with an institutional mission to research and develop eucalyptus varieties adapted to sandy soils and the dry climate”. Further on, it proves the ownership by the company of the areas by means of official documents, in addition to claiming to comply with the environmental requirements necessary for the activities and those arising from the condition of owner of the properties. Thus, it states that “all these are facts that make the possession by the author clear” (PAINEIRAS, 2009).

As in the previously described action, it substantiates the characterization of possession with official documents by stating that the plaintiff is “the legitimate owner by the real estate object of this action, which is confirmed by the documents”. Also with grounds on art. 928 of the Civil Procedure Code of 1973, they request an injunction for trespass to try title, claiming that all procedural requirements have been met (PAINEIRAS, 2009).

Unlike the previous action, there was a discovery hearing. However, the adverse party did not attend. In the hearing, it was decided that:

[...] the preliminary injunction pleaded should be granted, because, *in casu*, the assumptions that authorize it obtain. As is clear, for granting a preliminary injunction, two requirements must obtain, namely *fumus boni juris* and *periculum in mora*. *Fumus boni juris*, or “prima facie evidence”, is a requirement that, when it obtains, gives rise to a presumption of legitimacy of the initial claim, that is, it shows the plaintiff’s claim is likely to be true. In the present case, **the Plaintiff was able to demonstrate this, as the plaintiff entered in the docket the documents of ownership of the areas (pages 35/88), with photos (pages 99/102) and a police report (page 98) [...]** (MARANHÃO, 2011a, emphasis added).

Thus, in the temporary ruling, we can see that proof of ownership reinforces the characterization of possession by the plaintiff. In other words, the *de facto* exercise on the property is acknowledged by means of official documents, together with a mention to photos and witnesses,

¹² At first glance, it seems that this is an individual conflict, but it is noteworthy that the opposing party, i.e. Francisco das Chagas Sousa Amorim, known as Seu Chagas, is the leader of the community of Lagoa das Carribas, which is why the case remained an object of this scientific paper.

without taking into account the existence of other social practices in the locality. Thus, it legally supports the company to continue to carry out its economic activities against the resistances undertaken by the local population.

In this same action, the community leadership of Lagoa das Caraíbas is still charged with environmental degradation, which also exemplifies the discrepancy between community and business practices in the region. It is stated that “the Defendant, Francisco das Chagas Sousa Amorim, is causing a new disturbance in the area object of this action by means of violent and clandestine deforestation and logging, without an environmental license, of an area of approximately 50ha (fifty hectares), as per attached photos and police report” (PAINEIRAS, 2013). While the economic activities of the company that, as stressed in the previous action by Maranhão Society of Human Rights, cause severe social and environmental conflicts, here the pleading maintains that the actions of the community leaders are criminal, on the grounds of logging.

In the defense, the documents presented by the plaintiff are challenged, as they provide conflicting information regarding their registration. Thus, it maintains that the information now brought up is “capable of settling the present case with precise memorials, planimetric plans and other very illuminating documents”. Then, it restates that “the plaintiff only mentions that they own the aforementioned properties, but does not produce other documents that confirm the accuracy of that statement” (CONTESTAÇÃO, 2014).

This action was dismissed with prejudice (MARANHÃO, 2018a). However, it is important to note that, unlike the efforts by the legal counsel of the Maranhão Society of Human Rights, this defense does not mention the characterization of possession by members of the community, the insertion of the dispute in the scenario of conflict with the company in the region, nor the fulfillment of the social function. The described legal practice limited itself to question the documents presented by the plaintiff, without even mentioning that it is not in possessory actions that ownership is debated.

2.3 Case n. 363/2011 (unique numbering 363-88.2011.8.10.0117)

The present action for prohibitory interdict was filed by the Maranhão Society of Human Rights on behalf of members of Bracinho community, against Suzano Papel e Celulose Ltda. It describes Bracinho in the

complaint as a traditional community, stating that “they report being born and raised in those lands, living in a peaceful and harmonious way with the local environment” (SMDH, 2011).

It brings out the history of the community in seeking land property regulation of the area by the Maranhão Land Institute. In addition, it points out the beginning of the conflicts involving agribusiness in the region of Baixo Parnaíba Maranhense with a description of the resistance undertaken by the community against the company. It stresses the social and environmental impacts caused by eucalyptus monoculture in the region (SMDH, 2011).

As for existence of possession by the community, it emphasizes that “it is exercised not only by the plaintiffs and other members of the communities, but also by their ancestors”, pointing to them as “squatters”, thus grounding the possessory protection in art. 932 of the 1973 Code of Civil Procedure¹³ – the current art. 567 of the 2015 Code of Civil Procedure. It also mentions the social function of property, which is fulfilled by community members (SMDH, 2011).

Then, it also brings up the violation of Convention 169 of the International Labor Organization regarding respect for territorial rights of traditional peoples and communities, and the need to inquire them about the economic activities undertaken by the company in the region. Finally, it further maintains that the requirements for granting the preliminary injunction have been fulfilled, namely *fumus boni juris* and *periculum in mora* (SMDH, 2011).

It is possible to see at this point that the legal counsel of the Maranhão Society of Human Rights did not limit their practice to a purely formalist view of the conflicts. Possessory protection is not limited to debating the legality or legitimacy of official documents, but rather social arrangements that establish the community as traditional, their relationship with nature, as well as other rights that are beyond the individual and liberal nature of the possessory debate, i.e., the right to territory and the environment.

The court granted the preliminary injunction, stating that:

Ownership of the plaintiffs (farmers) has been proven by the statements on pages 21/111, as well as by the documents on pages 119/124, the latter of which prove the existence of Case 1,254/2010 before ITERMA, whose object is the legal regulation

¹³ Art. 932, 1973 Code of Civil Procedure. The direct or indirect possessor, who is justly afraid of being disturbed in their possession, may ask the judge to protect them from imminent disturbance or usurpation, by means of a prohibitory warrant, where the defendant will be awarded a pecuniary penalty should they violate the measure (BRASIL, 1973).

of the Bracinho Settlement area, in the Santa Quitéria Municipality/MA, as well as the photos on pages 125/129 that show the improvements and residents of the community of Bracinho Village, Santa Quitéria/MA.

In its turn, imminence of disturbance or usurpation of the possession area and its continuation has been proved by the Police Report on page 35.

Periculum in mora can be grounded on the fact that the Plaintiffs are residents and workers of the area in question; if this area is deforested, poisoned and/or invaded by the Defendant, the Plaintiffs **will suffer serious losses to their way of life, as they may become homeless, without an area for growing crops and without plants to harvest.**

In addition, deforestation produces **serious, irreversible environmental damage**, because in addition to deforestation, poison is thrown on the land, which causes the disappearance of fauna and flora of the Region and increases the degree of heat already felt in Baixo Parnaíba, which can noticeably harm the Community formed by the Plaintiffs, who are people of low purchasing power that **depend on Nature for their survival, because many of the Plaintiffs live solely and exclusively from harvesting and gathering, together with artisanal fishing in the Community's rivers and lakes** (MARANHÃO, 2011b, emphasis added).

We can see that, in this action, the practice of the judiciary branch changes, as it brings out issues that were previously disregarded, such as the condition of the community as a community, and the impacts on their way of life, housing and economy. Thus, “possession” is understood to be that aligned with the practices of communities, and is not limited to a formalist conception based on ownership. With that, it reinforces the counterpoint to that practice that allows the continuity of agribusiness activities by including said social, environmental and economic aspects of the conflict in the discussion.

This is taken from the defense document submitted by the company. It is stated that community members are not a legitimate party, because the area is the domain and possession of the State. Moreover, it says that the Gabriel Alves de Araújo Community Association is a party to this administrative proceedings, considering it as the holder of the claimed rights (SUZANO, 2012a).

Accordingly, he states that the authors are not possessors, since “the real owner and indirect possessor of most of these lands is, and always has been, Comercial e Agrícola Paineiras Ltda (doc. 07/18), and the direct owner is Suzano Papel e Celulose S/A”. It shows that the areas were acquired by the company on the 1980s and that there are eucalyptus plantations with the proper environmental licenses (SUZANO, 2012a). Disputing the injunction, they filed an interlocutory appeal with arguments similar to

those in the defense (SUZANO, 2012b). Thus, the documents presented by the legal representatives of the company again mention the grounds on ownership for the protection of possession by the company. There is no wide debate about those other social, economic and environmental issues, as they focus on the formal argument, thus facilitating the continuity of agribusiness activities.

As a result of the order in the docket of that interlocutory appeal (n. 7987/2012), issued by the appellate court judge, the judge of the court of origin gives the reason for granting the injunction. In his decision, he highlights the description of the conflict by the community, the socio-environmental dangers arising from agribusiness, the land problems arising from land grabbing, and the damage caused to traditional communities (MARANHÃO, 2012a).

In the appellate court, the appeal was not granted, with the following headnote:

INTERLOCUTORY APPEAL. PROHIBITORY INTERDICT ACTION. REQUIREMENTS FOR GRANTING A PRELIMINARY INJUNCTION OBTAIN. I – As the possession by the plaintiffs, now the appellants, has been proven, and their just fear of being disturbed by the Appellant Defendant, the requirements in art. 932 of the CPC obtain, so there are no corrections to make to the insurgent decision. II – Despite the property object of the dispute being public, it is necessary to agree that its occupation by the defendants over a long time **helps to provisionally maintain the current situation, until the final decision on the action, especially when considering the possibility of deforestation by the other party** (MARANHÃO, 2012b, emphasis added).

This way, the decision favorable to the community is confirmed by the appellate court, once again bringing out debates relevant to the dispute, such as those related to existing social and environmental conflicts. Then, there is also the defense by the community highlighting the misconception of considering that the lands occupied by the community belong to the State of Maranhão, reiterating that the members of the community are the owners of the area. Moreover, it points out that the 21 plaintiffs are legitimate parties to the possessory action, as well as that the territory belongs to the community and that “possession is not only confirmed by the building of improvements”, as it also includes respect to the native vegetation and the preservation of the environment (SMDH, 2012).

Here, the “Socio-Environmental Conflicts in East Maranhão: Problems Faced by Suzano Papel e Celulose and the so-called Gauchos in Baixo

Parnaíba” research report, prepared by the Rural and Urban Studies Group of the Federal University of Maranhão, was entered in the docket (SMDH, 2012). Finally, the existence of a request for intervention by the Land Institute of Maranhão stands out (MARANHÃO, 2018b).

In short, we can see in the present action the legal practice of the popular and judiciary legal practice, in the both the trial and appellate court, in favor of acknowledging possession by the community. That is not grounded in official documents proving ownership, but rather in the factual situation based on the condition of the community as a traditional population, which maintains a harmonious relationship with nature and develops subsistence activities.

3 QUALITATIVE CONTENT ANALYSIS AND OVERALL ANALYSIS

After the detailed description of the possessive actions involving companies Suzano and Paineiras carried out in the previous chapter, we now proceed to examine the case using qualitative content analysis. So, we will now carry out an explanatory analysis of the content as a “content synthesis analysis” by paraphrasing the material, thus resulting in a “reduction of the material through the omission of statements included in a generalization” (FLICK, 2009, p. 291-293).

Towards that, regarding the attorneys representing the companies, we highlight the following legal practices: (1) “legal leveling with collective invasion cases”; (2) “proof of possession by means of ownership documents and in legal business”; (3) “importance of agribusiness to economic activities”; (4) “criminalization of residents”; (5) “confirmation of usurpation by means of a police report”.

With regard to the community’s legal counsel, with an emphasis on popular legal practice in representation by SMDH, the legal practice is summarized as follows: (1) “impossibility of proof of possession using ownership documents and in legal business”; (2) “proof of possession by the centuries-old occupation of the area by the community”; (3) “farming based on household economy”; (4) “putting the agribusiness conflicts in a context”; (5) “fulfillment of the social function of property”; (6) “non-compliance with ILO Convention n. 169”.

As for the judiciary, in decisions in favor of the company, the practice is summarized in the “acknowledgment of possession by ownership documents

and in legal business”. In favor of the community: (1) “acknowledgment of possession by *de facto* use of the land”; (2) “protection of the community’s way of life”; (3) “inability to prove possession by means of ownership documents and in legal business”.

Firstly, regarding legal practices aligned with agribusiness interests, we stress that the practices of “legal leveling with cases of collective invasion”, “proof of possession using ownership documents and in legal business” and “confirmation of usurpation by means of a police report” is noticed in the practice of the law firm representing the company. Here, when ruling on cases, the judiciary branch sometimes decides for “acknowledging possession using ownership documents and in legal business”.

It is believed that such practice, not infrequently noticed in possessory actions involving communities, as observed in the present case study, has an impact on the maintenance of the individualistic view of rights. It approaches the formation of the legal players denounced by Aguiar (1994, p. 20), which is generalizing, superficial, peripheral, normative and text-based, and “does not reproduce an operative contextual knowledge capable of legally accounting for new facts, acts and phenomena that emerge from society”.

Specifically regarding possessory disputes, there are two studies on this theme in Maranhão. The first is in an urban situation where there are conflicts between communities and economic agents that undertake activities based on real estate speculation, possession sometimes being considered only from the formal aspect and proven by property deeds, disregarding the social and economic relations undertaken by occupants (cf. BRUZACA; SOUSA, 2018). In this study, we was also noticed the “legal leveling of cases of collective invasion” and “proof of possession using ownership documents and in legal business”, without taking into account the social context the collectivities were a part of.

The second concerns possessory disputes involving Quilombola communities, also in the region of Baixo Paranaíba Maranhense, in which conflict analysis is sometimes summarized as formal procedural issues, without taking into account the complexity of the territorial relations existing in the communities (cf. BRUZACA, 2018). Here, although they are ethnic groups with domestically and internationally acknowledged rights, that normative and text-based view that disregards reality also prevails.

Thus, going back to the case, in the practices favorable to the territorial

appropriation by the referred companies, the “possession” boils down to a purely formal notion, proven by the document of land ownership. The decision impacts the non-observance of the constitutional provision regarding the fulfillment of the social and environmental function of the property (art. 5, XXIII¹⁴, and art. 170, III¹⁵), which occurs with the rational use of land, natural resources and the environment, besides compliance with labor relations and fostering of the well-being of owners and workers (art. 186¹⁶) (BRAZIL, 1988).

Hence, this relates to the use of possessory actions and agribusiness. The possessory judgment is marked by debates between (a) the formal conception of possession and property, without necessarily fulfilling any social function and (b) conceptions associated with the effective use of land, from a more constitutionalist perspective. Wolkmer (2001, p. 106) points out that disputes over land possession, use and distribution are part of an agrarian structure of privilege and injustice – which is in line with that first view. Thus, the author understands that legal committed to the interests of traditional elites obtains.

Precisely, as Bruzaca and Vieira (2017, p. 193) state, the understanding of the legal terms present in possessory actions, such as “subjects”, “owners”, “possessors”, and “holders” refer to abstractions, whose meanings may align with that liberal-individualist ideology. This is a critique levied by Miaille (2005, p. 49) against legal idealism, where there is a production of “ideas” for the appropriation of phenomena, despite the “various ways of thinking”.

As for the “importance of agribusiness to economic activities”, this is considered as the presence of a development discourse in the legal practice, bringing non-legal arguments in favor of the company. As noted earlier, such a development model is associated with the coloniality of power,

14 Art. 5, XXIII, Constitution of the Federative Republic of Brazil, 1988 – The property shall fulfill its social function (BRAZIL, 1988).

15 Art. 170, Constitution of the Federative Republic of Brazil, 1988 – The economic regime, grounded on the valuation of human work and free enterprise, aims at ensuring to everyone a dignified life, according to the dictates of social justice, without prejudice to the following principles:

[...]

III – social function of property (BRAZIL, 1988).

16 Art. 186, Constitution of the Federative Republic of Brazil 1988 – The social function is fulfilled when the rural property simultaneously meets, according to criteria and degrees of requirement laid down by law, the following requirements:

I – rational and adequate use;

II – adequate use of available natural resources and preservation of the environment;

III – compliance with the provisions governing labor relations;

IV – exploitation that favors the well-being of owners and workers (BRAZIL, 1988).

considering certain races, cultures, ways of life and knowledge inferior to those undertaken by world capitalism (QUIJANO, 2000; 2005). While the importance of agribusiness is shown in court in terms of numbers, the ways of life of communities are disregarded and, furthermore, the “criminalization of residents” is implied, either by considering them invaders or by accusing them of degrading the environment.

Secondly, regarding the legal practices in defense of the communities, they argue for the “impossibility of proof of possession using ownership documents and in legal business”, the “proof of possession by the centuries-old occupation of the area by the community” and the “fulfillment of the social function of the property”. Unlike what Aguiar (1994) points out, what is seen here is popular legal practice as a shift from an individualist-based model to another based on the politicization and collectivization of law (SANTOS, 2011, p. 65). As a result of this practice, the judiciary branch stands for the “acknowledgment of possession by *de facto* use of the land” and the “protection of the community’s way of life”.

Then, the “putting the agribusiness conflicts in a context” has an impact on the acknowledgment of the impacts on the rights of populations affected by large economic enterprises. It is thus associated to efforts to resist the agribusiness-aligned development model, as well as to overcome the coloniality that it implies. In this sense, the importance given to “farming based on household economy” is also noted.

In other words, we can see there is a legal practice that recognizes the importance of the ways of life of rural communities and does not consider them inferior to the development model associated with agribusiness. As Quijano (2000) warns, no alternative to the development imposed by the modern/colonial capitalist power standard is possible if the “continuous de-democratization of social relations”, “social polarization” and “impoverishment of ever greater parts of the population” should persist. To acknowledge the relevance of the production and culture of groups seen as subordinate means to counteract that development.

Then, the “non-compliance with ILO Convention n. 169” stands out, thus including international norms that address the rights of affected communities in the discussion. According to Shiraishi Neto (2007), the recognition of these rights implies: (a) the displacement of traditional disciplines; (b) the treatment in relative terms and reorganization of the hierarchy of norms; (c) reaffirmation and expansion of human rights protection norms. This is again a counterpoint to the legal practice that

underpins agribusiness practices and, consequently, strengthens alternatives to the mode of development it proposes.

Finally, after putting the conflicts in their context, describing the possessory actions and making a qualitative analysis of the material, it is possible, in a supplementary way, to prepare the overall analysis. This analysis, as pointed out by Flick (2009), consists in the production of a table with text contents, keywords and themes. Thus, by following paraphrasing highlighted in this topic, the table below was produced:

Table 2 Global analysis

| Subjects | Legal practice aligned with company interests | Legal practice in defense of community rights | Judiciary Branch |
|------------------------------|--|--|---|
| Possession | “Proof of possession using ownership documents and in legal business.” | “Impossibility of proof of possession using ownership documents and in legal business.” “Proof of possession by the centuries-old occupation of the area by the community.” | “Acknowledgment of possession using ownership documents and in legal business” “Acknowledgment of possession by de facto use of the land” “Impossibility of proof of possession using ownership documents and in legal business” |
| Agribusiness and development | “Importance of agribusiness to economic activities” | “Putting the agribusiness conflicts in a context” | |
| Ways of life of communities | “Legal leveling of cases of collective invasion” “Criminalization of residents” “Confirmation of usurpation by means of a police report” | “Fulfillment of the social function of the properties” “Protection of the community’s way of life” “Farming based on household economy” “Fulfillment of the social function of the properties” “Non-compliance with ILO Convention n. 169” | “Protection of the community’s way of life” |

In short, the table above makes it possible to identify the notions about “possession”, “agribusiness and development” and “communities’ way of life”, associated with the paraphrases prepared in relation to the analyzed material. Thus, regarding law practice aligned with company interests, we can see a notion of individualist, formal and abstract law, in addition to the influence of the discourse of development and coloniality of power in relation to the primacy given to agribusiness and the criminalization of

communities' ways of life.

With regard to the defense of community rights, in particular that associated with popular legal practice, there is a view of possession associated with the community, focusing on centuries-old land use and family farming. In addition, it contextualizes the issues surrounding development on the one hand, and highlights the importance of the way of life of communities, on the other. Thus, there is a rupture in relation to the model proposed by agribusiness and, consequently, to the coloniality it implies.

Finally, the judiciary branch acts ambiguously. On the one hand, it is associated with a legal practice that sees Law from an individual, formal and abstract outlook, enabling the continuity of agribusiness, the development model and the coloniality of power that surrounds it. On the other hand, it is able to recognize the importance of protecting the way of life of communities, understanding collective ownership, and rejecting its reduction to formal documents of ownership.

FINAL CONSIDERATIONS

By analyzing the object of investigation, it is possible to identify different legal practices. In assigning the meaning of the legal terms dealt with in possessory actions, we can identify whether or not they refers to the maintenance of privileges and injustices caused by agribusiness and the consequent maintenance of its agrarian structure. In other words, to maintain the discourse of development and the coloniality of power that assigns superiority to it, to the detriment of other ways of life.

Thus, possessory actions are used to maintain economic activities, namely, agribusiness, which result in the violation of territorial and environmental rights. This is what was seen in traditional legal and judiciary practices. In other words, the continuity of monoculture by entrepreneurial agribusiness agents, adopting for that purpose a strictly individualist, formalist and abstract interpretation of the procedural instrument. Consequently, the way of life of the peasant population is disregarded.

On the other hand, it is also possible to identify a legal practice related to struggles for land access and environmental protection, such as popular legal and judiciary branch practices, when favorable to the community. The maintenance of community ownership means the continuity of community practices characterized by the collective use of land and family farming

associated with the environment. Here “possession” is not just a formal view of the relationship with the land, but the factual use of land.

This way, the possessory actions are related to the changes in the territory and the environment: negatively, when formally protected from an individualist-liberal-bourgeois perspective in line with the scenario of the discourse of development and the consequent coloniality of knowledge and power; positively, with the maintenance of the population and their production and gathering activities, essential for their existence as a social group.

In conclusion, on the one hand, the possessory instrument can strengthen the struggle for communities’ access to land, with the maintenance of their collective farming practices, as opposed to the negative changes caused by agribusiness in the territory and the environment; on the other hand, they may result in the maintenance of the dominant agrarian structure and, consequently, in the deepening of the social and environmental consequences from agribusiness.

BIBLIOGRAPHY

AGUIAR, R. A. R. *A crise da advocacia no Brasil: diagnóstico e perspectivas*. 2. ed. São Paulo: Alfa Omega, 1994.

AUGUSTO, L. G. S. *et al.* Parte 2 – Saúde, ambiente e sustentabilidade. In.: CARNEIRO, F. F. *et al.* (Org.). *Dossiê ABRASCO: um alerta sobre os impactos dos agrotóxicos na saúde*. Rio de Janeiro, São Paulo: Escola Politécnica de Saúde Joaquim Venâncio, Expressão Popular, 2015. p. 89-191.

BRAZIL. *Lei n. 5.869, de 11 de janeiro de 1973*. Institui o Código de Processo Civil. Brasília, 1973. Available at: http://www.planalto.gov.br/ccivil_03/leis/L5869impressao.htm. Access on: 20 aug. 2018.

BRAZIL. *Constituição da República Federativa do Brasil de 1988*. Brasília, 1988. Available at: http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Access on: 20 aug. 2018.

BRAZIL. *Lei n. 13.105, de 16 de março de 2015*. Institui o Código de Processo Civil. Brasília, 2015. Available at: http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2015/lei/13105.htm. Access on: 20 aug. 2018.

BRAZIL. Ministério do Desenvolvimento Agrário. Secretaria do

Desenvolvimento Territorial. Território Baixo Parnaíba. *Plano Territorial de Desenvolvimento Rural Sustentável*. São Luís, 2005. Available at: http://sit.mda.gov.br/download/ptdrs/ptdrs_territorio020.pdf. Access on: 20 aug. 2018.

BRUZACA, R. D. *Atuação das instituições do sistema de justiça na proteção da posse e do território nas ações possessórias ajuizadas contra comunidades quilombolas no Baixo Parnaíba Maranhense*. São Luís: PAJUP, 2018.

BRUZACA, R. D.; SOUSA, A. V. (Orgs.). *Direito achado na ilha: tutela jurídica da posse no contexto de conflito fundiário coletivo urbano no município de Paço do Lumiar/MA*. São Luís: PAJUP, 2018.

BRUZACA, R. D.; VIEIRA, A. D. Linguagem dos juristas frente a representações jurídico-culturais de povos e comunidades tradicionais: o caso do conflito possessório envolvendo a comunidade quilombola de São Bento, Brejo/MA. *Prisma Jurídico*, v. 16, n. 1, p. 181-204, 2017.

CONTESTAÇÃO no Processo nº 3412009 (341-98.2009.8.10.0117) da Comarca de Santa Quitéria/MA. In: MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Manutenção de posse. *Processo n. 3412009 (341-98.2009.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Comercial Agrícola e Paineiras, Cláudio Roberto Martelli. Defendant: Francisco Das Chagas Sousa Amorim. São Luís, 2014.

ESCOBAR, A. *La Invención del Tercer Mundo*. Caracas: El perro y la rana, 2007.

FARIAS, C. C. F.; ROSENVALD, N. *Curso de Direito Civil*. v. 6: Reais. 10. ed. rev. ampl. e atual. Salvador: JusPodivm, 2014.

FLICK, U. *Introdução à pesquisa qualitativa*. 3. ed. Porto Alegre: Artmed, 2009.

GASPAR, R. B.; ANDRADE, M. P. Gaúchos no Maranhão: agentes, posições sociais e trajetórias em novas fronteiras do agronegócio. *Revista Pós Ciências Sociais*. v. 11, n. 22, p. 109-128, Jul./Dec. 2014.

MARANHÃO. Instituto de Terras do Maranhão. Petição informando necessidade de intervenção do Instituto de Terras do Maranhão. In: MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Manutenção de posse. *Processo n. 3412009 (341-98.2009.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Comercial Agrícola e Paineiras,

Cláudio Roberto Martelli. Defendant: Francisco Das Chagas Sousa Amorim. São Luís, 2018b.

MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Agravo de Instrumento n. 0079872012 (0001338-39.2012.8.10.0000). *Acórdão n. 117422012*. Agravante: Suzano Papel e Celulose S.A. Apelados: Alberto Alves de Araujo, Cidelia Alves de Araujo, Clemilton Alves de Araujo, Elieude Gonçalves de Paula, Francisco Mota de Sousa, Gilson de Sousa Viana, Jean Araujo de Sousa, João Rodrigues dos Santos, Jose Alves Viana, José Gonzaga Araújo de Sousa, José Viana de Sousa, Josecivaldo dos Santos Viana, Josiane Araújo de Sousa, Marilene de Sousa Viana, Maria José Alves de Araújo, Marly Viana dos Santos, Noemia Alves de Araújo, Osmarino dos Santos Sousa, Raimundo Viana de Sousa, Sebastião Alves Viana, Vanderley Araújo de Sousa. São Luís, 2012b.

MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Interdito proibitório. *Decisão Liminar de 11 de outubro de 2011 no Processo n. 3632011 (363-88.2011.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Alberto Alves de Araujo, Cidelia Alves de Araujo, Clemilton Alves de Araujo, Elieude Gonçalves de Paula, Francisco Mota de Sousa, Gilson de Sousa Viana, Jean Araujo de Sousa, João Rodrigues dos Santos, Jose Alves Viana, José Gonzaga Araújo de Sousa, José Viana de Sousa, Josecivaldo dos Santos Viana, Josiane Araújo de Sousa, Marilene de Sousa Viana, Maria José Alves de Araújo, Marly Viana dos Santos, Noemia Alves de Araújo, Osmarino dos Santos Sousa, Raimundo Viana de Sousa, Sebastião Alves Viana, Vanderley Araújo de Sousa. Defendant: Suzano Papel e Celulose LTDA. São Luís, 2011b.

MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Interdito proibitório. *Ofício n. 1332012 no Processo n. 3632011 (363-88.2011.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Alberto Alves de Araujo, Cidelia Alves de Araujo, Clemilton Alves de Araujo, Elieude Gonçalves de Paula, Francisco Mota de Sousa, Gilson de Sousa Viana, Jean Araujo de Sousa, João Rodrigues dos Santos, Jose Alves Viana, José Gonzaga Araújo de Sousa, José Viana de Sousa, Josecivaldo dos Santos Viana, Josiane Araújo de Sousa, Marilene de Sousa Viana, Maria José Alves de Araújo, Marly Viana dos Santos, Noemia Alves de Araújo, Osmarino dos Santos Sousa, Raimundo Viana de Sousa, Sebastião Alves Viana, Vanderley Araújo de Sousa. Defendant: Suzano Papel e Celulose LTDA. São Luís, 2012a.

MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Manutenção de posse. *Decisão Liminar de 4 de agosto de 2011 no Processo n. 3412009 (341-98.2009.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Comercial Agrícola e Paineiras, Cláudio Roberto Martelli. Defendant: Francisco Das Chagas Sousa Amorim. São Luís, 2011a.

MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Manutenção de posse. *Sentença no Processo n. 3412009 (341-98.2009.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Comercial Agrícola e Paineiras, Cláudio Roberto Martelli. Defendant: Francisco Das Chagas Sousa Amorim. São Luís, 2018a.

MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Reintegração de Posse. *Decisão liminar de 2 de junho de 2009 no Processo n. 1912009 (191-20.2009.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Suzano Papel e Celulose S.A. Defendant: Francisca e Sebastião. São Luís, 2009a.

MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Reintegração de Posse. *Juízo de retratação de 25 de setembro de 2009 no Processo n. 1912009 (191-20.2009.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Suzano Papel e Celulose S.A. Defendant: Francisca e Sebastião. São Luís, 2009c.

MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Reintegração de Posse. *Decisão de revogação de liminar de 13 de janeiro de 2010 no Processo n. 1912009 (191-20.2009.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Suzano Papel e Celulose S.A. Defendant: Francisca e Sebastião. São Luís, 2010a.

MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Reintegração de Posse. *Decisão de revogação de liminar de 16 de maio de 2010 no Processo n. 1912009 (191-20.2009.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Suzano Papel e Celulose S.A. Defendant: Francisca e Sebastião. São Luís, 2010b.

MARANHÃO. Tribunal de Justiça do Estado do Maranhão. *Provimento n. 29/2009, de 11 de agosto de 2009, Corregedoria-Geral da Justiça*. Dispõe sobre recomendação aos(as) Juizes(as) de Direito do Estado do Maranhão para que ouçam o Ministério Público do Maranhão, a Ouvidoria Agrária Nacional, o INCRA e o ITERMA em ações de manutenção e reintegração de posse coletiva envolvendo imóveis rurais ocupados por trabalhadores

rurais sem-terra. São Luís, 2009b. Available at: https://www.mpma.mp.br/arquivos/CAOPDH/20090820_provimento_n_29_recomendacao_ouvidoria_agraria.pdf. Access on: 20 aug. 2018.

MARQUES, M. I. M. A territorialização da empresa Suzano no campo em São Paulo e no Maranhão. *Revista GeoNordeste*, São Cristóvão, Ano XXVII, n. 2, p. 213-227, jul./dez. 2016, p. 214-227. Available at: <https://seer.ufs.br/index.php/geonordeste/article/view/6160/pdf>. Access on: 20 aug. 2018.

MIAILLE, M. *Introdução crítica ao Direito*. 3. ed. Lisboa: Estampa, 2005.

MIGNOLO, W. *Projetos globais, histórias locais: colonialidade, saberes subalternos e pensamento liminar*. Belo Horizonte: UFMG, 2011.

PAINEIRAS. Petição informando degradação ambiental. In: MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Manutenção de posse. *Processo n. 3412009 (341-98.2009.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Comercial Agrícola e Paineiras, Cláudio Roberto Martelli. Defendant: Francisco Das Chagas Sousa Amorim. São Luís, 2013.

PAINEIRAS. Petição inicial. In: MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Manutenção de posse. *Processo n. 3412009 (341-98.2009.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Comercial Agrícola e Paineiras, Cláudio Roberto Martelli. Defendant: Francisco Das Chagas Sousa Amorim. São Luís, 2009.

QUIJANO, A. Colonialidade do poder, eurocentrismo e América Latina. In: LANDER, E. (Org.). *Colonialidade do saber: eurocentrismo e ciências sociais, Perspectivas latino-americanas*. Buenos Aires: CLACSO, 2005. p. 117-142.

QUIJANO, A. El fantasma Del desarrollo em América Latina. *Rer. Venez. de Econ. Y Ciencias Sociales*, v. 6, n. 2, mayo/ago. 2000, p. 73-90.

RIBEIRO JÚNIOR, J. A. S.; OLIVEIRA, D. M. V.; COSTA, S. B. Desenvolvimento, conflitos e impactos ambientais: a territorialização da Suzano e a resistência camponesa na mesorregião do Leste Maranhense. *Geographia Opportuno Tempore*, Londrina, v. 1, n. 2, p. 11-33, Jul./Dec. 2014.

SANTOS, B. S. Direitos humanos, democracia e desenvolvimento. In: SANTOS, B. S.; CHAUI, M. *Direitos humanos, democracia e*

desenvolvimento. São Paulo: Cortez, 2013, p. 41-133.

SANTOS, B. S. *Para uma revolução democrática da justiça*. 3. ed. São Paulo: Cortez, 2011.

SEGATO, R. L. Identidades políticas/Alteridades históricas: una crítica a las certezas del pluralismo global. In.: SEGATO, R. L. *La Nación y sus Otros: raza, etnicidad y diversidad religiosa en tiempos de Políticas de la Identidad*. Buenos Aires: Prometeo, 2007. p. 37-70.

SHIRAIISHI NETO, J. A particularização do universal: povos e comunidades tradicionais face às Declarações e Convenções Internacionais. Prefácio. In: SHIRAIISHI NETO, J. *Direito dos povos e das comunidades tradicionais no Brasil: declarações, convenções internacionais e dispositivos jurídicos definidores de uma política nacional*. Manaus: UEA, 2007. p. 25-52.

SHIVA, V. *Monoculturas da mente: perspectivas da biodiversidade e da biotecnologia*. São Paulo: Gaia, 2003.

SMDH. Agravo de instrumento em face de decisão liminar de 2 de junho de 2009 no Processo n. 1912009 (191-20.2009.8.10.0117). In: MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Reintegração de Posse. *Processo n. 1912009 (191-20.2009.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Suzano Papel e Celulose S.A. Defendant: Francisca e Sebastião. São Luís, 2009b.

SMDH. Contestação no Processo n. 1912009 (191-20.2009.8.10.0117). In: MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Reintegração de Posse. *Processo n. 1912009 (191-20.2009.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Suzano Papel e Celulose S.A. Defendant: Francisca e Sebastião. São Luís, 2009a.

SMDH. Petição inicial do Processo n. 3632011 (363-88.2011.8.10.0117). In: MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Interdito proibitório. *Processo n. 3632011 (363-88.2011.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Alberto Alves de Araujo, Cidelia Alves de Araujo, Clemilton Alves de Araujo, Elieude Gonçalves de Paula, Francisco Mota de Sousa, Gilson de Sousa Viana, Jean Araujo de Sousa, João Rodrigues dos Santos, Jose Alves Viana, José Gonzaga Araújo de Sousa, José Viana de Sousa, Josecivaldo dos Santos Viana, Josiane Araújo de Sousa, Marilene de Sousa Viana, Maria José Alves de Araújo, Marly Viana dos Santos, Noemia Alves de Araújo, Osmarino dos Santos Sousa, Raimundo Viana de Sousa, Sebastião Alves Viana, Vanderley Araújo de

Sousa. Defendat: Suzano Papel e Celulose LTDA. São Luís, 2011.

SMDH. Réplica. In: MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Interdito proibitório. *Processo n. 3632011 (363-88.2011.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Alberto Alves de Araujo, Cidelia Alves de Araujo, Clemilton Alves de Araujo, Elieude Gonçalves de Paula, Francisco Mota de Sousa, Gilson de Sousa Viana, Jean Araujo de Sousa, João Rodrigues dos Santos, Jose Alves Viana, José Gonzaga Araújo de Sousa, José Viana de Sousa, Josecivaldo dos Santos Viana, Josiane Araújo de Sousa, Marilene de Sousa Viana, Maria José Alves de Araújo, Marly Viana dos Santos, Noemia Alves de Araújo, Osmarino dos Santos Sousa, Raimundo Viana de Sousa, Sebastião Alves Viana, Vanderley Araújo de Sousa. Defendat: Suzano Papel e Celulose LTDA. São Luís, 2012.

SUZANO. Petição inicial. In: MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Reintegração de Posse. *Processo n. 1912009 (191-20.2009.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Suzano Papel e Celulose S.A. Defendat: Francisca e Sebastião. São Luís, 2009a.

SUZANO. Apelação. In: MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Reintegração de Posse. *Processo n. 1912009 (191-20.2009.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Suzano Papel e Celulose S.A. Defendat: Francisca e Sebastião. São Luís, 2009b.

SUZANO. Contestação. In: MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Interdito proibitório. *Processo n. 3632011 (363-88.2011.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff: Alberto Alves de Araujo, Cidelia Alves de Araujo, Clemilton Alves de Araujo, Elieude Gonçalves de Paula, Francisco Mota de Sousa, Gilson de Sousa Viana, Jean Araujo de Sousa, João Rodrigues dos Santos, Jose Alves Viana, José Gonzaga Araújo de Sousa, José Viana de Sousa, Josecivaldo dos Santos Viana, Josiane Araújo de Sousa, Marilene de Sousa Viana, Maria José Alves de Araújo, Marly Viana dos Santos, Noemia Alves de Araújo, Osmarino dos Santos Sousa, Raimundo Viana de Sousa, Sebastião Alves Viana, Vanderley Araújo de Sousa. Defendat: Suzano Papel e Celulose LTDA. São Luís, 2012a.

SUZANO. Agravo de instrumento. In: MARANHÃO. Tribunal de Justiça do Estado do Maranhão. Cível. Interdito proibitório. *Processo n. 3632011 (363-88.2011.8.10.0117) da Comarca de Santa Quitéria/MA*. Plaintiff:

Alberto Alves de Araujo, Cidelia Alves de Araujo, Clemilton Alves de Araujo, Elieude Gonçalves de Paula, Francisco Mota de Sousa, Gilson de Sousa Viana, Jean Araujo de Sousa, João Rodrigues dos Santos, Jose Alves Viana, José Gonzaga Araújo de Sousa, José Viana de Sousa, Josecivaldo dos Santos Viana, Josiane Araújo de Sousa, Marilene de Sousa Viana, Maria José Alves de Araújo, Marly Viana dos Santos, Noemia Alves de Araújo, Osmarino dos Santos Sousa, Raimundo Viana de Sousa, Sebastião Alves Viana, Vanderley Araújo de Sousa. Defendant: Suzano Papel e Celulose LTDA. São Luís, 2012b.

SUZANO. *Perfil*. 2018. Available at: <http://www.suzano.com.br/institucional/perfil/>. Access on: 20 aug. 2018.

SUZANO. *Relatório de sustentabilidade de 2016*. 2016. Available at: <http://www.suzano.com.br/wp-content/uploads/2017/07/Relat%C3%B3rio-de-Sustentabilidade-2016-Anexo-final.pdf>. Access on: 20 aug. 2018.

WOLKMER, A. C. *Pluralismo jurídico: fundamentos de uma nova cultura no Direito*. 3. ed. rev. e atual. São Paulo: Alfa Omega, 2001.

Article received on: 11-Mar-2019.

Article accepted on: 4-Sep-2019.

How to quote this article (ABNT):

BRUZACA, R. D.; VIEIRA, A. D. Territorial and Environmental Impacts in the Possessional Conflicts with the Suzano and Paineiras Companies in Baixo Parnaíba Maranhense. *Veredas do Direito*, Belo Horizonte, v. 16, n. 36, p. 237-268, sep./dec. 2019. Available at: <http://www.domhelder.edu.br/revista/index.php/veredas/article/view/1501>. Access on: day month. year.