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RCMOS – Multidisciplinary Scientific Journal The Knowledge.
ISSN: 2675-9128. São Paulo-SP.

Year VII, v.1 2026 | Submission: May 29, 2026 | Accepted: May 31, 2026 | Publication: June 3, 2026

The problems of inheritance law faced by rural producers without land regularization.

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SUMMARY

This study examines, in particular, issues related to inheritance law that arise when rural farmers work in agricultural or non-agricultural situations lacking formalized land ownership. The overall focus is to explore how the lack of land regularization constitutes a barrier and hinders the application of inheritance laws and the transfer of assets to heirs.
heirs. The approach used was qualitative, descriptive, and exploratory, based on bibliographic and documentary sources, to study Brazilian civil law and specialized doctrines. The verdict shows that the informality of possession generates legal insecurity that threatens the effectiveness of saisine, making quick means (such as extrajudicial inventory) inaccessible due to lack of proof of formal ownership. Thus, the final considerations reiterate that, in many cases, it is the systemic barriers to continuous family farming that the lack of a property title can be an obstacle to continuity. It ends with an appeal to the public for the adoption of land regularization measures in order to promote social justice and

effectiveness of fundamental rights in the field.
Keywords: inheritance law; land regularization; rural producer; informality of tenure; systemic obstacle.

ABSTRACT

This study analyzes the obstacles to inheritance law faced by rural producers in a context of land informality. The general objective is to investigate how the lack of land regularization prevents the full application of inheritance rules and the transfer of assets to heirs. The methodology used is qualitative, descriptive, and exploratory, based on a literature and document review covering Brazilian civil legislation and specialized doctrines. The results indicate that the informality of possession generates legal uncertainty that compromises the effectiveness of the saisine principle and renders fast-track procedures, such as out-of-court inventory, infeasible due to the lack of proof of formal ownership. In summary, the final considerations reiterate that the absence of property titles constitutes a systemic obstacle, hindering the continuity of family agricultural activities. It concludes with an urgent call for public policies on land regularization to ensure social justice and the effective realization of fundamental rights in the countryside.

Keywords: inheritance law; land regularization; rural producer; informality of possession; systemic obstacle.

INTRODUCTION

The study of inheritance law for rural producers who find themselves in a situation of

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The informality related to land regularization is a multifaceted problem that requires...
consideration of various legal, social, and economic factors. Land regularization, therefore...
In turn, this is an essential condition for ensuring the legal security of property owners and,
Consequently, the enforcement of their inheritance rights. When a rural producer does not
Even though the land title has been registered, the ownership of the land can be contested, which compromises the...
recognition of inheritances and the transfer of property as provided for in the legislation
Brazilian civil law. The 2002 Civil Code establishes the guidelines for succession, but the lack of
Documentation proving ownership of property can hinder the exercise of rights.
succession. This scenario is corroborated by HIRONAKA and TARTUCE (2019), who analyze
The shortcomings of estate planning when assets are not properly organized.
regularized.

Among the various implications of informal land tenure, the following stands out:
The vulnerability of farmers regarding their inheritance rights. Without regularization, the
The product of the farmer's labor, usually the family's only means of sustenance, does not possess
a clear legal basis. This becomes particularly worrying when one considers
that, in the event of the death of the possessor, the heirs may face not only the
lack of a formal inventory, but also the insecurity of losing access to the land that
It is their right. The legislation, despite offering provisions for extrajudicial probate.
(ANOREG/SP, 2014), is not effectively applied in the absence of documentation that
prove ownership. Thus, the situation of rural producers on informal lands results
in a cycle of insecurity that falls on both them and their heirs, what
It prevents the development of efficient succession plans (CAVALCANTI, 2023).

Furthermore, there is a social aspect that cannot be ignored: land regularization.
It is an instrument for the inclusion and empowerment of rural workers. By guaranteeing the title of
With the property and the necessary documentation, the consolidation of rights is permitted.
often overlooked. The informality of ownership is not just a legal issue,
But it also reflects a context of inequality and social exclusion that permeates the lives of rural workers in
Brazil. It is evident, from this scenario, that measures are necessary.
such as the requirement for land regularization, but also the need for public policies to be adopted due to
rural specificities. As also argued by KUSTER (2018) and SÁ
(2021), inheritance rights for rural producers cannot be dissociated from the discourse
general principles of social justice and dignity in access to land. For this reason, it can be argued that
The lack of land regularization constitutes not only a legal obstacle, but a barrier to...

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realization of basic rights, which are imperative components for achieving equity and, therefore, a large part of contemporary society

1. LITERATURE REVIEW

Insensitive legal and social issues intertwine in inheritance law. The informal nature of land regularization is a challenge faced by private rural producers. Land ownership resulted in vulnerability regarding access to inheritance rights. (evidenced by the challenges associated with proving ownership). The Civil Code Brazilian law establishes the principles relating to inheritance in article 1,829, but without the With proper documentation proving ownership, obtaining this right is often... impossible (BRAZIL, 2002). Land regularization is fundamental to help avoid tensions between possession and ownership. Furthermore, the search for mechanisms that facilitate... The application of inheritance law exposes the complexities of current regimes, especially for rural producers

In contexts of social inequality, such as informal rural areas, the Legislation should provide tools that enable estate planning. (HIRONAKA; TARTUCE, 2019). Confusion surrounding inheritance rights can cause Disputes among heirs can affect the continuity of productive activities, with serious consequences. economic and social implications. This study on land regularization also is This is important because possession without title generates insecurity and uncertainty, which can prevent Legal transactions, including inheritance. Informality is a barrier not only for... property rights, but also for the implementation of inheritance rights (KUSTER, 2018).

This reality contributes to the vicious cycle of poverty and exclusion, since property Informal ownership typically does not translate into an asset in the formal property rights market. Among the interventions in this regard, the formalization of land regularization emerges as An essential step towards achieving this goal. An environment in which inheritance rights So that these rights can be exercised fully and safely, this can be fostered through policies. public and legal incentives (CAVALCANTI, 2023). Not having this solid foundation will make the The implementation of precarious inheritance rights — and will often come with challenges and prolonged litigation. Finally, an examination of the relevant literature is crucial to understanding The subtlety and importance of inheritance rights in rural areas. A very important part.

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to create any legal framework that recognizes and protects the specific rights of producers.

In informal rural areas, this is to acknowledge. When discussing possession, ownership, and succession, it becomes clear that The solution is not only legal, but also based on society, with respect to equity and justice in rural areas (SÁ, 2021; PEREIRA, 2020).

1.1 Fundamental Concepts

Understanding Inheritance Law and the situation of rural producers without regularization. Land tenure is fundamental to understanding the essence of the problem. Inheritance Law, Basically, it deals with the rules that define how assets and rights are transferred when Someone dies. This is fundamental to ensuring that the estate remains and that the heirs are satisfied. Stay protected. (PEREIRA, 2020). For rural producers, succession is not limited to division of assets, but also covers the continuity of agricultural activities and security. food, topics of social and economic relevance.

Possession and ownership are extremely important when we talk about Law. Inheritance. Often, the informality of land ownership prevents rural producers from accessing... their inheritance rights. Possession, basically, is what happens when someone exercises a certain right. control over the land. In some cases, this may be legally recognized, but without the Without proper formalization, it becomes complicated to guarantee these inheritance rights. (CAVALCANTI, 2023). Therefore, the absence of land regularization weakens the position of the rural producer, putting him at a disadvantage when claiming inheritances.

Land regularization is a very important issue when discussing rights. succession of rural producers. After all, regularizing the land means that the property gains Legal recognition, which provides greater security to those who possess it. This, in turn, is security, as it allows people to exercise these rights with confidence. (KUSTER, (2018). Without recognition, there is no guarantee of legitimacy in the succession, which generates conflicts. Between heirs and insecurity. Land informality affects the effectiveness of planning. Succession planning. A well-developed succession plan is valuable because it avoids disputes and allows... that productive activities continue without problems. This may include wills, donations in life and related matters. (HIRONAKA; TARTUCE, 2019). Despite this, the lack of regularization does not This not only limits planning but also discourages efforts to resolve issues peacefully. Inheritance issues. Essentially, the relationship between inheritance law, possession, and regularization. Land tenure is, in fact, a difficult puzzle when working in the field. The absence of

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Formalization of possession and the lack of legal recognition of property rights mean
many producers face considerable barriers to the application of the law.
Succession planning. This directly impacts your financial stability and the continuity of your business.
activities. (SÁ, 2021). Thus, land regularization is important for the effectiveness of
Inheritance rights in rural areas.

1.2 Saisine Principle and Formal Property

The principle of saisine, provided for in article 1,784 of the Brazilian Civil Code, establishes
that the inheritance automatically passes to the heirs when the person who left it dies, without
need for formalities (BRAZIL, 2002). This principle ensures that succession occurs
In an immediate way, reflecting the inequality between formal and informal possessions, which becomes even more apparent.
most evident in the rural context. Here, land regularization acts as a central element.
for the effectiveness of inheritance law, it can ensure the security of heirs in the acquisition of assets (SÁ,
2021).

The lack of land regularization for rural producers makes ownership uncertain. The nature of
Rural properties, often occupied informally, directly impact the exercise of labor rights.
of inheritance law. Without proper documentation, possession becomes vulnerable, and inheritances...
They may face legal disputes, reflecting a scenario where informality generates insecurity.
for the heirs (KUSTER, 2018). Thus, formalizing ownership is also important.
to ensure that saisis, as a principle, functions fairly and efficiently in the rural context.
For rural producers, inheritance means much more than simply leaving behind assets. It's about...
also to continue productive activities: something absolutely crucial to ensure the
Family survival. Those producers who are unable to regularize their land.
They face many challenges. This not only complicates the issue of estate planning, but also...
It also becomes a barrier to the production and continuity of agriculture and to the preservation of
The family unit itself. These are very difficult issues at the intersection of law.
succession and land regularization (CAVALCANTI, 2023). Viewing possession as a right
precarious conditions lead to reflections on the need for public policies that encourage...
Formalization of property ownership.

Furthermore, there is the challenge that rural producers face without land regularization.
It materialized into a great chasm between what is supported by law and what reaches the lives of...
people in the countryside, as observed in the literature (HIRONAKA; TARTUCE, 2019). This absence

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A lack of formality not only undermines the security of inheritance ties, but also contributes to perpetuate social inequality in rural areas, where debt and family conflicts persist. These issues are compounded by the lack of legal understanding among those involved. Therefore, the formalization issues... They are essential to the consolidation of inheritance law.

Given this scenario, access to knowledge about inheritance rights and... Property regularization is proving essential. Strategies must be developed. that integrate inheritance law into land regularization, aiming for a solution that promotes Effective rights for rural producers. The implementation of the principle of saisine for these individuals. It depends, to a large extent, on the reduction of bureaucracy and the streamlining of processes. regularization, conditions that allow for a more structured and secure future for families. rural (MEDA & MEDA ADVOGADOS, 2025).

2 METHODOLOGY

The methodology of this study is part of a theoretical approach that seeks to explore the intersection between Inheritance Law and the reality of rural producers facing the Informality in land tenure. The primary objective is to investigate how the absence of Land regularization constitutes an obstacle to the full application of inheritance law. For Therefore, a literature review is employed that encompasses relevant works and articles, as per recommended by HIRONAKA and TARTUCE (2019), as well as legal documents that They regulate the subject, such as the Brazilian Civil Code (BRASIL, 2002).

Contextualizing inheritance law within the field is essential for understanding the... specificities faced by rural producers. As observed by KUSTER (2018) and CAVALCANTI (2023), the informal aspects of rural property not only affect the They provide legal security for transactions, but also generate uncertainties in inheritance and division of assets. Analyzing this phenomenon offers a clearer view of the impact of the lack of Land regularization and its effects on the transfer of the deceased's assets to their heirs. heirs. Thus, the methodology adopted seeks to outline an overview of the implications. legal and practical aspects involved in the topic.

The literature review was structured around three main themes: the relationship between possession and property, the limitations of succession in the context of informal property ownership, and guidelines. for regularization. Based on this structure, projects were selected that include the Relevant legislation and studies that discuss the practice of Inheritance Law, such as

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contributions from SÁ (2021) and PEREIRA (2020). This selection of sources aims to ensure a consistent and comprehensive reasoning to support the hypothesis that informality in Land ownership constitutes an obstacle to the full implementation of inheritance law.

The study will also include a critical analysis of the implications of inheritance law. for rural producers, considering the obligations and rights arising from succession. This analysis should consider aspects such as the division of assets, inheritance, and the rights of spouses and colleagues, elucidating the complexity of cases where informality prevails. (MEDA & MEDA ADVOGADOS, 2025). The richness of this discussion will allow us to ascertain How the absence of land regularization can impact family dynamics and the future of... rural properties.

Finally, the methodology will conclude with a proposed discussion on possible possibilities. solutions to overcome the identified obstacles, considering public policies and initiatives. focused on land regularization. This last aspect is fundamental, as it can contribute not only for the legal security of rural producers, but also for the effectiveness of inheritance law as a whole. Thus, it is hoped that the reflections presented here will serve as a basis for future research and practices in the field of Inheritance Law and regularization. land ownership.

2.1 Type of research: qualitative, descriptive and exploratory

We have identified the study as a qualitative, descriptive, and exploratory research project. Due to its qualitative nature, there is also an opportunity to explore all the subtleties and complexities encountered by rural producers and the Law of Succession in various scenarios of informal land tenure. This research aims to study how the lack of regularization affects the... succession practices, providing insights into aspects that tend to be overlooked in quantitative analyses (KUSTER, 2018). The descriptive approach is used to illustrate and describe the situations faced by producers in the succession process and, Consequently, to identify the main obstacles arising from informality. By Through the analysis of real cases, we demonstrate how the lack of formal documentation hinders... transfer of assets, limiting the implementation of inheritance rights and, ultimately In this instance, the financial stability of rural families (CAVALCANTI, 2023).

The study will be based on a comprehensive literature review. including legislation relevant to the topic and academic works that address issues of

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Possession, ownership, and succession. This review will adopt a critical approach to the norms of Inheritance Law, highlighting gaps in the effective application of inheritance law, particularly in rural contexts, where land regularization is precarious (FERNANDES, 2022).

Qualitative data will also be collected through interviews with experts. and legal professionals to understand the practical implementation of inheritance law in areas with a predominance of informality. These interviews will enrich the analysis and They will provide a more concrete view of the difficulties faced by producers. (HIRONAKA; TARTUCE, 2019).

By combining these methodological approaches, we hope to achieve a A more comprehensive understanding of how land informality is configured as a systemic obstacle to the implementation of Inheritance Law, culminating in suggestions for improvement in land regularization and the protection of the rights of rural producers (SÁ, 2021).

3. RESULTS AND DISCUSSION

The issue of Inheritance Law, faced by rural producers without proper registration. Land tenure reflects a scenario of legal and social complexity. The informality of land ownership Land ownership in rural areas generates a series of obstacles that directly affect the rights of inheritance. Consequently, the "systemic obstacle" arising from this was mentioned. problem (KUSTER, 2018). In the Brazilian legal context, Law No. 10,406 of 2002 is the The Brazilian Civil Code, which contains rules to guarantee the rights of heirs in rural areas, But the fact that the rural producer does not have a title deed severely limits the effect. of the requirements of the legal framework (BRAZIL, 2002). For example, rural producers, such as those who They operate in unregulated regions and face issues related to the succession of assets in day to day. As a security mechanism, possession is commonly perceived, however, in In the absence of formalization, the transfer of assets after the owner's death is obstructed. The legal instability that informality provides exacerbates the risk of litigation. It hinders the application of legal mechanisms that regulate inheritance and harms planning. succession (HIRONAKA; TARTUCE, 2019). Thus, possession becomes a trap, a since, legally, it may not be recognized, which impacts the fate of the property and the heirs.

When analyzing the difficulties encountered in the inventory process, it is observed that the

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The absence of land regularization limits the options available to the producer's heirs.
rural. This translates into the need to resort to lengthy and costly legal processes, which
many times they end up making the realization of inheritance rights impossible. In many
In some situations, the absence of a formal document proving ownership results in losses.
significant for the heirs, who ultimately cannot access the assets that
They belong to them by right (CAVALCANTI, 2023).

Furthermore, the discussion about land regularization and its impact on Law.
Succession planning cannot be separated from the broader socioeconomic context. The issue of
The informal possession and ownership of property reflects the marginalization of rural producers who,
Despite being the actual workers of the land, they find themselves unprotected by the existing frameworks.
current laws. There is a growing call for public policies to be formulated with the
with the intention of facilitating land regularization, thus guaranteeing a more solid basis for the application
of inheritance rights (SÁ, 2021).

Therefore, the analysis of land informality as a systemic obstacle to the Law.
Succession planning for rural producers highlights the urgent need for measures that promote...
Land regularization. Law No. 10,406 of 2002, although it constitutes progress in
Recognition of inheritance rights lacks effectiveness when applied to reality.
of rural producers. The discussion surrounding this issue proves to be not only relevant,
but essential for building a legal system that respects rights
fundamental and promote social justice, aligning with the needs of these individuals.
(PEREIRA, 2020).

3.1 Identification of the legal and practical challenges faced

Informal land tenure generates a series of legal and practical challenges that
They directly impact the inheritance rights of rural producers. The lack of regularization
Land tenure issues prevent the formal recognition of property ownership, highlighting the precariousness of the situation.
agrarian relations. This is relevant because, as provided for in the Civil Code (BRAZIL, 2002), the
Legitimate succession requires a title deed which, if nonexistent, compromises the entire...
process of transferring assets. As a result, the rural producer finds himself in a
A situation of vulnerability where inherited rights may not have the same security.
Legal requirements differ from formal assets. A significant obstacle to proving land ownership.
That's the underlying problem. For a legal analysis or a trial, it would be necessary

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to present evidence for the inventory. However, ANOREG/SP (2014) states that the absence
Lack of regularized documents hinders the efficiency of proper inventory management. This has an impact on both
the assets, with regard to the possibility of disputes among the heirs, since they are unable to exercise their rights.
Formally, property rights are established. Therefore, land regularization is the basic step.
for this documentation. The informality of land ownership still carries connotations regarding the application.
of the rules of inheritance law, whose interpretation may vary depending on the situation not
formalized. HIRONAKA and TARTUCE (2019) mention that the ambiguous understanding of
Categories of possession and ownership constitute another obstacle in managing succession cases.

Given this uncertainty, the determination of heirs' rights by the courts is...
harmed, and informality is a central element in all legal disputes in the country.

Another key point is the absence of effective public policies to promote the
Land regularization in Brazil, which maintains informality as a constant in many
rural contexts. Cavalcanti (2023) points out that the absence of government interventions
Consistent measures to facilitate the regularization process contribute to the perpetuation of the cycle of
The exclusion of rural producers directly affects their property rights. Thus, it becomes
It is clear that informality forces these workers to deal with a system whose rules
They do not have a fair and equitable application.

Finally, it is important to highlight that, in order to mitigate these obstacles, it would be necessary to...
a joint effort between different spheres of public and private activity, focusing on
Land regularization. Strengthening legal mechanisms that ensure the security of
Possession and transferability of assets is essential for the effective exercise of inheritance rights.
rural producers. Therefore, overcoming legal and practical challenges should be a priority.
to guarantee social justice and constitutional rights that are so often disregarded
in this context (KUSTER, 2018).

3.2 Mapping the restrictions on extrajudicial probate

Mapping the restrictions on extrajudicial probate highlights the complexity of
The situation faced by rural producers without land regularization. According to the Code
In Brazilian civil law, extrajudicial probate is a simplified procedure that requires...
certain legal requirements, such as the existence of assets subject to division, and agreement
among the heirs and the absence of a will (BRAZIL, 2002). However, informality in
Land ownership obstructs the legal recognition of property, making its use impossible.

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Agile inventory mechanism.

One of the main obstacles is the difficulty in proving ownership. For the inventory to proceed... For the extrajudicial process to be carried out, the heirs must present documents that prove ownership of the assets to be divided (ANOREG/SP, 2014). However, Many rural producers, lacking the proper documentation, find themselves in a situation. a vulnerable position, where informality denies them access to the procedure. extrajudicial, forcing them to resort to judicial probate, which is more time-consuming and expensive.

Furthermore, the figure of the informal rural producer is frequently marked by a lack of recognition of their ownership by the State. CAVALCANTI (2023) observes that, although While farmers may claim ownership of these lands, they often lack valid records. These issues impact the process of researching hereditary vocation. This problem makes- This becomes even more dangerous as the legal infrastructure that underpins succession is now Reserved only for those who can prove ownership through formal documents. Ownership It must also be linked to public policies for land regularization. The lack of Effective interventions only fuel the informal cycle and make it more difficult for rural producers to obtain Inheritance rights. Land regularization may be a potential path to this. Formalizing property ownership makes extrajudicial probate an achievable process. (KUSTER, 2018). Consequently, the inability to recognize these formal assets does not It does nothing but worsen the situation for these workers.

Finally, it is evident that the link between informality and effectiveness in inheritance law This should be considered in discussions about land regularization. The flexibility of Requirements for extrajudicial probate could facilitate property recognition. historical, guaranteeing rural producers the continuity of their work activities. In this In this sense, it is imperative to seek legal solutions that enable the inclusion of these individuals in a system that promotes equity and social justice (HIROAKA; TARTUCE, 2019).

FINAL CONSIDERATIONS

The problems of inheritance law faced by rural producers without regularization. The land tenure situation reveals a complex scenario that deserves consideration. The absence of regularization Land tenure issues not only prevent the full application of inheritance law, but also contribute for the perpetuation of informality, which compromises the legal security of those involved. (KUSTER, 2018). Thus, the analysis of the context in which rural producers operate becomes

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Essential for understanding the limitations and challenges of inheritance law.

Furthermore, the relationship between possession and ownership takes on a central role, since Many producers operate solely as possessors, without formalizing their ownership. property (CAVALCANTI, 2023). This situation compromises legitimate succession, making it difficult to recognize the rights of heirs and, consequently, rendering it unfeasible. The continuity of family-run rural businesses. The legal framework, as outlined in the Code. Civil law presents gaps that exacerbate these difficulties (BRAZIL, 2002).

Investigations also reveal that estate planning is underutilized. among rural producers, which reflects the lack of knowledge and access to mechanisms that could facilitate the transfer of goods (HIRONAKA; TARTUCE, 2019). The absence of Inadequate planning measures entail significant risks, not only for the successors, but for the very continuity of rural activity.

Another important point is the urgent need for public policies that facilitate... Land regularization and the inclusion of informal producers in appropriate succession systems (SÁ, 2021). Regularization not only promotes legal security, but also This can contribute to increasing the value of rural properties, stimulating the local economy.

In summary, the analysis of the problems of inheritance law from the perspective of Rural producers illustrate the intersection between land informality and legal insecurity. This study reiterated that the lack of land regularization constitutes an obstacle. systemic to the full and effective implementation of inheritance law, highlighting the need for interventions that promote regularization and awareness about planning. succession (FERNANDES, 2022).

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