

THE IMMUNITY FROM SEIZURE OF SMALL RURAL PROPERTY: BURDEN OF PROOF AND THE LEGAL-SOCIAL IMPLICATIONS OF THE STJ THEME 1.234 FOR THE EXECUTIVE PROCESS OF AGRICULTURAL DEBTS

A IMPENHORABILIDADE DA PEQUENA PROPRIEDADE RURAL: ÔNUS DA PROVA E AS IMPLICAÇÕES (REPERCUSSÃO JURÍDICO-SOCIAL) DA FIXAÇÃO DO TEMA 1.234 DO STJ PARA O PROCESSO EXECUTIVO DE DÍVIDAS AGRÍCOLAS

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RESUMO

Este artigo aborda a impenhorabilidade da pequena propriedade rural sob a ótica da Constituição Federal de 1988, com ênfase na análise do julgamento do Recurso Especial nº 2.080.023 pelo Superior Tribunal de Justiça (STJ). A proteção constitucional da pequena propriedade rural encontra fundamento no artigo 5º, inciso XXVI, da Carta Magna, sendo reforçada por dispositivos infraconstitucionais, como o artigo 833, inciso VIII, do Código de Processo Civil. No Tema 1.234, o STJ definiu, em caráter vinculante, que o ônus de comprovar a exploração familiar da propriedade recai sobre o devedor, consolidando um entendimento jurisprudencial. A decisão ressalta a importância da propriedade rural como meio de subsistência e subsume-se à lógica constitucional de proteção à dignidade humana e ao direito ao trabalho. Concluir-se-á que a tese firmada pelo STJ harmoniza a proteção da pequena propriedade rural com os interesses dos credores, promovendo segurança jurídica e equilíbrio no sistema processual.

Palavras-Chave: Impenhorabilidade. Pequena Propriedade Rural. Exploração Familiar. Ônus da Prova. Direito Agrário. Tema 1.234 do STJ.

ABSTRACT

This article addresses the immunity from seizure of small rural property from the perspective of the 1988 Federal Constitution, with an emphasis on the analysis of the judgment of Special Appeal nº 2.080.023 by the Superior Court of Justice (STJ). The constitutional protection of this asset is grounded in article 5, subsection XXVI, of the Constitution, reinforced by infra-constitutional provisions such as article 833, subsection VIII, of the Code of Civil Procedure. Under Theme 1.234, the STJ established, with binding effect, that the burden of proving the family-based utilization

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of the property lies with the debtor, consolidating a jurisprudential understanding. The decision highlights the importance of rural property as a means of subsistence and aligns with the constitutional rationale of protecting human dignity and the right to work. It will be concluded that the thesis established by the STJ harmonizes the protection of small rural property with the interests of creditors, promoting legal certainty and balance in the procedural system.

Keywords: Immunity from Seizure. Small Rural Property. Family-Based Utilization. Burden of Proof. Agrarian Law. Theme 1.234 the STJ.

INTRODUCTION

When the Supreme Courts take a stand on legal issues of high social relevance, such as the impenetrability of small rural properties, the central theme of this study, society as a whole is impacted. These decisions consolidate jurisprudential understandings and standardize the application of the Law, promoting greater legal certainty and strengthening the constitutional principles that guide the democratic Rule of Law.

In this context, the determination of the Superior Court of Justice (STJ) of the Theme 1.234 has a direct impact on procedural relations involving small farmers and their creditors, by defining that the burden of proving family exploitation of a small rural property in order to recognize its unenforceability falls on the debtor. The decision not only unifies previously divergent jurisprudential understandings, but also reinforces the need to reconcile the protection of family subsistence with the effectiveness of the enforcement process, ensuring greater legal certainty and predictability in the application of the rule.

The protection of small rural properties, guaranteed by the article 5, item XXVI, of the Federal Constitution of 1988, is based on the principle of human dignity and the promotion of the right to work. In addressing the developments of the Theme 1.234, this study seeks to analyze how the distribution of the burden of proof impacts procedural practice and the rights of the parties involved, especially in situations where the livelihood of the farmer is at stake.

The main objective of this article is to reflect on the repercussions of the thesis established by the STJ and its consequences for the balance between the interests of the creditor and the debtor. In order to do so, it is essential to understand the constitutional and legal foundations that support unseizability and the reasons that justify placing the burden of proof on the debtor.

The problem we propose to investigate is whether, by imposing on the debtor the burden of proving family exploitation of the small rural property, there is an adequate balance between the constitutional guarantee of unseizability and the rights of the creditor in the enforcement of agricultural debts, and whether the legal and social repercussions of the decision under study are compatible with legal certainty and the enforcement process. This issue is particularly relevant in a scenario of intensified judicial foreclosures and agrarian conflicts.

The relevance of this research stems from the social and economic impact of protecting small rural properties. In a country with a strong agrarian tradition like Brazil, where thousands of families depend on rural activity for their livelihood, recognizing the impenetrability of property is an indispensable mechanism for guaranteeing not only the right to property, but also the maintenance of the family nucleus and productive activity. It is worth noting that, according to the latest Agricultural Census (IBGE, 2017), family farming employed more than 10 million people in September of 2017, which corresponds to 67% of all people employed in agriculture, and it is responsible for the income of 40% of the economically active population.

However, the justification for this study lies in the challenge of ensuring that the constitutional right to unseizability is applied in an equitable manner, without distorting the function of the enforcement process and without making it impossible to satisfy claims. The decision of the STJ in the Theme 1.234 is an opportunity to reflect on the limits and possibilities of current legislation in the face of the real needs of the parties.

In order to structure this analysis, the article has been divided into three parts. The first deals with the legislative and jurisprudential evolution of the unseizability of small rural properties. The second part highlights the constitutional and procedural foundations that underpin the thesis established by the STJ. The third section discusses the practical impacts of the decision, both for creditors and small farmers, in the light of legal certainty and the balance of procedural relations.

As for the methodology, a logical-deductive basis was used, with consultation of bibliographic sources, as well as analysis of precedents of the STJ. The choice of this method allowed for a systematic and in-depth approach to the subject, seeking to confirm the hypotheses presented and contribute to the academic and legal debate.

Finally, this research seeks to demonstrate that the understanding established by the STJ in the Theme 1.234 promotes a constitutionally appropriate interpretation,

harmonizing the rights in dispute and strengthening the role of the Judiciary as a guarantor of social justice and sustainable development in the legal-procedural field.

1 LEGAL GROUNDS FOR THE UNSEIZABILITY OF SMALL RURAL PROPERTIES

The protection of small rural properties in the Brazilian legal system has historical roots that go back to the Code of Civil Procedure of 1939, which, in its article 942, item X, expressly provided for the unseizability of rural properties valued, for tax purposes, at two “contos de réis” or less. This safeguard was conditional on the property being used as the home of the debtor and being exploited by the own of the debtor or the labor of the family, revealing the legislative concern with maintaining the subsistence of small rural producers.

The Federal Constitution of 1988, in turn, extended this protection by granting small rural properties the status of a fundamental right, as set out in the article 5, item XXVI, which expressly provides for their unenforceability when worked by the family. With this, the Magna Charter removed previous infra-constitutional limitations and reaffirmed the role of this institute as an essential instrument for guaranteeing human dignity and the continuity of family farming activities. It should be noted that in the Constitutions prior to 1988 there was no provision establishing the unseizability of rural property.

The infra-constitutional regulation of this provision came with the Law No. 8,009 of 1990, in the article 1, which established the unenforceability of the own residential property of the couple or the family entity, extending this prerogative to small rural properties when intended for the home and subsistence of the family. This rule, of public and cogent order, had the aim of preserving the minimum assets of the farmer, guaranteeing legal security and preventing them from being deprived of the property that is essential to their survival.

In 1993, the Federal Law 8.629 was enacted, which further regulated the constitutional provisions relating to land reform. In the article 4, items I, II and III, this law defined rural property as that situated in a continuous area, regardless of its location, which is or may be used for agricultural, livestock, plant extraction, forestry or agro-industrial exploitation. In addition, it established that a small rural property

corresponds to a property whose area does not exceed four fiscal modules, respecting the minimum fraction of parceling provided for in the agrarian legislation.

Later, Law 11.326 of 2006 introduced a specific definition of family farmer and rural family entrepreneur, consolidating criteria that reinforce the link between smallholdings and productive exploitation by the family. According to the article 3 of the law, in order to fall into this category, rural producers must cumulatively: (i) not have an area of more than four fiscal modules (item I); (ii) predominantly use family labor in the economic activities carried out on the property (item II); (iii) have a significant portion of the income of the family coming from the exploitation of the property (item III); and (iv) directly manage the establishment together with their family members (item IV).

The Brazilian Forest Code, enacted by the Law No. 12,651 of 2012, reinforced the protection of small rural properties, consolidating in its article 3, item V, the definition of small rural family property or possession as that explored by a family farmer or rural family entrepreneur, encompassing settlements and agrarian reform projects, and recognizing the importance of environmental sustainability in the preservation of these spaces.

These normative provisions show that small rural property is a legal concept based on the small size of the area, the productive exploitation for family subsistence and the protection of assets against judicial constraints, when the constitutional and legal requirements are met. Therefore, for unseizability to be recognized, two fundamental criteria must be met, both the classification of the property as a small rural property and the exploitation of the land by the family for subsistence purposes.

Both the Federal Constitution (article 5, item XXVI) and the Code of Civil Procedure of 2015 (article 833, item VIII) reaffirm this protection, prohibiting the seizure of small rural properties when they are used for housing and family production. The protection afforded by these rules extends even in cases where the property has been offered as a mortgage guarantee, since the aim of the rule is to preserve the livelihood of the farmer and prevent him from being deprived of his essential means of support.

Commenting on the article 833, VIII, of the Codex Proceduralist, Nelson Nery Junior and Rosa Maria de Andrade Nery³ teach:

³**Código de Processo Civil comentado.** 22. ed. São Paulo: Revista dos Tribunais, 2024. p. 1.505.

Pequena propriedade rural. O CPC/1973, art. 649, VIII, havia sido alterado pela Lei nº 11.382/2006 de forma que constasse do rol de bens impenhoráveis a pequena propriedade rural. Todavia, a alteração era desnecessária, tendo em vista que a impenhorabilidade da pequena propriedade rural é constitucionalmente garantida (CF 5º XXVI). Tanto o dispositivo constitucional quanto o CPC, art. 833, VIII, que perpetuou a previsão do CPC/1973, art. 649, VIII, exigem que tal propriedade seja trabalhada pela família, de forma que o proprietário possa ser beneficiado pela impenhorabilidade. Isso porque a impenhorabilidade, novamente, visa manter a dignidade do executado, que poderá se manter mesmo na pendência de execução.

Thus, the author demonstrates that unseizability is a constitutional guarantee for the family's work on its own property. In this sense, unseizability is characterized by an assurances provision. According to José Afonso da Silva, there are merely declaratory provisions and assurances. The latter are instruments of guarantees in defense of the former, since their function is to limit power. It can therefore be said that the unseizability of small family properties is a guarantee provision (art. 5, XXII and XXVI, of the Federal Constitution) and the fundamental right to property is a declaratory provision (art. 5, caput, of the Federal Constitution).

When it comes to the constitutional guarantee of the unseizability of small rural properties, Eugenio Facchini Neto teaches that

a jurisprudência dos tribunais superiores estabelece que ela tem aplicação imediata, alcançando mesmo processos e penhoras anteriores à CF, prevalecendo mesmo em face de hipoteca dada pelo proprietário, pode ser argüível até o final da execução, independentemente de oposição de embargo do devedor e é irrenunciável.⁴

Gilson Delgado Miranda⁵, highlighting the relationship with the Federal Constitution, comments the same proceduralist device:

A pequena propriedade rural é considerada impenhorável na medida em que se assegura dignidade do devedor agricultor e de sua família. Para o texto do NCPC, os pressupostos da impenhorabilidade são dois: a) pequena propriedade rural, assim definida em lei; b) trabalhada pela família. Muito bem: a mesma preocupação, além da humanitária, a social, especialmente para “preservar as fontes de subsistência da família”, motivou o legislador a incluir na CF, como princípio fundamental, protegido, pois, por cláusula pétreia, a impenhorabilidade da pequena propriedade de exploração rural (art. 5º, XXVI).

As argued by Gilson Delgado de Miranda, the impenetrable nature of small rural properties, under the terms of the article 5, item XXVI, of the Federal Constitution, is an

⁴CANOTILHO, J. J. Gomes; SARLET, Ingo Wolfgang; STRECK, Lenio Luiz; MENDES, Gilmar Ferreira (coord.). *Comentários à Constituição do Brasil*. 2. ed. São Paulo: Saraiva Educação, 2018. p. 346.

⁵Comentários ao Código de Processo Civil. Coordenação: Cassio Scarpinella Bueno. São Paulo: Saraiva, v 3. 2017. p. 649.

essential protective mechanism designed to guarantee the maintenance of productive activity and the farmer's livelihood of the farmer. The New Code of Civil Procedure, by incorporating the provision previously contained in the article 649, item VIII, of the Code of Civil Procedure of 1973, has given broader protection to the small producer, by not making the impenetrability conditional on the origin of the debt, unlike the constitutional rule. In this sense, the expansion of this right by infra-constitutional legislation does not affront the constitutional text, but rather strengthens the protection of the farmer's minimum assets, since the provision contained in the Constitution establishes a normative floor that can be expanded, as long as it is not restricted. Thus, the legislative choice of the procedural code strengthens the effectiveness of the fundamental right, ensuring more legal certainty and stability in procedural relations, without compromising the balance between the interests of creditors and the preservation of the dignity of the small rural producer.

In this way, the unseizability of small rural properties not only protects the minimum assets necessary for the survival of the farmer and his family, but also contributes to the realization of the constitutional principles of human dignity, the right to work and the social function of property. At the same time, this protection ensures a balance between the rights of the farmer and the creditors, guaranteeing that enforcement respects the social values of work and the need to preserve the rural environment as a space for sustainable development.

The normative and jurisprudential evolution that has consolidated the unenforceability of small rural properties reveals the concern of the legal system with preserving family subsistence and protecting the dignity of farmers. In addition, the legal system is also concerned with the legal security of credit relations, seeking to balance the protection of small rural producers with the effectiveness of the enforcement process. This balance aims to prevent the impenetrable nature of small rural properties from being used as an instrument of abusive resistance to the satisfaction of legitimate obligations, ensuring that the rule does not make it impossible for creditors to obtain effective judicial protection.

The systematization of a more rigorous and technical jurisprudence in this field reinforces the need to interpret the rule with objective criteria, ensuring that small rural property is protected only when it is effectively used for family subsistence, without this becoming a means of making the legitimate execution of contractual obligations unfeasible.

However, the practical application of this protection generated intense debates about the distribution of the burden of proof, especially in the context of executive proceedings. The lack of a uniform criterion as to who should prove the productive use of the property resulted in divergent interpretations in the courts, compromising legal certainty and the effectiveness of judicial decisions.

Faced with this scenario, the STJ, in establishing the thesis of the Topic under study, settled on the understanding that it is up to the debtor to demonstrate the family exploitation of the property in order for the impenability to be recognized. This definition represented a milestone in the procedural system by establishing objective parameters for the application of the rule, directly impacting the balance between the protection of small rural properties and the right of creditors to satisfaction of their claims.

2 ANALYSIS OF THE DECISION ON THE THEME 1.234: THE DEFINITION OF THE BURDEN OF PROOF AND ITS IMPACT ON THE UNSEIZABILITY OF SMALL RURAL PROPERTIES

The decision handed down by the STJ in the Theme 1.234, under the system of repetitive appeals, represents a relevant milestone for procedural and agrarian law, by establishing that the burden of proving that the small rural property is operated by the family falls on the debtor. This definition ends a jurisprudential controversy in the courts of the country, as well as between decisions of the Superior Court itself, bringing more legal certainty and uniformity in the application of the rule.

In the court of origin, where the enforcement process later analyzed by the STJ began, the pre-enforcement exception filed by the defendants was rejected at first instance. On that occasion, the defendants claimed that the seizure of the property should be overturned and that it should be recognized as unseizable, on the grounds that it was a small rural property operated by the family.

On appeal, the interlocutory appeal (Court of Justice of the state of Minas Gerais, Interlocutory Appeal-Cv no. 1.0000.22.187285-6/00) was upheld, establishing the understanding that it is the responsibility of the debtor to demonstrate that the property meets the legal requirements to be classified as a small rural property, while the responsibility of the creditor is to produce evidence to the contrary, demonstrating the absence of family exploitation of the land. Due to this legal delimitation, the

suspension of the attachment and the consequent exclusion of the respective registration from the registry of the property were ordered.

Dissatisfied with the judgment handed down by the Court of Justice, the creditor filed a special appeal, raising the existence of a divergence in case law between the groups of the STJ regarding the distribution of the burden of proof in cases involving the unseizability of small rural properties. At the same time, the procedural controversy demonstrates that the lack of uniformity in the interpretation of the matter compromised legal certainty and the predictability of judicial decisions in the context of enforcement proceedings.

Given the relevance of the issue and the need to settle case law, the appeal was assigned to the repetitive appeals rite, under the terms of articles 1.036 et seq. of the Code of Civil Procedure, leading to the establishment of Theme 1.234. The appellate instrument affected (REsp 2.080.023/MG, with Justice Nancy Andrigi as rapporteur) had the aim of establishing binding guidelines on the distribution of the burden of proof, specifically with regard to demonstrating the productive exploitation of small rural properties for the purposes of recognizing the unseizability provided for in article 5, item XXVI, of the Federal Constitution.

In addition to the constitutional provision, the legal foundations of the judgment under review include the provisions of the article 833, item VIII, of the Code of Civil Procedure. Based on this legal framework, in order for the property to be declared unseizable, two specific requirements must be met: the property must be classified as a small rural property, with an area of up to four fiscal modules, as defined by the Law No. 8,629 of 1993, and it must be exploited by family labor. The ruling also stated that it is up to the debtor to prove these requirements, based on the distribution of the burden of proof, pointing out that it is more reasonable to demand this demonstration from those who have full access to and knowledge of the property.

Another important point of the ruling is the rejection of a relative presumption of family exploitation of small rural properties, as occurs with family property. According to the ruling, the rule that small rural properties cannot be seized is not only intended to protect the right to housing, but also to preserve family subsistence through work.

Thus, it was noted in the decision that the rule requires that the link between the property and family exploitation be proven by the debtor, as a way of preventing rural properties with a different purpose, such as leisure or business exploitation, from being unduly protected.

By establishing the binding thesis, the Supreme Court not only unified the understanding on the subject, but also consolidated the constitutionally appropriate interpretation of the article 833, item VIII, of the Code of Civil Procedure. The ruling reinforces the balance between the social protection of small farmers and the need to guarantee the rights of creditors, promoting greater efficiency in the enforcement process and protecting the principles of legal certainty and human dignity.

The practical impact of this decision is of great importance both for the protection of small farmers and for the effectiveness of the enforcement process, ensuring more balance in the legal relationships involving the unseizability of small rural properties. On the one hand, the decision preserves the social function of property, ensuring that property essential to family subsistence is not compromised by foreclosures that could deprive farmers of their livelihoods. On the other hand, it reinforces legal certainty by defining objective criteria that give predictability to the parties involved, mitigating unnecessary litigation and reducing excessive judicialization of the matter.

The strengthening of the protection of small farmers stems from the recognition that small rural property is a central element of the family economy and is indispensable for maintaining the dignity of rural workers and guaranteeing their economic autonomy.

The requirement to prove family productive exploitation prevents properties used for other purposes from unduly benefiting from impenetrability, ensuring that the legal institute fulfills its primary objective: preserving the minimum existential needs of rural producers⁶.

As such, the ruling reaffirms the constitutional protection of family farmers, preventing them from being exposed to excessive vulnerability in the face of enforcement mechanisms that could place them in a situation of helplessness.

At the same time, the decision also represents a significant advance in the procedural dynamics of executions by making it easier for creditors to fulfill their obligations to prove their case. Setting the burden of proof on the debtor means that the creditor is not forced to produce negative evidence, which in practice made it extremely difficult to rebut the presumption of unseizability.

It is worth noting that, in the context of forced execution, the presumption of unseizability does not operate absolutely, and it is up to the defendant to demonstrate that the property meets the legal requirements to be protected from judicial constriction

⁶RIZZARDO, Arnaldo. **Direito das coisas**. 9. ed. Rio de Janeiro: Forense, 2021.

and gives the creditor/executor the role of analyzing the documents presented by the debtor, enabling a careful assessment of the veracity and sufficiency of the evidence produced.

Notwithstanding these procedural aspects, the standardization of jurisprudence resulting from the establishment of the thesis makes the enforcement process faster and more efficient, as it reduces the risk of contradictory decisions among courts and avoids the unnecessary prolongation of litigation over the attachability of small rural properties.

By applying stricter criteria and requiring effective proof of family productive exploitation, the enforcement procedure gains more predictability, ensuring that the creditor is not deprived of legitimate means of satisfying his claim, and that the debtor does not use attachment as a strategy to unduly resist enforcement.

In this scenario, the decision in the Theme 1.234 not only protects small farmers, but also improves the enforcement process, allowing creditors to have more legal certainty when granting rural credit and fulfilling procedural obligations. Improving these contractual relationships favors the development of the agricultural sector, allowing access to financing and productive resources to occur in a more structured way, benefiting the entire agribusiness production chain and promoting more stability in business and institutional relations.

Another issue worth highlighting is that the requirement for proof by the debtor avoids the misuse of the unseizability rule and ensures that the small rural property is effectively used as an instrument of family subsistence, in line with the constitutional objectives of social justice and sustainable economic development.

The determination that it is the responsibility of the debtor to prove that the property is used by the family has significantly altered the way foreclosures involving this type of property are conducted, requiring more rigorous proof of the use of the property and redefining the role of the creditor in producing contrary evidence.

Furthermore, an analysis of the implications of this thesis for the enforcement process reveals not only the effects of the decision on the effectiveness of enforcement, but also the need to make the protection of family subsistence compatible with the principles of reasonableness, proportionality and legal certainty in obligatory relationships.

3 IMPLICATIONS OF THE THEME 1.234 OF THE STJ FOR EXECUTIVE PROCEEDINGS: EFFECTS ON THE IMPENETRABILITY OF SMALL RURAL PROPERTIES

As explained in the previous section, the determination of the STJ of the Theme 1.234 had significant repercussions for enforcement proceedings, especially with regard to the distribution of the burden of proof in cases involving the impenetrable nature of small rural properties.

By assigning the debtor the responsibility of demonstrating that the property is exploited by the family for subsistence purposes, the ruling consolidated objective criteria, reducing interpretative uncertainties and promoting greater legal certainty in the application of the rule.

One of the main impacts of the decision is to strengthen legal certainty for both creditors and debtors. The requirement that the debtor demonstrate that the legal requirements have been met prevents undue use of the constitutional protection, preventing properties that do not fulfill their rural social function from being unduly covered by the institute of impenetrability. This guideline reduces unfounded litigation, speeding up the enforcement process, as it more precisely defines the evidence needed to prevent the judicial seizure of the property.

In this respect, the thesis established in the Theme 1.234 promotes a balance between the interests of the parties, guaranteeing protection for family subsistence without compromising the effectiveness of the enforcement process. The STJ reaffirmed that the impenetrable nature of small rural properties is not absolute, imposing on the debtor the duty to demonstrate the link of the property to family productive activity. Therefore, the decision is in line with the principles of reasonableness and proportionality, preventing properties intended for other purposes, such as leisure or business exploitation, from being protected by the rule, compromising legitimate credit rights.

With regard to the production of evidence, the new understanding imposes on the debtor the obligation to instruct the process with suitable documentation, such as certificates, records of productive activities, agricultural supply contracts, tax declarations and testimonies attesting to the economic exploitation of the property by the family.

On the other hand, the creditor, when challenging the alleged impenetrability, must present suitable evidence to demonstrate the absence of a productive family use for the property. This dynamic strengthens the adversarial process and the broad defense, preventing generic allegations that obstruct the executive process.

Another relevant effect of the establishment of the thesis concerns the security of financing granted to small rural producers. By establishing clear criteria for the pledgeability of rural property, the ruling provides more predictability for financial institutions and agricultural credit providers, allowing these agents to more accurately assess the risk of financial operations.

Defining the burden of the debtor of proof ensures that constitutional protection is not abused to frustrate legitimate executions, encouraging the market to make credit lines more accessible to small rural producers, expanding their financial resources and productive capacity.

In conclusion, the thesis established in the Theme 1.234 also reinforces the importance of the judicious action of the magistrate in conducting the process. When applying the parameters defined in the decision, the judge must assess the peculiarities of each specific case, and may redistribute the burden of proof when the hypo-sufficiency of one of the parties is evident, as provided for in the article 373, paragraph 1, of the Code of Civil Procedure.

Consequently, the consolidation of this jurisprudential understanding standardizes the application of the rule, strengthens due legal process and promotes greater effectiveness and justice within the executive process, balancing the rights of the defendant and the plaintiff within the Brazilian legal-procedural system.

CONCLUSION

The thesis established by the STJ in the Theme 1.234 proved to be a fundamental interpretative milestone with regard to the unenforceability of small rural properties, bringing more legal certainty and predictability to the enforcement process.

By placing the burden of proof on the debtor as to the use of the property by the family, the Court not only standardized case law, but also ensured a balanced application of the rule, guaranteeing that constitutional protection would not be used indiscriminately to frustrate legitimate executions.

In effect, the decision harmonizes the interests of creditors and debtors, preventing impenitability from becoming an absolute obstacle to the satisfaction of legally contracted obligations.

In answering the central question of this study, it can be seen that the decision of the STJ does not guarantee the right to small rural properties to the detriment of the rights of the creditors, but rather promotes a necessary adjustment between the preservation of family farmers' minimum assets and the effectiveness of the enforcement process.

The understanding of the Superior Court reaffirms that the unseizability of small rural properties is not absolute, requiring objective proof of their productive use and their link to the subsistence of the family. This avoids the indiscriminate granting of this legal protection, ensuring that only those who really meet the constitutional requirements are covered by the protective rule.

In this respect, the decision strengthens the environment of legal certainty for financial agents, especially those who grant rural credit and finance the productive activity of small farmers.

The clear delimitation of the impenitability criteria makes it possible to plan credit operations more precisely, allowing financial institutions and input suppliers to establish business relationships with less risk and more predictability. This stability contributes to increased access to credit for small rural producers, enabling investments in the property and fostering the sustainable development of the agricultural sector.

On the other hand, the standardization of jurisprudence also improves the procedural system, since the clear distribution of the burden of proof reduces unfounded disputes and prevents the undue prolongation of litigation.

By establishing that it is the debtor's responsibility to prove family exploitation of the land, Theme 1.234 simplified the dynamics of evidence and reinforced the need for adequate documentation on the part of the defendants, making the enforcement process more effective. At the same time, it guaranteed the creditor the prerogative to produce contrary evidence, avoiding damage resulting from the automatic presumption of unseizability.

Another relevant point of the decision is the appreciation of the magistrate's role in conducting the enforcement process, imposing on him the duty to analyze the particularities of the specific case, being able to redistribute the burden of proof, under

the terms of the article 373, § 1, of the Code of Civil Procedure, when the evidentiary difficulty of one of the parties is evident.

This way, the thesis under study not only standardizes the interpretation of the rule, but also safeguards the autonomy of the magistrate to adopt procedural solutions suited to the reality of each dispute, balancing legal certainty and material justice.

For all the above reasons, we conclude that the decision of the STJ represents a significant advance in the constitutional interpretation of the unseizability of small rural properties, promoting greater equity in the enforcement process and ensuring that the protection of these assets is applied with discretion and responsibility.

The decision not only improves the protection of family subsistence and the right to housing, but also strengthens rural credit and preserves the health of contractual relations, guaranteeing a more stable legal environment that is compatible with the principles of human dignity, the social function of property and good faith in contractual relations.

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