

The Engenho da Rainha: scopes of rights and conflict in the lands of Carlota (1819-1824)

O Engenho da Rainha: feixes de direitos e conflitos nas terras de Carlota (1819-1824)

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RESUMO

O artigo analisa as disputas das terras, em tese pertencentes a Carlota Joaquina, na região hoje conhecida como o Engenho da Rainha. Em contraponto à memória que se firmou sobre o total desinteresse de Carlota – “destas terras não quero nem o pó” – o texto deslinda as várias percepções sobre o direito à terra e reconstrói as estratégias utilizadas pelo procurador da rainha para salvar sua propriedade, numa conjuntura em que a emblemática Carlota Joaquina já não mais se encontrava no Brasil. A nosso ver, ao investigar como funcionaram os feixes de direitos para construir escalas de apropriação que evitassem a deslegitimação da propriedade do Engenho pela Rainha, o texto escrutina a capacidade da antiga soberana do Reino Unido em manter o domínio sobre o seu Engenho no Rio de Janeiro.

Palavras-chave: Carlota Joaquina; feixe de direitos; propriedades.

ABSTRACT

This article analyses the dispute over land located in the region known as Engenho da Rainha, theoretically belonging to Carlota Joaquina. Contrary to the established memory of Carlota's complete lack of interest in this property – “from these lands I do not even want the dust” – this article unveils various perceptions on the right to land and retraces the strategies used by the Queen's attorney in order to safeguard Her property with emblematic Carlota Joaquina no longer in Brazil. In our view, by means of the investigation of how the scopes of rights operated in order to build scales of appropriation that would avoid the delegitimization of the property of the Engenho by the Queen, this article scrutinizes the capacity of the Ruler of the former United Kingdom and to enforce ownership of her Engenho in Rio de Janeiro.

Keywords: Carlota Joaquina; scopes of rights; properties.

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Few characters have impacted both Brazil's history and memory as much as Carlota Joaquina has. When the movie *Carlota Joaquina: a princesa do Brasil* was released, in 1995, Brazil had access to a specific standpoint regarding her: she was ugly, lewd and hated her forced stay on Brazilian territory. Actress Marieta Severo excelled in playing Carlota's role, as did actor Marco Nanini in playing Dom João VI. Their acting helped impart an impression on the characteristics, lifestyles, vices and virtues of these characters.² This text neither aims at investigating Carlota Joaquina's political trajectory nor at investigating her condition as a woman in the realm of what we would call gender history for at least two reasons.

First, Carlota Joaquina has a marked presence in both Brazilian and Portuguese historiography. There are tens of important texts on her. Among these, Francisco Benevides' text (Benevides was a member of the Academia Real de Ciências), called *Rainhas de Portugal. As mulheres que construíram a Nação* [Queens of Portugal. The women who have built the nation], written between 1878 and 1879 (Benevides, 1878-1879) is worth mentioning. The text investigates the contributions of women to the consolidation of Portugal as a Kingdom and is marked by a positivistic view and an obsession with facts: "I made all possible efforts in the attempt to find the truth" (ibid., p. 7). Anyway, many among positivistic historians and memorialists used this inaugural text to reaffirm, for instance, the Queen's bad temper and moral qualities.

Among the most striking studies on the Queen, Sara Pereira's important work stands out. It renewed the historiography on the Queen, and made decisive contributions on the matter (Pereira, 2008) by examining the academic production on Carlota Joaquina and her political trajectory. A recent book by Antônio Ventura and Maria de Lourdes Viana Lyra, responsible for analyzing political and personal trajectories of two emblematic Queens in the History of Portugal: Carlota Joaquina and Leopoldina de Habsburgo, has also shed light on the political maneuvers involving the noble women (Ventura; Lyra, 2012).

Secondly, because the political trajectory of the woman Carlota has already been the object of decisive studies also in Brazil, notably in the works of Francisca Azevedo, Brazil's top specialist in the topic. We owe to Azevedo the elucidation of then little known aspects about Carlota Joaquina's participation in the complex process of political negotiations, at the time of the transfer of the Portuguese Court to Brazil and, years later, at the time of the possibilities created by the *Cisplatina* issue, in her wish to become Queen, in unveiling succession rights to the Spanish Crown. Azevedo also made available Carlota Joaquina's letters to her relatives, revealing little known aspects about the

feelings, expectations and the anguish of a flesh and bone being. Moreover, there is myriad literature on the period, which was marked by intense transformation and political re-arrangements.³

This article is, therefore, based on the studies already conducted on Carlota Joaquina, and discusses a topic ignored by them: the scopes of rights present in the realm of the dispute over land belonging to Carlota Joaquina in a region today known as *Engenho da Rainha*, in Rio de Janeiro, in the second decade of the 19th century, when her rights over such land is clearly discussed and delegitimized. This text investigates how scopes of rights operated to develop forms of appropriation that would avoid the delegitimization of the Queen's right to property of the *Engenho*, and it also examines former head of the United Kingdom's capacity to preserve the *Engenho* as her property in Rio de Janeiro. In our view, access to land, the recognition of a right is consisted of a clash between different views on what we call a social history of property, which is marked – in our view – by a set of perceptions the right to seize and on disagreeing versions on the history of the occupation of the place.⁴

OF ENGENHOS AND THE TRANSMISSION OF RIGHTS

Young researcher Rachel Lima, in a decisive study on land possession conflicts in the Inhaúma parish in Rio de Janeiro, emphasized that one of the possible webs of the “*ciranda da terra*” (“land dance”) related to the disputes between the Queen Carlota Joaquina and Dona Joaquina Rosa Mascarenhas, at the end of the 18th century (Lima, 2012). In that region, since at least the previous century, many farms had started their activities, as demonstrated in a study by Joaquim dos Santos (1987). Upon its foundation, in 1743, the *Freguesia de Inhaúma* (Parish of Inhaúma) was one of the three closest rural parishes to the center of the city of Rio de Janeiro. Rio de Janeiro becoming the Capital of Brazil twenty years later started an intense process of land price increase in the rural parishes, a process well known from the theory developed by Adam Smith in 1776: land income.

Rachel Lima draws attention to the fact that in the so-called *sertão carioca*, precisely in the *Freguesia de Inhaúma*, there was a huge property called *Engenho da Pedra*, belonging to the Mascarenhas family during the 18th and 19th centuries. The *Engenho* was originally part of a still larger property, perhaps granted to Antonio da Costa still in the 16th century, having been the first of the ‘non-Jesuit’ farms of such *Freguesia*. Historians agree in stating that the area of *Inhaúma* corresponded, in the first centuries, to the Jesuit farm of

Engenho Novo. The *Engenho da Pedra* Farm, however, was located, at least in part, in the location's region closest to the shore. It is also agreed that contrary to what was then believed, the region of *Inhaúma* did not belong only to Jesuits, since many documents confirm the existence of countless requests for *sesmarias* (land grants) in the location. In *Memórias Históricas do Rio de Janeiro* [Historical Memories of Rio de Janeiro], published in 1820, Pizarro e Araújo points out many *sesmarias* requests in the region, such as the *Engenho do Mato* farm, the *Fazenda de Santana* and others (Pizarro e Araújo, 1945).

Supported by Joaquim Justino dos Santos' inaugural study, Lima considered that Engenho da Pedra became Inácio Andrade Souto Maior's property in 1666. In 1713 the farm was sold to Manoel de Sousa Assunção. A few years later – still according to Rachel Lima – the farm is documented as belonging to Cecília Vieira de Bonsucesso, initiating the “domain of the Mascarenhas family at the *Engenho da Pedra* and at the *Fazenda Bom Sucesso*” (Lima, 2012, p. 73).

Born in Rio de Janeiro, Cecília Vieira Mascarenhas do Bom Sucesso married, in 1707, to Francisco Luiz Porto, a man who was also born in Rio de Janeiro. The couple had two kids: Ignácio Rodrigues Vieira Mascarenhas and Theodora Josepha de Abreu who, in her turn, had a daughter: Anna Theodora Mascarenhas.

In 1743, Anna, the daughter, got married to Sargento Mor José Dias de Oliveira, born in the village of Guimarães, Portugal. According to Lima, it is difficult to examine the passing of property of *Engenho da Pedra* and of *Bonsucesso*, but it is known today that part of the fortune amassed by the couple also consisted of the purchase, in *hasta pública* (judicial auction), of lands located in *Inhaúma*.

Still according to Lima, the lands José Dias would leave to his daughters would probably correspond to the current neighborhoods of Olaria, Ramos, Penha and Ponta do Caju. There were four heiresses: D. Eugenia Rosa de Oliveira Mascarenhas, D. Joaquina Rosa de Oliveira Mascarenhas, D. Mariana Josefa de Oliveira Mascarenhas and D. Leonor de Oliveira Mascarenhas.

It would be impossible for the scope of this current work to assess the countless instances of land conflict that have taken place and those related to the transmission of the assets of the Mascarenhas family, which is the subject of Rachel Lima's investigation. Rachel Lima has studied the disputes for access to land at the end of the 19th and 20th centuries, when the region of *Inhaúma* undergoes no less important transformations, such as the inauguration of the Railway and the agricultural dynamics implemented which was decisive for a central area for supplying the capital of the Republic after 1889. In this study

it is relevant to thoroughly investigate the reasons why disputes between the Mascarenhas heiresses and Carlota Joaquina would become visible, in 1823, when Mariana Josefa de Oliveira Mascarenhas and her sisters filed a suit against the Queen in a context where Brazil's independence was going through different levels of adherence to the political project, territorialized in Rio de Janeiro. In this dispute, Mariana Josefa questioned the sale of part of the farmland by her sister to Queen Carlota Joaquina. Moreover, the importance of agricultural expansion itself, the valuation of land and the impoverishment of *foreiros* (leaseholders) and company cannot be overlooked. In those years, as Cecilia Oliveira remarked, "The value of rental and lease increased because of the occupation of land closer to the city due to the increase in urban population" (Oliveira, 2005, p. 485).

THE MASCARENHAS SISTERS AND THE *ENGENHO DE INHAÚMA*

In December 1823, Mariana José Mascarenhas filed a lawsuit against Carlota Joaquina in the wake of the extinction of the commission that had been created for discussing the property of foreign residents upon Brazil's independence in September, 1822. The commission had been chaired by *Desembargador do Paço* (chief judge), Claudio José Pereira da Costa (Baena, 1867): "As such, and so that there is no annulment in *res judicata*, resort to Your Imperial Majesty to request Mercy and Grace to authorize these same Judges who had been in the Commission to continue with the proceedings until a final decision is reached".⁵

Beyond the immediate interests of the Mascarenhas sisters in repossessing parts of the land in the *Inhaúma* region, those years had been marked by intense transformations in the Brazil-Portugal relationship. In this regard, and according to Andréa Slemian, as visible as the judicial inefficiency of the metropolis was, and no matter how localized the alternatives attempted by those who were here to respond to "the challenges imposed by the political play, the role of the metropolis was structurally defined and shaped the bonds of belonging to something in common, namely, the Portuguese Empire". Such bonds had been severed in the political context of 1822/1824, but the entire legal framework available was the *Ordenações Filipinas*. There was, in short, an institutional rupture marked by continuities that still seemed to be defining continuities, especially in what refers to the consecration of right to land, to the exclusion of other scopes of rights acknowledged by the very *Ordenações*, such as those referring to distinctions between domains, "at each step in our laws there is the distinction of full domain or less full domain, direct domain or

right of use, but the latter is only applied for emphyteutic assets, since we have no fees” (Freire, s.d.).

In the Modern Age, the types of property of more expression were, according to Sobral Neto, the collective and the owned (Sobral Neto, 2007, pp. 13-30). Allodial, absolute property had not yet constituted itself as the defining element in property rights, as would take place starting from the Constitutions of the 1800s, inspired by the Napoleonic Code. The distinctions regarding domain assumed that the eminent domain of the empire over the citizen’s assets could apply “according to the need or usefulness of the Republic, and be circumscribed to certain limits the free faculty of citizens to use such thing”. However, there was one uncontroverted piece: “the owner’s right to exclude others of the use of his property cannot be refuted by any law, given this would invade the nature and essence of domain”. Likewise, at the time the famous Bluteau’s Dictionary was published, it was more and more frequent that the word Property would mean: “Root Assets, such as domain and absolute power to sell, pawn and dispose of them. Jurisconsults say Proprietas”. In the same sense, the term already explicitly referred to a specific quality, “which belongs to one”, and that of proprietor, “he who owns something”, as could be read on Luiz Pinto’ Dictionary, published in 1832.

In other words, it is in the realm of absolute property that we here unveil the scopes of rights over the same idea of property: individual property. Some other scopes of rights (or uses and forms of land appropriation) were still legally recognized, which accounted for progressive access to specific parts of the right to property based on the interpretations of the *Ordenações Filipinas*. It is therefore understood why the 1824 Constitution only acknowledges the right to individual and absolute property, as expressed in Article 179, item XXII: “The full right to property is guaranteed. If the public good legally verified demands the use and employment of the Citizen’s Property, the Citizen shall be previously indemnified according to its value. The Law shall indicate the cases where this single exception applies, and shall establish the rules for determining the indemnity” (Nogueira, 2012, pp. 85-86).

The institutional rupture mentioned above it the reinterpretation produced by the political context of the years 1822 to 1824. The constitutional text of *Artigo* 179, item XXII actually represents the attempt to end the recognition of many scales of rights backed by the *Ordenações*. However, this does not mean to affirm that disputes have disappeared upon a legal definition of a linear view of property. On the contrary, around the same word – property

– there could be (and there were) different interpretations of what was agreed to be called history of occupation of the place.

In this context, in short, our character played the leading role in the dispute for land property at *Engenho de Inhaúma*, in spite of the established recollection that she did not wish to take anything from these Brazilian quarters, not even dust. If the sources found at the *Arquivo Nacional* (the National Archives) are to be believed, maybe we could vouch for the famous statement attributed to the noble woman. However, a closer look shows that the lawsuit filed against Carlota is part of an embargo proceeds that, as we know, “are important sources for questioning land property during the 19th century and to the investigation of constant fraud in its formalization” (Cristillino, 2011, pp. 115-119). Moreover, according to the documents present at the *Casa da Rainha* fund, guarded by the *Arquivo Nacional da Torre do Tombo* (Torre do Tombo National Archives), in Lisbon, it is possible to state that Carlota Joaquina was still interested in reaffirm herself as the owner of those lands.

It is necessary, however, to make clear the Mascarenhas sisters’ arguments. At the end of December, 1823, the reporting judge listed the reasons behind the dispute between Maria Josefa Mascarenhas and her sisters. A definitive solution for the process at the *Juízo da Comissão* (Commission Court) was requested. The sisters aimed at disputing the form of division of the one-fourth of the *Fazenda da Pedra* and of *Bom Sucesso* that had been purchased by “August Lady and by intervention of her proctor” from one of the sisters: Joaquina Rosa Mascarenhas. By basing their argumentation on a hypothetical ill division of the property, not confirmed by any technical assessment, the Mascarenhas sisters intended to question Carlota Joaquina’s right to property in a context where the judicial arguments she would use were mixed with her political fragility. Still the second lawsuit, the *Decreto das Cortes de Portugal* (Decree from the Courts of Portugal), from May 17, 1821, had suppressed the *Juízes da Comissão* (Commission Judges), nominated – in their turn – by the Alvará of September 6, 1820 for causes relating to the “August Mother of Your Imperial Highness”. The reporting judge still revealed that he had taken the matter to the Emperor. The intense happenings of those years were met with efforts to legislate over causes as candescent as those involving property rights. Still, according to the reporting judge, the following year’s decree of July 14, 1821, determined that all ongoing processes, upon the passing of the Decree of May 17, 1820, should remain under appreciation in the *Juízos da Comissão*.

The unquestionable fact was: the claimants’ lawsuit regarding the embargo of the lands that theoretically belonged to the Queen was intensified by

a major issue in the year of 1823: the land owner no longer resided in Brazil, and that Kingdom had been separated from the Empire of Brazil. Therefore, for reasons that became obvious to the reporting judge, “it seemed inappropriate and even incompatible that said Faithful Majesty had in this Empire privileged and private Courts for respective claims”.

In the beginning of 1824, the pugnacious Mascarenhas sisters sent to the *Desembargo do Paço* (High Court of Paço) a new claim, where they once more informed that it had been “confirmed at the Commission at *Segunda Instância* (Higher Court) the Ruling of the lower court over the division of the *Fazenda da Pedra* and *Bom Sucesso*, to which the August had effected”. In that year they maintained the dispute against Carlota Joaquina, “August and Lady Queen of Portugal at a time when She was also Queen of Brazil”, but they explained that the attorney declared “insubstantiality of such division for being a major damage that could implicate grave losses to the claimants, the parties that had devised such division having taken from them a vast extension of the lands that should belong to the three parties”. That is, the Queen would be invading the lands of the other sisters, thus delegitimizing their right to property, an open contention recognized by them. The limits between the properties were not only a matter of boundaries, they made evident the efforts of both parties to legitimize themselves as “ladies and owners” of the Inhaúma lands. In areas as highly valued as those, any extra piece of land meant the concrete possibility of producing wealth. Moreover, the discussions about delimitation present in the embargo proceedings mentioned in the claim indicate the claimants’ losses:

These Embargos, which have been pending for years, are only questioned and sustained, not yet having reached any decision on them no matter how diligent the claimants have been to see this advance. Since they cannot find amortization pretext, seeing day after day losses brought on by the Proctor of Same August Lady’s division of the land for rental. These lands, on hold through the Embargoes, should be with their three parties under a new division, as claimed by their attorney that since the Judges of the Cause, the Desembargador do Paço Claudio José Pereira da Costa and Adjuntos had been from the Commission, and since it was suppressed, and the August Lady is no longer Queen of Brazil and is a Foreign Queen in this consideration, and for there not to be annulment in res judicata, we plea to Y.H.E. to ask for Mercy and Grace to authorize these same Judges who had been from the Commission to continue with the proceedings until a final decision is reached; granting them jurisdiction once again, if need

be. P. Y.H.E. Grant you the Mercy and Grace that is begged on behalf of reason and justice E. R. M.

The disputes involving the Queen's and the Mascarenhas sisters' rights to property, from the boundaries standpoint, were intensified by the dedication of the lower court *Procurador* (Attorney). He was the 2nd Count of Lousuã, Luis Antonio de Lancastre Basto Baharem. Luis had been married twice: the first time to the daughter of José Pedro da Câmara; his second marriage was to D. Francisca de Saldanha da Gama, daughter of the 6th Count of Ponte and the Queen's *dama de honor*. The Count was still the *Conselheiro da Casa e Estado das Rainhas*, had been representative at the *Junta da Administração do Tabaco* (Tobacco Administrative Council) and still Governor-general of the State of Minas Gerais from 1780 to 1783, and of Bahia, from 1784 to 1788.⁶

His efforts in consecrating the property of the *Engenho de Inhaúma* to Carlota Joaquina were not to be dismissed, if we take into account the extremely complex context of the dispute, i.e., the *Revolução do Porto*, the return of the royal family to Lisbon, leaving their heir and son in Brazilian soil and the independence process from 1822 to 1824, considering the different moments of adherence to the Independence. Thus, at least in my view, the Count of Lousuã certainly lent his prestige to try to guarantee Carlota Joaquina's domain over those lands located in the recently-independent Brazil. But times were not easy for the Noble Lady.

CASAS DA RAINHA AND THE SCOPES OF RIGHTS

The sources related to the alleged rights of Carlota Joaquina to the *Engenho de Inhaúma* are located in the document set known by the name: *Casas das Rainhas*, which is also the epithet for the institution. As Subtil warns, "the institution did not refer to a specific queen, but to the place the queen had in monarchy, as being or having been the King's wife" (Subtil, 2008, p. 130). Still according to the author, in order to perform virtuous actions, the Noble Lady needed income and an organization, which was attributed to such institution. Nevertheless, beyond the complexity of scrutinizing the very trajectory of the institution, there is a recurring allegation that it was suppressed during the filipine dynasty; for this reason, it is not mentioned on the *Ordenações Filipinas* from 1603, where references to "its particular jurisdictions" were abandoned. With Restoration, in 1640, the lands belonging to queens were given back in donation letters by the king (ibid., p. 147):

Regarding the possession and recognition of these lands and their jurisdiction, it was ordered to incorporate in the *Ordenações Filipinas* the two titles of the *Ordenações Manuelinas*, in reference to the 2nd Book (title XXVI) and Book No. I (title X), “From the *Ouvidor das Terras da Rainha*”, thus confirming the jurisdiction concession of “*Vedor, Juiz, e Ouvidor, e mais Desembargadores, e Oficiais* of the deeds of Finance and State”, having in sight “the good order and administration of the House, and the State.

At the end of the 18th century there were still overlapping rights that alternately denied and guaranteed specific jurisdiction for the *Casas das Rainhas*. However, criticism prepared by one of the greatest jurisconsults of that century – Pascoal José de Melo Freire – ended the maintenance of the independence of the Casa in jurisdictional terms. Moreover, with the transfer of the Portuguese Court to Brazil, the structure of the *Conselho* was dismantled since “the Queen starts receiving an endowment from the *Erário Régio* (Royal Treasury) created in Brazil” (ibid., p. 149). A major turn would take place when Carlota Joaquina governed the Casa, in the wake of intense dispute unveiled in the Liberal Revolution, between 1820 and 1823. The debates involving the *Engenho de Inhaúma* must have influenced – at least in part – Carlota’s decision to head the *Institution*, reaffirming it as a private arena for her noble power. If this hypothesis is correct, one of its consequences is the fact that the documents related to the *Engenho da Rainha* were of still greater importance, from the economic point of view, but also – and maybe – from the fundamentally political one.

The documents of lands belonging to Carlota Joaquina in Brazil were not restricted to the *Engenho de Inhaúma*. In November 05, 1819, she had sanctioned, as proctor, the same Count of Lousuã to sign the purchase document for the *Chácara das Laranjeiras* she had purchased from Venâncio José Lisboa, where the Viscount of Asseca had lived; including houses, stables and two small properties of houses in front of Rua do Catete.

Regarding the *Fazenda de Inhaúma* (Inhaúma Farm, thus referred to in the documentation), the sources are closely related to the execution of works, which would have begun on August 2nd, 1819.⁷ It is worth mentioning that the record of that specific concept of right to property is beautifully bound in dark red, there is an image of two beings standing, leaning on to a shelf, with the Arms of the Portuguese Royal Family at the top. It reads: “1st Semester of 1820. Income and expenses of the Royal Works at *Fazenda de Inhaúma*”.⁸ It is worth mentioning some of the details of the image, since they may give us some clues

as to their meaning. After all, what would be the intention behind imprinting such representations on the cover of the Farm's Income and Expenses Report? It seems that the image on the right represents the God of medicine, Asclepius, son of Apollo. He is normally represented with a snake-entwined-staff on His left hand. On the left hand side there is Hygieia, his daughter, goddess of health. Her left arm is almost always supported by a cane. According to scholars, she played an important role in the worship of her father. In some statues and monuments in Greece, Hygieia is depicted with a circular vase, named the bowl of Hygieia, with a serpent in it.

The image on the Report seems to have these characteristics. It is, therefore, reasonable to conceive that the representation refers to the two Gods. If we are right, it is plausible to suppose that the image is there to convey a direct message: the farm is well tended to, with hygiene. The Gods represented safeguard she symbol of the Portuguese Crown, surrounded – in its turn – by two sprouts, maybe of sugarcane and coffee.

Figure 1 – Report, Real Obra da fazenda de Inhaúma, 1st sem. 1820, cover.



Source: Arquivo Nacional da Torre do Tombo. PT-TT Casas das Rainhas no. 235.

The information therein contained basically consists of tables related to a complex order of production and organization of the Farm. Whether or not it is a contrivance made by the Count of Lousuã, the Farm did not seem to be abandoned or neglected, in spite of the absent owner who – when in Brazil

December) referred to the “date of the leaves”. Another exhibit of the packs of cane and shrubs is inventoried for the months of January to June 1820.

There is also data on the monthly distribution (from August to December 1819) of ground cereal bags produced, and another table for the January to June 1820 period. In this case, there is a clear list of the number of bags and of *alqueires* by month.

Among so many tables, there is one that intended to list the “sundry items purchased for the farm, such as linen rope, a new cart, a “new car”, barrels, buckets, watering cans, thatch bunches, whetting stoned, among others”. It also includes the purchase of six oxen to be used on the carts, purchased in October and November, 1819. The last line reads, without standing out, the emblematic sentence: “money H. Highness ordered to give to the people of her work”, totaling 80 thousand *réis*.

It is difficult to calculate the magnitude of the money spent for paying the Farm’s employees, but it is instigating to see that it is included in the sundry items table. However, from what it seems, the farm underwent renovation works during the second semester of 1819. One of the tickets included therein reads as follows: “On September 18, 1819 it was decided by the architect that Master Francisco José do Couto be listed on the payroll, although the weather does not allow for work because of the rain”.

But who were the workers that, one way or another, guaranteed that the *Fazenda de Inhaúma* belonged to the Queen? They were sixty Portuguese workers, members of the Infantry Battalion and born in different regions on the metropolis. Among these regions: Ferreira de Aviz, Soutura, Framinhão, Fonte d’Arcada, Vila da Meda, Oliveira de Barreiros, Boa Aldeia, Termo de Abrantes, Robordim, Abeiro, Águas Boas, Vila de Cheuche, Vila, São Guião, Serocza, São Pedro, Sabugosa, Ranhados, Castinheiro, Esculca, Casal do Rei, São João de Louroza, Passarela, Avis, Freguesia de Caide, Cunha and Braga.

From these 60 Portuguese-origin free men, 28 were from Battalion number and 32 were from Battalion number 15. In the whole, it is possible to say that 25 were servants, nine were cart drivers, six were bricklayers, six were drillers, four were carpenters, three *canteiros*, um farmer, one potter, one rancher, one *abugão*, one *apontador* and two without reference to their profession. Their names, place of birth and names of mother and father had been written down, and they were allocated for working at the “Royal Works of Her Highness”.

The Proctor had also received at least two verbal orders which were recorded in the *Relatório*. The first referred to including two more soldiers on

the “Royal Works”, therefore included in the payroll. The second is interesting, since it refers to a request that soldiers allocated at the Works should be sent to the Hospital, erected at the same location.

Moreover, the queen determined that two of the soldiers who were working at the Farm should be transferred to *Quinta das Laranjeiras*, with the request that they “should not be nominated in Her Royal Order, during health impediments”.

It is not material to me to discuss the reasons why the members of the Infantry were allocated at the works at *Fazenda de Inhaúma*, since stating this very fact stirs up a dense reflection on the clashes of the formation of the Brazilian society, in opposition to “being Portuguese”, as investigated by many scholars. The fact is that Carlota Joaquina seemed to believe that her power remained unshakable, reallocating soldiers – King’s men – as robots for the work at the farm. By doing this, those workers became witnesses to the possession actions that took place there.

If we analyze in more detail the context of the creation of the document, it is even more surprising to see the Queen’s effort to establish herself as “owner and in possession of” those lands, so disputed and so near the center of Rio de Janeiro, the capital of Brazil.

The documents refer to the period 1819/1820. In those years, political turbulence in Europe initiated by Spain’s 1812 Constitution unveiled a new political re-arrangement, based on liberalism and guaranteeing the supremacy of the Constitutional Charter in relation to the Crown (Berbel, 2012). Carlota Joaquina was openly anti-revolutionary. Her previous attempts at becoming successor to the Spanish Crown made evident her attempts to be the representative of said Crown in the Americas. In Cadiz, the Spanish courts were involved in the discussions regarding revoking the Salic law, which would allow Carlota Joaquina to rule in spite of being a woman. Her eventual right to succession to the throne was acknowledged, however, but shortly afterwards – precisely in January, 1814 – Fernando VII, Carlota’s brother, was freed by Napoleon, which prevented her from taking her place.

The failure of this political maneuver certainly isolated her, but it is reasonable to suppose that she had her anti-liberal convictions reaffirmed. The preparation of the *Relatório* of activities at the Farm is certainly a sign of her position, by emphasizing elements that give a concrete aspect to a specific concept of property, where the exercise of possession actions and improvements was enough to establish domain. In the documents related to the farm there is no line on the hypothetical purchase conducted by the Noble woman.

It is admirable, in my view, that the preparation of an exhibit on the existence of works in a place called *Fazenda de Inhaúma* [Inhaúma Farm] (and not *Engenho de Inhaúma*) intended to establish property based on, at least, three lines of argumentation. The first referred to the improvements made there, therefore reaffirming the right to possession of those lands according to the *Ordenações Filipinas*. Secondly, the perspective of owner is also based on the use of soldiers, of Portuguese origin, eventually willing to defend the rights of Carlota Joaquina, since they are paid by her. Thirdly, there is also the political dimension of the Queen's actions, expressed by the allocation of Infantry members as workers.

In short, the Queen acted in the perspective of the owner, marked by the notion that it was enough to state that she was the "real owner" of those lands. What Carlota Joaquina and her proctor could not foresee is that her return to Lisbon and Brazil's Independence would unfold a new political context, where she would definitely be a foreign player.

In 1824, in the context of the approved Charter that established private property in all its plenitude, Carlota Joaquina's land in *Inhaúma*, now called the *Engenho da Rainha*, were auctioned by request of Agostinho Barbosa, proctor of the *Senado da Câmara*.⁹ In that context, Carlota was a foreigner, isolated in Portugal due to her decision not to swear by the Portuguese Constitution and, finally, prevented from establishing the property of her noble lands. It is not possible to state that the auction was the result of the dispute of the previous year, but it is reasonable to suppose that it was made easier by the Queen's unique position. For the limits of this text, it is almost impossible to follow the developments of the dispute, but one thing is certain: the documents at the *Instituição e fundo documental "Casas da Rainha"* do not make any reference to the establishment of Carlota's property, in its relation to the lawsuit that involved her name and the claimants, the Mascarenhas sisters.

TO CONCLUDE

From the late 18th century onwards (and not before then) the concept of exclusive property "as a norm to which other practices shall adapt, was then spreading over the planet, as a currency that reduced all things to a common value" (Thompson, 1998). This was not a linear process, nor did it correspond to the replication, whose inaugural model is the English model. In the Brazilian case, the end of the *sesmarias* system on July 17, 1822, ended mandatory cultivation, measurement and demarcation as determined by the *instituto*

sesmarial, instituted at the colony during the colonization and territorialization process of the Portuguese Empire. From then on, the system of possession would become the main form of occupation, without a legal framework that regulated the matter until the 1850s. In Portugal, the *sesmaria* institution only legally disappear after the passing of the Código Civil (Civil Code), in 1867, but the system had not been employed there since, at least, the 18th century (Motta, 2011). Anyway, those who lived the establishment of individual and absolute property were still absorbed in scopes of rights that certainly guided their property ownership vision. To some, it was enough to proclaim to be the owner of an area and to find a few witnesses for the eventuality of conflict with others. To others, claiming to be the owner of some territory did not imply considering that improvements would belong to them. On the contrary, an overlapping of rights to the same land tended to be recognized in general. In the modern age, the division between two domains over property was more than common: o *domínio útil* (right of use), i.e., possession of the land for a certain period, with the main obligation to pay lease to the one who owned it, and the *domínio direto* (direct domain), the owner proper. There were scopes of rights that still remained; many of those dated back to the middle ages, like the right of way. There were still scales of appropriation inside the very idea of property, while allodial (free) or tied, known by the name of *morgadios*. All this, and more.

The disputes between the Mascarenhas sisters, Carlota Joaquina and her faithful proctor allow us, however, to highlight some of the central elements in this intense and endless discussion on who has the right to say: this is mine. The recent Brazilian Empire, founded in 1822, had established in its *Carta Outorgada* of March 25, 1824: “The Right to Property is guaranteed in all its plenitude”. But the Empire, as we know, did not create a Civil Code guiding standards regarding property. However, in spite of this, the absence of a code did not affect the standpoint of those women, still living in a world where individual and absolute property views were little by little consolidating, becoming the form of access to land most widely protected by Western codes, by delegitimizing the organization and the functioning of common properties and of those of collective use.

Those women who fought for the right to the land of the *Engenho* or *Fazenda de Inhaúma* were not just any women. Carlota Joaquina was unquestionably a noble lady. The empowerment of the Mascarenhas sisters was also unquestionable, as heirs to rural powers so close to the city of Rio de Janeiro. They operated in a framework of standards organized by the *Ordenações*

Filipinas, and such standards answered to the afflictions and demands of a more and more remote past, and were employed when it was necessary to circumscribe a new reading on the right to occupation. All this is certainly very complicated.

Anyway, what was written in the 1824 Constitution corresponded to a then-recent property ownership view. Inspired by the Napoleonic Code from March 21, 1804, the recognition of the notion of detaining “property in all its plenitude” did not automatically create a perception on an absolute and individual right. Article 6 from the 1822 Portuguese Constitution also stated that property was a sacred and inviolable right, to which any Portuguese citizen is entitled, to freely dispose of all of his assets according to the law”. It also aimed at maintaining “freedom, security and property for all Portuguese”.¹⁰ Anyway, it is always good to remember that Carlota refused to swear by the Portuguese Constitution.

Everything seemed so unchanged but, down deep, everything was very different. The Mascarenhas sisters did not directly challenge that Carlota Joaquina had purchased part of the *Fazenda da Pedra* from one of the sisters. By delegitimizing the right to land they did not present arguments proving an irregular purchase deed. The Queen had purchased part of the lands, but this certainly was not enough for her to claim ownership over all the land. Carlota, in her turn, did not make any reference to the purchase itself. She had reaffirmed obtaining the *Fazenda da Laranjeiras*, but not the *Fazenda de Inhaúma*. In her and her proctor’s view, what was essential was not to certify the purchase. What guided their argumentation was the fact that there would be unquestionable proof of the act of possession, therefore the obsession with proving the execution of works in a beautiful red book.

The complexity of the dispute is concluded – at least temporarily – by the auctioning of the lands, now called *Engenho da Rainha*. Carlota lent her much coveted title to the lands that were purchased in public auction by another, and that today correspond to a neighborhood in the North zone of Rio de Janeiro. Anyway, Rachel Lima’s ongoing research shows that disputes in that region went on throughout the whole of the 19th century and during the first decades of the 20th century.

Regardless of whether she was actually the owner or not of those lands, we all know – although we always want to avoid making such a statement – that property is a legal fiction. The invention aspect of the right to property is what actually matters. Possession actions or purchase or sale deeds were not enough to claim ownership of those lands. The truth must be said: the right to

property is not a given, it is the result of a specific political context, not always simple to outline. One determining factor for reaffirming the condition of owner to the detriment of other is, before anything else, the power one exerts over the desired territory. It is the act of transforming legal fiction (sometimes present in paper) into something others consider as legitimate. Carlota Joaquina had become a “foreign queen”, her power was neither here nor there. In the dispute with the powerful Mascarenhas, she lost, even being Queen. Maybe she did, after all, fulfill her own prophecy: from Brazilian lands she did not manage to take even dust.

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NOTES

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² *Folha de S. Paulo*. O reinado de Carlota. (Caderno Especial). 2 mar. 2008. Available at: www1.folha.uol.com.br/fsp/especial/fj0203200808.htm; Accessed on: June 9, 2015.

³ Among others: NEVES, 1995, pp. 75-102; MARTINS; MOTTA, 2011; WILCKEN, 2004; NEVES, 2003; ALEXANDRE, 1993; SLEMIAN, 2006; JANCSÓ, 2005.

⁴ Among others: GONGOST, 1987.

⁵ Arquivo Nacional. Rio de Janeiro. Notação: BI.16.112. Requerente: Mariana Josefa Guimarães e suas irmãs, 1823. I greatly appreciate the generosity of Rachel Lima for having shared a copy of this source.

⁶ Luis António de Lancastre Basto Baharem, 2º Conde de Lousã. Available at: www.geni.com/people/Luis-Ant%C3%B3nio-de-Lancastre-Basto-Baharem-2-%C2%BA-Conde-da-Lous%C3%A3/6000000016140491289; Accessed on: Aug. 29, 2015.

⁷ Arquivo Nacional da Torre do Tombo. PT-TT Casas das Rainhas no 233. Não é possível discutir aqui a especificidade do imbróglio envolvendo a aquisição da Chácara das Laranjeiras, mas é interessante ao menos observar que ali havia ao menos três arrendatários que não reconheciam o direito de Venâncio José Lisboa sobre parte daquelas terras.

⁸ Arquivo Nacional da Torre do Tombo. PT-TT Casas das Rainhas no 235.

⁹ ARQUIVO DA CIDADE DO RIO DE JANEIRO. Volume II. Arrematações de terras do Engenho da Rainha, em Inhaúma, que pertenceram a Rainha D^a Carlota Joaquina. Requerimento de José Agostinho Barbosa, procurador do Senado da Câmara, e certidão. 1824.

¹⁰ CONSTITUIÇÃO PORTUGUESA DE 1822. Available at: www.laicidade.org/wp-content/uploads/2006/10/constituicao-1822.pdf; Accessed on: May 19, 2015.