

Latin America/Brazil

A historic victory

Recently, in March 2006, the Superior Federal Court of Justice, Brazil, ruled in favour of the rights of the community of Prainha do Canto Verde over their land

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Prainha do Canto Verde, a small fishing village in the State of Ceará in northeastern Brazil, was settled around 1870, soon after the abolition of slavery, by people from neighbouring communities, mostly freed slave labour from sugarcane plantations. While fishing is the main source of livelihood in Prainha do Canto Verde, the village does not have a port, as the *jangadas* (sailrafts) used are beach-landing craft.

The calm of the village was interrupted in 1976, when Antônio Sales Magalhães, a specialist in acquiring beach terrain, appeared in the vicinity and made up purchase contracts of land belonging to 12 families, stretching from the dunes behind the village until the coast. Within a year and a half, he had acquired 749 ha of land at about one US cent per sq m. The fisher families living on, or close to, the beach did not know what was going on. Actually, nobody seemed to understand why the well-dressed gentleman, Antônio, was buying sand dunes.

In 1979, Antônio started a process to clear the land titles; that is, the local judge began to call neighbours and other interested people to find out if the purchase of land was legal. The fishers again were not aware of the process as they were not specifically invited and could not read the official, or any other, newspaper.

In 1984, the district judge of Beberibe ruled in favour of the purchase since no objection had been registered and there were witnesses who testified to the legality of the purchase. Once the land purchase had been laundered, Antônio passed the land on to the real-estate company called Henrique Jorge SA.

Though the fishers had missed the deadline to register their objections to the deal, they were fortunate in

receiving support from a human rights group called ‘The Centre for Defense and Promotion of Human Rights (CDPDH)’, founded by the Cardinal and Archbishop of Fortaleza, Dom Aloisio Lorscheider, one of the defenders of liberation theology and social action by church members.

In August 1989, legal advisers of the CDPDH appealed against the verdict of the district judge and against Antônio Sales and the real-estate company, in the Superior Tribunal of Justice of the State of Ceará. The Court judge returned the case to the district court of Beberibe for an inquiry into the circumstances of the purchase. For the next 10 years, between 1989 and 1999, the case remained in the district court.

In 1999, things began to move when a new district judge started to clear the backlog. The case was opened again and witnesses were heard. The case was then referred back to the Superior Tribunal of Justice, Ceará.

In 2000, the community learned that the legal opinion of the State Attorney was in their favour, with the land purchase being described as immoral and illegal, and proposing that the land be turned over to the “(morally) rightful owners”—the community. In May 2001, judges in the Superior Tribunal of Justice followed the opinion of the State Attorney and voted eight votes to nil in favour of the community.

The legality of the transaction was questioned, given the fact that part of the land (at least 30 m of beach) was State property (under the federal government), so that only a federal judge could have ruled the legality of the land purchase.

Despite this ruling, in 2001, the real-estate company Henrique Jorge SA appealed to the Superior Tribunal of Justice. It lost the case, again by eight to zero votes. Not satisfied, the real-estate company appealed again, this time to the Superior Federal Court of Justice in Brasilia in 2003, claiming procedural mistakes.

On 14 March 2006, five Superior Federal Court judges, following the legal opinion of the Federal Attorneys, voted five votes to zero to uphold the sentence of the lower court in favour of the community.

The real-estate company was asked to compensate for the costs incurred by the court and the lawyers.

This was a historic victory for the community. They won because there was a small group within the community that never gave up, all the way to the last appeals court. Many other communities in the same situation would not have been able to resist the resultant pressure, violence and aggression, and, sooner or later, would have accepted a settlement out of court, which invariably would have been against their interests. Antônio Sales and Henrique Jorge SA could never have dreamt that illiterate fishers would outlast them.

The people of Prainha do Canto Verde held out to the end, because they always had support from other communities, non-governmental organizations (NGOs) and supporters throughout Brazil and even abroad. And the man who deserves most of the credit is, without doubt, Dom Aloisio Lorscheider, Cardinal and Archbishop of Fortaleza, who created the Centre for Defense and Promotion of Human Rights. The community is hoping that Dom Aloisio Lorscheider, though aged, will respond to the invitation for the victory celebration some time later this year (2006).

The decision of the Superior Federal Court should give new hope and courage to the many communities

that are being driven from their beach lands along the vast and beautiful coasts of Brazil.

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