

Brazil's Supreme Court Upholds Restrictions on Foreign Acquisition of Rural Land, Pending Final Decision

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Authors

Cristiana Moreira

Guilherme Zoghbi Ayala

Camila Mallet

Pedro Henrique Gonçalves

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Brazil has long imposed restrictions on the acquisition of rural land by foreign individuals and entities, driven by concerns over national sovereignty, territorial control, and land use policy. Law 5.709/1971, which governs the purchase and lease of rural property by foreign residents and foreign companies, applies the same restrictions to Brazilian companies under foreign control. The scope and constitutionality of these restrictions, particularly as they affect Brazilian companies with foreign shareholders, have been the subject of ongoing legal debate and are now under review by Brazil's highest court, the Supreme Federal Court (STF – Supremo Tribunal Federal).

The STF is examining the issue in two related cases. One was brought by the Brazilian Rural Society (Sociedade Rural Brasileira – SRB), which challenges the validity of Law 5.709/1971 on constitutional grounds, arguing that the 1988 Constitution does not differentiate Brazilian companies based on the origin of their capital and that the restrictions discourage investment (ADPF 342). The other was brought by the Federal Government and the National Institute for Settlement and Agrarian Reform (INCRA), which defend the constitutionality of the legislation, maintaining that the restrictions serve to protect national sovereignty and to prevent speculative concentration of rural land (ACO 2463).

On March 19, 2026, the Court resumed its judgment of the cases. Justice Gilmar Mendes voted in favor of the constitutionality of the restrictions under Law 5.709/1971, and Justices Flávio Dino, Cristiano Zanin and Nunes Marques concurred in his opinion. Since the original reporting Justice, Marco Aurélio Mello (now retired), had also reached the same conclusion, a majority of five Justices has now formed in favor of upholding the restrictions on the acquisition of rural land by foreign-controlled Brazilian companies.

Justice Alexandre de Moraes, who had previously expressed a dissenting view, requested time to review the case files, and the judgment was suspended. Justices Edson Fachin, Carmen Lúcia, Dias Toffoli, and Luiz Fux have yet to issue their opinions.

This issue has significant implications for Brazil's agribusiness sector and for the rural real estate market more broadly. The final outcome will depend on how the Justices of the STF vote once Justice Moraes has reviewed the files and judgment resumes.

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Cristiana Moreira



Guilherme Zoghbi Ayala



Camila Mallet



Pedro Henrique Gonçalves