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Advogados Associados

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"CNJ Instructs Real Estate Registry Offices to Supervise the Acquisition of Rural Lands by Companies Controlled by Foreign Persons"

The Brazilian National Council of Justice (*Conselho Nacional de Justiça – CNJ*), upon the Justice Department's request (sought out by means of the administrative proceeding no. 0002981-80.2010.2.00.0000), instructed on July 13th, 2010 all Real Estate Registry Offices and Notary Public Offices to: **(i)** start reporting to Brazilian local state internal affairs bureaus (*corregedorias*) all acquisition of rural lands by Brazilian companies controlled by foreign persons on a quarterly basis; and **(ii)** to strictly comply with the provisions of Law no. 5.709, as of October 7th, 1971, whenever an act which implicates the acquisition of land by Brazilian companies with majority equity interest held by foreigners investors, whether individuals or entities, is filed for registration, subject to dismissal from its office. With this decision, CNJ intends to end the discussion regarding the need of control over the acquisitions of land by local companies controlled by foreign individuals or entities.

The understanding in force until then was based on legal opinions issued by the Federal General Attorney's Office during the 1990's (Opinion AGU/GQ 181, as of 1997 and Opinion AGU/GQ 22, as of 1994), duly ratified by the President and according to which, by revoking article 171 of the Constitution, the Constitutional Amendment no. 6, as of August 15th, 1995 allowed equal treatment to Brazilian companies and local companies controlled by foreign investors, therefore rejecting the limitations and/or requirements priority imposed by Law no. 5.709, as of October 7th, 1971.

The registry offices will have a 60 (sixty) days period to adapt to the contents of the decision.

We stress that CNJ's decision is subject to challenge by the judiciary authority or any interested third party which deems to have been prejudiced by it, by means of an appeal to the analysis of CNJ's plenary session, pursuant to the rules applicable to such appeal.

THIS IS MERELY AN INFORMATIVE NEWSLETTER, RESTRICTED TO VGL CLIENTS. QUESTIONS AND CLARIFICATIONS ON THE MATTERS CONTAINED HEREIN SHOULD BE ADDRESSED TO OUR OFFICE.

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