



Commoning for Land Tenure Regularization: The Case of the Collective Urban Special Adverse Possession of Chácara do Catumbi in the City of Rio de Janeiro

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ABSTRACT

The purpose of this article is to encourage debate on the common in the context of land, as well as the issues of urban informality and collective property in Brazil, based on action-research on the registration process of Special Urban Collective Adverse Possession in Chácara do Catumbi, a community located in the Catumbi neighborhood (Rio de Janeiro). This paper studies the challenges of collective property management in the Brazilian context, analyzes the debate surrounding the commons in issues involving property rights, and finally discusses the main challenges of collective property management through the case of Chácara do Catumbi.

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INTRODUCTION

Since several years now, there has been a notable and increasing “rebirth of the commons” (Bollier, 2014). This movement, in its contemporary features, initially took shape with the work of Elinor Ostrom (1990), which enhanced and actualized the diversity and richness of the collective management of natural resources, challenging the idea of “the tragedy of the commons” evoked by Hardin (1968). As Mendes (2012: 19) highlights, tragedy, in the words of Hardin, referred exclusively to the commons and to the system of social organization that is organized by an “ethics of sharing”. According to the author, forms of collective resource management have been slowly, in the past decades, discredited to protect such resources from alleged irresponsible use. Emphasis has been largely given to private property under rigid state regulation in detriment of collective practices. The return to thinking about the commons turned initially to forms of managing natural resources, before encompassing different forms of existing resources. As defined by Feinberg et al., (2021: 2), the commons are a system, which comprise the resources, their users, the institutions that link them and the related processes.

Following such a systemic perspective, this article intends to consider processes related to commoning through a land-based urban context. From an action-research perspective, it intends to monitor the land regularization process of Chácara do Catumbi, a small community located in the Catumbi neighborhood, at the foot of the Morro da Mineira favela, near the city center of Rio de Janeiro. The place has been definitively titled with registration in the General Property Registry (known by the Portuguese acronym, RGI) in April 2018, when residents received the title of collective ownership of the land and improvements they occupy, soon after the declaratory judgment of the special collective urban adverse possession in May, 2017. The legal action was proposed in 2006 by the Bento Rubião Human Rights Defense Foundation Center. The *Pastoral de Favelas* (Favela association of the Roman Catholic Diocese of Rio de Janeiro took over the cause a few months before the final decision.¹

Then, the Pastoral de Favelas proposed a technical assistance project (ATHIS) with the Council for Urban Architecture – CAU (public call No. 002/2018 of the CAU). The goal of the project was to carry out, through a broad participatory process including the residents, a social and urban study for the future drafting and registration of the contract of special shared condominium (*convenção condomínio especial*) formed after the registration of the collective adverse possession (*usucapião*) ruling. We want to highlight the innovative aspect of such a project, since

there is no prior evidence of registering a contract of special shared condominium in Brazil.

Within the context of a broader international project on land-based commons,² the first author decided to analyze the process that led the residents of Chácara do Catumbi to benefiting of land titles. Considering the beginning of the ATHIS project mentioned above, the first author invited the second author, a social worker, to lead a social team (composed by a lawyer/historian, a social worker and a student of social work), responsible for tracing the socioeconomic profile of the resident population, encouraging participation during activities and gathering information on local history and the daily lives of residents for the drafting of the shared condominium contract. This team was responsible for organizing and conducting a socioeconomic survey and for encouraging the participation of residents in the project. About the stages of the project, see Table 1. For this reason, both authors of this contribution were included in the local residents’ Whatsapp group, which became another privileged space for observing interactions between residents.

In addition to the social team, the project counted with the participation of the Pastoral de Favelas (a lawyer and a pastoral agent) and a team of architects, consisting of four members and an student. This last team performed functions related to the description of the physical structures of each building in the area, measuring the houses and common areas, as well as trying to identify possible problems in construction done informally by the residents. In addition to the buildings, common areas (internal paths, leisure areas, parking lots) were demarcated, as were spaces for specific use in each house.

As Thiollent (2011, p. 26) reminds us, action research aims to conceive and organize social research with a practical purpose and to dialogue with the action’s own demands and with the participation of actors in the observed situation. Therefore, we attempted to systematize the data obtained in the field through participant observation of team meetings and meetings with the residents, as well as systematizing the data obtained from socioeconomic questionnaires carried out with residents. The investigation also counted with a series of documents collected and produced by the ATHIS project.

Out the 23 local owners, we have been able to conduct 20 questionnaires between April and July 2019.³ In addition to the study of the socioeconomic conditions of the residents, the questionnaire contained some open questions about the community’s history and the challenges in organizing the shared condominium. We did not record these responses, but filled in the forms and wrote a field diary. The conversation extended far beyond the questions in the questionnaires and the residents have become “history

27.02.2019	First Meeting Presentation of the team and work methodology
04.05.2019	Meeting on forms participation and collective decision making. Attempted to understand the residents' organizational dynamics to resolve collective questions. Creating a residents' Mobilization Commission was proposed as a way to keep track of activities during the project.
18.05.2019	Meeting on land tenure regularization. Technical exposition on terms related to the urban question: the City Statute, federal laws, collective adverse possession, and Special Shared Condominium. Residents' evaluation on qualities, difficulties, and their desire regarding their setting. (see Figure 1).
01.06.2019	Meeting to define private and collective spaces. Team was lead on a collective walk with residents to define the spatial limits of collective and private use.
13.06.2019	Meeting on the collective norms for living and land use. Partial informing on data obtained through technical visits; presentation of constructive problems; discussion on rules for the use of collective spaces.
26.06.2019	Meeting to present the results and future perspectives. Classic presentation of plans and data obtained from the project with residents and representatives of the Pastoral de Favelas and the Council of Architecture and Urbanism.

Table 1 Meetings held during the project with the residents.

Source: Data compiled by the authors.

tellers" of where they live ([Portelli, 2016, p. 18](#)). Among the interviewees, two residents proved to be more active in the reproduction of this memory and ended up becoming our main interlocutors: Lucio, a middle-aged man who is highly active among residents, and Carla, also a middle-aged person who provided us with a set of documents on the locale (petitions from residents to politicians, photos, reports...), organized by her late husband,⁴ which allowed us to trace the recent history of the residents' struggle. Both have been living there since their childhood.⁵

We visited the site numerous times during the study to get to know the place better and to carry out the questionnaires, and we participated in six meetings with the residents. During these, numerous tools were used: i) debates, ii) models and collective mental maps of the setting and iii) walking tours commented on by residents, to identify possible problems in collective management, as well as to raise proposals for the future shared condominium contract. We obtained various documents from residents, as well as from administrative bodies (municipal department of urban planning and general property registry). These documents were digitized and made available for use by the entire project team on an internet drive.

The ATHIS project mentioned above lasted for six months, from February to July 2019. It sought to provide the necessary data so that it could, in a later phase, write and register the shared condominium. Even without resources, the Pastoral de Favelas proposed to achieve the project in 2020 with volunteers, including the participation of the authors of this article, but the pandemic, for the time being, has made it impossible to finalize.

Action research, as Tripp (2005: 447) maintains, alters what is being researched and at the same time is limited by the context and ethics of the practice. In meetings with the team and with residents, we interfered with our positions in the effort to build responses for the collective management of the local landholding. Our positions did not always match with those of our interlocutors. We understand that both in the practical context of the project and in the research itself, it was essential to respect the knowledge and demands of different stakeholders. Bruun (2015: 154) argues that an important aspect missing from current theoretical debates about urban commons is an analysis of the people and communities that actually live there. For Bruun, it is important to define the commons based on existing practices, since social mobilization is not often openly focused on obtaining common goods, but, on the contrary, common goods are gradually created as a result of overlapping claims and diverse struggles for rights.

In this context, this article intends to describe and discuss the challenges of collective property management in the Brazilian context from the specific case of Chácara do Catumbi. Our central hypothesis is based on the idea that regularization policies and projects aimed at collective properties should be based on the multiplicity of ways of perceiving the collective aspects of property. First, we will return to the debate on the common in issues involving property rights and urban informality in Brazil. Then, we will describe the case of Chácara do Catumbi, before closing with a discussion of the main challenges of the collective management of property by the residents.



Figure 1 Notice board created during the meeting on May 18, 2019. Source: ATHIS Project archives.

I – THE ISSUE OF THE COMMONS, URBAN INFORMALITY, AND COLLECTIVE PROPERTY IN BRAZIL

The concept of common is applied to the urban phenomenon as a form of community management, an alternative to market rules and state public planning (Obregon, 2016, p. 17). The main objective is to provide more efficient responses to social demands, sharing and managing goods, knowledge, and spaces, which can lead to more egalitarian urban scenarios.

In this context, the reflection on the common also primarily addresses the issue of land, which requires a preceding reflection on the very concept of property. Rosa Congost (2003) prefers to use the expression “property rights”, which would provide a more flexible aspect in understanding the phenomenon. Congost builds this category based on the understanding that property relations are social relations that go beyond legal aspects or institutional devices, thus opening fertile ground for analyzing the plurality of forms of use of a given property, in its different types.

This type of understanding contrasts with the approach of contemporary liberal property, since property can change and develop even when not accompanied by the legal and judicial framework of a given society, that is, the forms of land organization are varied and dynamic. There was not (and is not) a single way to understand property but several, which vary according to the historical

context experienced. In other words, property must also be understood as a socio-juridical construction and not as a given (Carvalho & Siqueira, 2019, p. 57). Relativizing the ways of understanding property is important for identifying hybrid, collective, fragmented forms that often have overlapping and distinct rights. As Hoofs (2010: 27) points out, property cannot be precisely defined because its meaning and scope adapts to social needs.

Despite a hegemonic liberal reflection on property, Rosa Congost (2003) states that there are changes in the right to property even when positive law does not accompany them (Congost, 2003: 75). This seems to us an important analytical key to understand that many informal structures for managing land ownership can be understood as new ways of responding to social demands and not necessarily as something illegal. In this sense, Christian Barrère (2001) underlines that formal or informal models of property management are complex sets of conditions for the use of rare resources. Implicitly or explicitly, there is always a system of property rights that defines the nature and limits of use of land assets.

Basudeb et al. (2006: 2) explain that the idea of considering informal arrangements from the perspective of common property regimes emerged during the 1990s.⁶ The association of the informal with the chaotic and the unstructured often delegitimized distinct land management practices, which favored certain types of interventions and often led to disastrous measures (Guha-Khasnabis, Kanbur and Ostrow, 2006: 5).⁷ Mendes (2012: 44) reaffirms this

position, stating that no possible space has been left for alternative customs other than liberal property rights. Being defined as customary, such alternative practices are often considered illegal, and, despite their scale, are presented as a risk to society.

If we focus more specifically on the Brazilian case, this is obviously also revealed in ways of managing property rights within favelas. The political dimension of informality also leads us to the political aspects of the variable definition of its contours. Depending on the groups involved, certain practices may or may not be associated with informality or be socially legitimized even with some form of legal irregularity. The particularities of property rights management influenced the ways in which informality was consolidated. Thus, much more than being a deviation or an outgrowth, land informality was consolidated along with a complex apparatus for registering property rights. Thus, despite complex registry, legal and urban complexity to register property rights, the greatest difficulty remains the political aspects, involving informal practices and property rights.

Land regularization policies for favelas were consolidated in Brazil, as an urban policy since the beginning of the 1980s. Despite the gradual construction of a deep socio-juridical analysis on land regularization in the country, the results of land titling programs are, at least for the time being, extremely limited. The promulgation of the Federal Constitution in 1988 brought further vitality to the issue, especially after the enactment of the City Statute (federal law n° 10,257 of 2001).

Despite the progressive measures in the urban policies chapter of the Federal Constitution (articles 182 and 183),⁸ private property continued to be the central aspect of housing policy, keeping some elements consolidated since the 1964 coup,⁹ that is, limited control over the market and very few social housing experiences that were not via access to private property. Although the urban reform movement advocated for a better sharing of private property, little thought was given to other forms of property rights (Gonçalves, 2019).

Experiences of social housing policies through social rent are rare in Brazil, as has been the case in France since the beginning of the last century (Stébé, 2016). The experiences of cooperatives in Brazil have not questioned private property either, as it was the case with the collective properties of the housing cooperative policy in Uruguay (Valadares, 2018). The most emblematic cases of collective property in Brazil are special constitutional properties with a collective use or possession feature, such as indigenous reserves, quilombola properties or extractive reserves. For Pilati (2009: 107), the Federal

Constitution of 1988 established the fundamental lines of ethnic law, in articles 215 and 216, and thus created special models of property, which evade both the standard of the Civil Code and the scope administrative law of public property. For Motta (2017: 10), the most frequent definitions of “traditional community” have bet on the notion that it is constituted by groups that – in some way – tend to preserve the territory they inhabit.¹⁰ According to him, the concept would be “purposefully comprehensive”. In these cases, it is not about the appropriation of land by individuals or a plurality of private subjects, as we will analyze in the case of collective urban adverse possession, for example.

The other possibility of collective property would be precisely the property derived from the declaratory sentence of special urban collective adverse possession (*usucapião especial urbana*). According to Article 183 of the Federal Constitution, every occupant of land – who is not the owner of another urban or rural property – can acquire land ownership by Adverse Possession, if they have lived there for more than five years, if the owner has not intervened to recover the land during this period and provided that the surface space of the property does not exceed 250 square meters. The City Statute law also admitted adverse possession in its collective form, when it is not possible to individualize the lots of different occupants.

A claim for adverse possession must be filed and collective property can only be registered with the declaratory judgment of adverse possession. According to Pereira (2011) and according to art. 10, item 4 of the City Statute (*Estatuto da Cidade*), collective adverse possession forms a special shared condominium, which is, as a rule, indivisible and cannot be dissolved. However, once constituted, it is possible to finalize it by deliberation taken by two thirds of the unit owners. The new shared condominium mixes spaces of exclusive occupation, which should be aimed at housing (even if it is possible to accept mixed uses) with spaces of properly collective occupation.

It is clear that the objective of the **special Urban Collective Adverse Possession** does not focus on the protection of individual property, but in the guarantee of the right to housing for a certain collectivity. A primary difficulty in implementing adverse possession is the need for a court decision, which can take years and even decades to be finalized. Another difficulty lies in the implementation of collective adverse possession in neighborhoods of hundreds or even thousands of dwellers, because formulating the special shared condominium contract within this context turns out to be very complex.

II – THE HISTORY OF CHACARA DO CATUMBI AND THE DEBATE AROUND THE MANAGEMENT OF COLLECTIVE PROPERTY AFTER THE RULING OF THE URBAN COLLECTIVE SPECIAL ADVERSE POSSESSION

Located at Rua Emília Guimarães, No. 67, in the popular neighborhood of Catumbi, in the central area of Rio de Janeiro, the *Chacara do Catumbi* (literally: Catumbi farmland) was originally owned by Baron de Chichorro. A manor house was built in the 19th century on this vast domain that was a productive estate.¹¹ According to information from the electronic portal of the Federal Supreme Court, Antônio Pinto Chichorro da Gama was born in April 1800 in the city of Nazaré, in the current State of Bahia. He graduated in Law from the University of Coimbra. Returning to Brazil, he lived an extremely active public life. He worked as a judge, minister of state, senator, and president of different provinces of the Empire and retired, in 1875, as minister of the Supreme Court of Justice (Lago, 2001, p. 98). He died in the city of Rio de Janeiro on June 10, 1887.

The property consisted of a main house and a vast plot of land. During an interview, current residents Lucio and Carla told us that slave quarters were located in the basement of the house, where they found many objects related to slavery, such as chains. They lived there for a while, but currently have their houses in more recent constructions, built around the manor house. During one of our visits,

another resident, Gegê, show us the remains of an iron chain, where, according to him, enslaved people were shackled. Carla, in turn, who lives in a building around the house, probably where the farmhouse's stable was located, also told us about the remains of an artifact related to slavery when she carried out works in the back of her land.

The accounts we collected from residents about the afterdeath of Baron de Chichorro are not so clear. Lucio and Carla remind that the property was gradually allotted and sold. The main house (Figures 2 and 3) was finally purchased by a Spanish merchant, Rafael Garcia, who rented it to several families. Cacilda Lourenço Garcia, his wife, continued to use the place after the death of her husband. Carla, who met Dona Cacilda, reports that she was extremely rigid in taking care of the property and collecting rents.

Lucio and Carla claim that Dona Cacilda's heiresses, to whom they paid rent, showed no interest in the area, abandoning it for several years. Lucio tells us that the wall that separated the land of Chácara do Catumbi from the favelas of Mineira and São Carlos collapsed in 1994 after heavy rains. Since the wall has not been rebuilt, the upper part of the land of the Chácara ended up becoming occupied by some of residents of these favelas.¹² In view of the consolidation of this occupation, Carla confirmed to us that the residents of the main house decided to stop paying rent to Cacilda's heirs but continued to pay the municipal property tax on the property and to promote the maintenance of the main house. It was the moment of the local community formation.



Figure 2 The manor house of Chácara do Catumbi (2019). Source: Project ATHIS archive.



Figure 3 The manor house of Chácara do Catumbi (2019). Source: Project ATHIS archive.

In 2002, the residents were threatened by an action of expropriation by Rio's municipal government who planned the installation the Samba Carioca Reference Center there in the context of the Favela-Bairro project for urbanization of Morro da Mineira (Benicio, 2002: 2). Faced with the imminent threat of eviction, the residents united politically, contacting various elected politicians. The City's administration ended up abandoning the project.¹³ Even so, the residents, with the support of the Bento Rubião Foundation, proposed a few years later, more precisely on May 24th, 2006, a special collective adverse possession action.¹⁴ In light of the financial difficulties of the Bento Rubião Foundation, the Pastoral de Favelas of the Diocese of Rio de Janeiro ended up taking over the process a little before its completion.

Twelve families initiated the action, and six additional families later joined in the process. After 11 years of legal battles, the ruling from the 7th Civil Court of the Capital District (RJ) was handed down, declaring the right to Collective Adverse Possession for the residents of Chácara do Catumbi. The area of adverse possession is described in Figures 4 and 5. The legal right was denied to one of the families, because they already owned another property and special urban adverse possession, individual or collective, cannot be granted to those who already own another property. The decision consequently granted 1/17 of the land to each resident.

The declaratory ruling of adverse possession was finally registered in Rio de Janeiro's 7th Real Estate Registry Office. With the Adverse Possession Legal Action, a special

shared condominium was established with ideal and equal portions, regardless of the occupied area, for the subsequent formation and registration of the collective agreement of the aforementioned shared condominium, which would then establish the rights and obligations of the residents and determine the spaces for collective use and those for the private use of each family.

In addition to the main house, the area has 12 buildings, totaling 27 dwellings and land, of which 23 residents claim to be owners, and with 4 dwellings occupied by tenants. These 23 owners had been sharing the IPTU (acronym for property tax in Portuguese) values, as well as the area's different maintenance costs, especially those related to the operation of the water pump. However, the 2020 IPTU payment was divided by 27 shares, including tenants in the payment as well. Although some residents did not join the process or acquired housing after the sentence, we observed, in all meetings, that there are no questions by local residents about the property rights of them. The idea is to integrate them as owners at the time of registration of the shared condominium agreement, as well as to formalize the transactions carried out since the judgment and not yet registered in the General Property Registry (RGI).

Most of the families have low incomes.¹⁵ One income related feature that grabbed our attention is that 45% of families have variable incomes, since they are not formally employed and work independently. Only 25% of them have a formal employment relationship. The others, about 30%, are retired or pensioners.

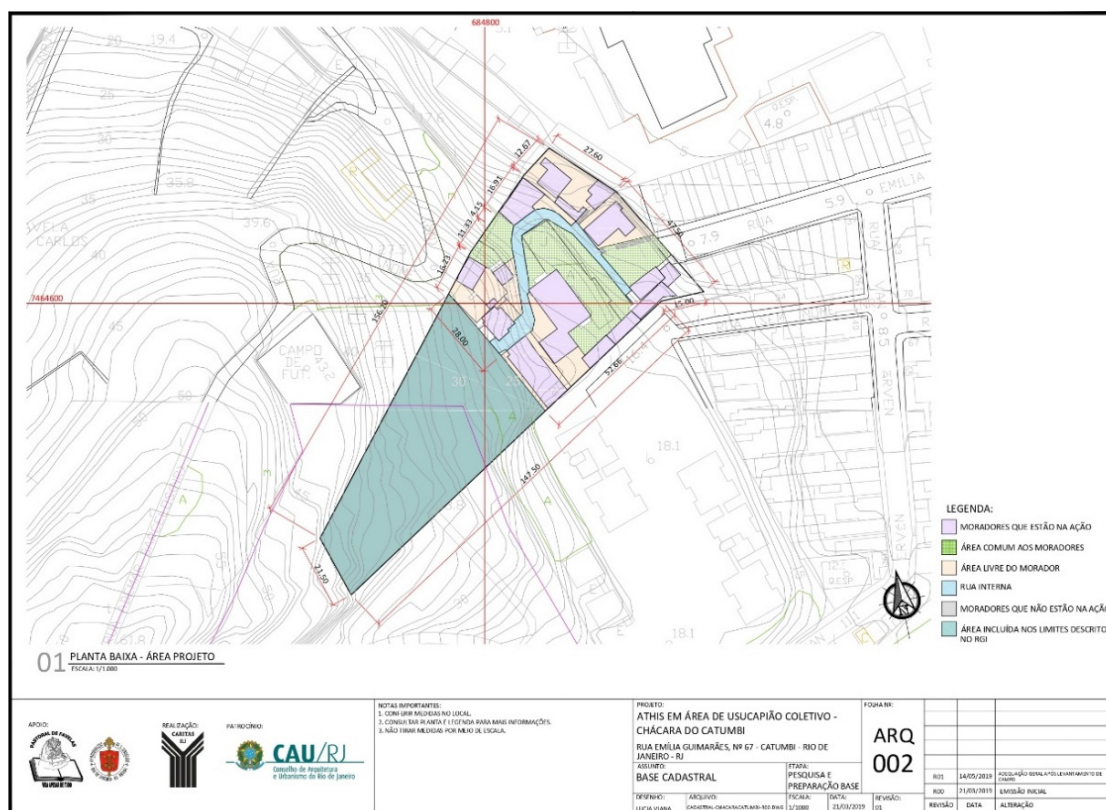


Figure 4 Total area of the property in 2019 (in color the area of adverse possession within Chácara do Catumbi). Source: Project ATHIS archive.

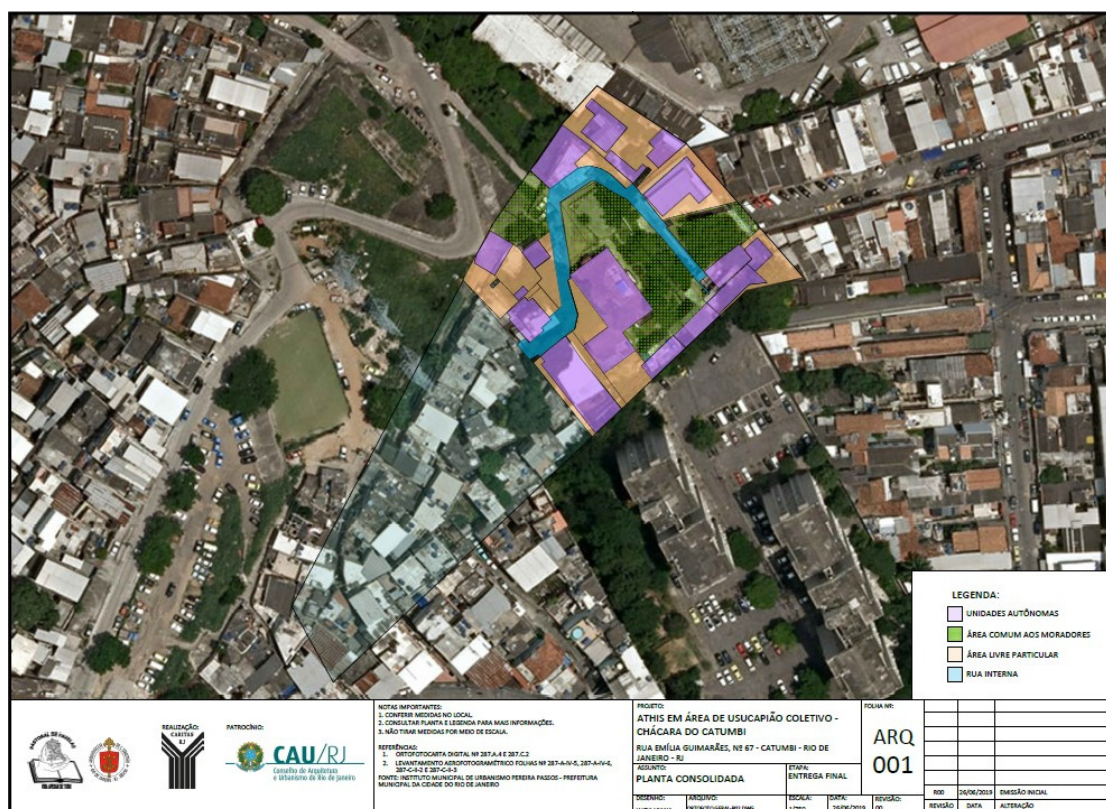


Figure 5 Aerial photo of the entire property, 2019 (in color the area of adverse possession within Chácara do Catumbi). Source: Project ATHIS archive.

Some elements consolidate the local sense of community in the context of the construction of “commoning” (Fournier, 2013; Bollier, 2016). There are two areas considered for collective use: one area with trees, shown in Figure 6, located at the entrance of Chácara do Catumbi, another area located in front of the main house, called “the square”, where most of the communities’ social life takes place (parties, religious services, barbecues, and various meetings). There is also an easement that cuts through the entire property and allows residents of Morro da Mineira and São Carlos (the neighboring favelas) to access the Catumbi neighborhood more easily.

Since residents paid municipal property taxes (*Imposto Predial e Territorial Urbano*/IPTU in Portuguese) and the setting is not considered part of the neighboring favela, the “urbanization projects” in the area did not integrate the residents of Chácara do Catumbi into the local water

network of the favela.¹⁶ Because the land is located on a steep slope, the water on Rua Emília Guimarães does not have enough pressure to supply service for all the residents. Thus, the residents maintain a water pump to fill a cistern at the site. It is easy to observe the challenges involved in the collective management of this service, as demonstrated by the difficulty in collectively covering the maintenance costs of the water pump. This is, in fact, as we will see below, one of the main problems presented: the collection and sharing of expenses common to all (pump maintenance, property taxes, cleaning of the area, pruning of trees).

The internal management of IPTU payment is undoubtedly one of the issues that generates the most discontent among residents. During the meetings, the difficulty in paying the IPTU property tax payment bill on time was always mentioned, since some residents were slow to pay their part. Although residents complain a lot about sharing property tax costs, we observe that it ended up being a common bond among residents. When they stopped paying rents in the 1994, they decided to keep paying the property tax on their own. In addition, the annual payment of this tax together with the collective division of site management costs always maintains the collective movement of the group. The IPTU is divided into equal parts, which constantly raises questions, as there are significant differences in the size of the houses. Another problem lies in delays in payments that can lead to incurring interest and even put the property as a whole at risk, if City Hall promotes a judicial execution of an alleged debt. Despite the collective aspect of the property title, when asked what they think about IPTU being collected collectively, 75% disapproved and preferred it to be individualized.

The main argument of those who defend that the IPTU should be individual is that, if it were, it would eliminate the difficulty of money collection. It would be charged more fairly, since the way it is currently done is not proportional to the size of each house. Those who prefer to keep the collective IPTU payment claim that the amount would be much higher if the charge is individualized. Indeed, the IPTU tax is currently charged only for the surface of the main house. If the other existing buildings were included as part of the tax base, the costs would increase considerably.

Another possibility would be to maintain the collective payment of IPTU, but to differentiate it internally in the future shared condominium agreement. The values of each person’s shares according to house sizes would then be indicated in the agreement. This variation in IPTU payment quotas would not necessarily involve questioning the share of each joint owner of the collective property. In other words, the property would continue to be collective, and the differentiation would only concern the value of IPTU paid by each resident. We noted that this debate was not



Figure 6 Area with trees (2019). Source: Project ATHIS archive.

further developed during the project with the residents. The 2020 IPTU, as mentioned above, was divided into 27 parts, including the rental units, with tenants also bearing a share of the costs.¹⁷

In relation to common spaces, there is a consensus among residents that, as they are collective, they cannot be used privately, especially not for new constructions. The possibility of closing the property with gates, thus blocking the easement path that allows residents of Morro da Mineira to quickly access the Catumbi neighborhood was also discussed. However, everyone agreed that this closure would be impossible, since it would foster a lot of criticism from favela residents, who could even complain to the local drug traffickers.

Although this closure will likely never happen, this debate raised some interesting questions about the relationship of Chácara do Catumbi residents with the residents of the bordering Morro da Mineira favela. We observed that, for the older residents of the Chácara, there is a discourse of distinction in relation to the favela. Lucio and Carla, for example, assert that they are not favela (slum) dwellers and that they live in a properly registered property with official titles. However, for the more recent residents, many coming from Morro da Mineira favela and who did not participate in the adverse possession process, this distinction does not exist. For them, despite the property title, Chácara do Catumbi is considered part of the favela. This is the case, for example, of Roberta, who runs a party house on the property, but still owns a house in the favela. Although she lives in a small apartment in the party house, she emphasizes that the Chácara do Catumbi and the favela form a single neighborhood.

With regards to commercial use, only two respondents spoke out against commercial activities in the area. They claimed that such activities might attract problems, such as noise or the presence of undesirable people. Those who agreed with commercial activities stressed, however, the importance of maintaining the area's organization and that any new activity would need everyone's approval. It should be noted that there are already two hostels, a party house, and a bar operating on site.

Most are in favor of establishing a property manager (75% of respondents). Residents reported that, previously, a person was responsible for collecting the money and paying the bills, but he were diverting resources for their own use. For this reason, some still believe that having an administrator is not a good idea. Another argument presented is the fact that the residents are not united and that a property manager would have difficulties in performing its tasks. However, most defend the presence of a manager and all, unanimously, are in favor of establishing a monthly contribution to cover the maintenance costs of the area.

Regarding the rooftop construction (Laje),¹⁸ 20% were against it, while 80% were in favor. Those who are against stressed concerns over the safety of the constructions, while the majority in favor stated that it is better to vertically “build up” houses than invade collective ground spaces. In this regard, the situation is the same as the real estate occupation logic in the favelas (Cavalcanti, 2009; Gonçalves, 2012): verticalizing helps to shelter a new family and/or helps support the family by collecting rent.

III – CONCLUDING AROUND THE DEBATE ON COLLECTIVE PROPERTY MANAGEMENT

In addition to observing residents, we also tried to observe the team's performance during the project. Many of the members of the Technical Advisory project are experienced experts and activists for housing rights. It was interesting to observe their views on collective property and how in many ways they differed from the more functional and pragmatic practices of the residents. During some team meetings, it was suggested that the shared condominium agreement should provide a greater collective control of all local land transactions. For example, the agreement could require that any transactions should have the consent of all other residents. The idea was to establish a strong collective management of land and avoid possible processes of gentrification in the area.¹⁹

We observed that such ideas are not an issue of concern for the residents, since they were not in line with local practices, especially given the possibility of selling their houses or creating new units from the use of the *laje* (terrace roof top). The poorest residents do not view living in the city as a mere exercise in survival. They take all possible advantage of the situations they live in and try to reproduce, on their scale, the mechanisms of the urban/capitalist system to which they are subjected to. As Santos (1982) already highlighted, poor residents of Rio de Janeiro have been rarely listened to about where and how to live, and when they are, they reveal a typical clarity based on a kind of “everyday ideology”, as pragmatic as possible. We observe a remarkable collective effort in the contexts of land conflicts, but these spaces are also crossed by liberal practices. There is, therefore, the coexistence of two distinct movements, one for communing and the other more based on more capitalistic practices.

Although favela residents in Rio de Janeiro do not typically hold land titles, the notion of private property ownership is largely consolidated in the informal real estate market. The collection of rents and the informal trading of houses have existed since the beginning of the favelas as early as

the late 19th century (Gonçalves, 2012), but have gained new proportions today with informal real estate activity. The informal housing production is so different from the notion of self-building in many favelas. In some cases, this informal real estate activity is dominated by local criminal groups (Benmergui and Gonçalves, 2020), which is not the case in Chácara do Catumbi.

This made us reflect on the role of the technical team and how to build participatory processes without imposing outsider views. It is necessary to connect the residents' knowledge, derived from their daily experiences, with the technical/academic knowledge (Barembliitt, 1992). As Le Roy (1999) analyzes, land regularization projects need to reconcile institutionalization with the functionality of local practices. The collective nature of the demand of land regularization was what allowed the residents to stay there and to maintain, at least for the time being, a better urban quality than the rest of the favela, with less density and with the presence of areas of collective use, which are increasingly rare in favelas. It is therefore necessary to understand collective initiatives according to local particularities without imposing universal rules that are often far removed from such practices.

The reflection on the common is based on the use of resources, but we should consider, in the case studied, the importance of the exchange value of the property. As Bruun (2015: 159) argues, it is not always possible to completely separate urban commons from the real estate market. The fact that collective housing experiences include certain market-specific practices does not mean that people do not constitute interesting collective land management practices. Instead of modeling abstract forms of collective management of common resources, it is important to dialogue with existing practices and find mechanisms for reconciling use and exchange values. Santos' works criticize limiting interpretations of the periphery only as the spatial expression of the overexploitation of work and sought to understand the poor people's houses not only for their use value, but also for their exchange value. In other words, houses serve as shelter, but they can also be traded on the market with the possibility of earning profits (Santos, 1980, 1982).

This issue was very evident during the meeting on 06/01/2019, when we experienced walking through the area with the residents to distinguish collective spaces from those of private use. The case of expansion and verticalization of Dona Raquel's house was much discussed. She has one of the smallest houses in Chácara do Catumbi and planned to increase its size according to her resources, within the practice of favela self-construction. While everyone recognized her right to expand her home, the discussion was sometime tense in regard to the possible

effects that any new construction might have on adjacent houses. Residents not only mentioned possible decreases in the quality of life, considering they would have buildings in front of their windows, but they also raised the possible loss of value of their own property. In other words, it is impossible not to consider that the potential configurations of local land management must also include the exchange value of housing. On the same day of the group walking tour, we heard from many residents about their interests in expanding their houses, including those living in the mansion, which if not done properly could detract from the value of the historic construction, major unifying element of the group. The house holds a special place in the memories of the residents and is spatially situated at the center of the community, in the middle of the property with the collective spaces surrounding it. Therefore, it seems important to consolidate collective spaces for mediation between the collective uses and the exchange values of the improvements in order to avoid the area's mischaracterization with an excessive expansion of new constructions and transactions.

Chácara do Catumbi is one of the few cases of collective property title in Brazil that is not directly related to ethnic identities, as it is the case of indigenous reserves or quilombola lands (Pilati, 2009, Melo, 2019). The fight for property titles and against removals led to the constitution of a collective asset. The risk of formalization is to impose norms, which end up weakening practices that are normally effective and locally accepted. The ideal would be to dialogue with such practices to refine them (Guha-Khasnabis, Kanbur and Ostrom, 2006: 13).

Finally, given the challenges faced by favela's residents in dealing frequently with armed groups and the regular violent presence of the State itself, through police operations or illegal evictions of residents, maintaining forms of collective mobilization seems essential. Despite the conflicts surrounding the annual property tax payment or the sharing of costs to maintain the local collective water supply system, it is precisely these collective initiatives that have maintained the group's cohesion, legitimized the struggle for housing and allow constant mobilization for local demands. As Bollier et Helfrich (2019) argue, any cooperative effort will face serious challenges, many of them stemming from personal behaviors or power relations. The question is not whether, but how the inevitable conflicts that arise will be handled. It is not just a matter of preserving social relations from these conflicts, but also of understanding that they are inherent to commoning practices. In the case of Chácara do Catumbi, many of these conflicts emerge and make sense to the local collective practices.

In Brazil, at least since 2003, social policies for the recovery of the value of the minimum salary, combined

with conditional money through social transfers for the poor, allowed a sensible growth of the favela population's revenues, which increased the consumption and the market interest to these territories (Ost and Fleury, 2013). Currently, this is challenging the possibility to maintain such collective mobilization and tenure. As we can notice through this case study and its related analysis, collective land management is a matter of contested uses and practices, a matter of tension and conflicts. Therefore, its processing must be relatively flexible to the lability of local practices. Nonetheless, reconciling collective efforts in a society like Brazil, increasingly guided by neoliberal and individualist principles, even in its most working-class areas, represents challenges and hope in building new forms of alternative collective mobilization.

NOTES

- 1 The Pastoral de Favelas was created in 1977 in the context of the attempt to remove the Vidigal favela. Its Legal Assistance Service was very active (Brum, 2018). Faced with the internal pressures of the Church against the more progressive line of pastoral care, part of its members decided to found the Foundation Center for the Defense of Human Rights Bento Rubião, in 1986. If the Bento Rubião Foundation presents financial difficulties to maintain its activities, the Pastoral de Favelas has been seeking, in a timider way than in the late 1970s, to work again as a legal advisor to favelados.
- 2 Project Communs fonciers pour l'habitat dans les Suds (landbased commons for housing in the Global South), led by the UMR Géographie-cités and conducted in collaboration with researchers on the field.
- 3 We were unable to schedule an interview with two families. The third resident did not accept to fill in the questionnaire, nor did he participate in any project activity.
- 4 All names cited in this work are fictitious for the purpose of protecting the identity of research participants.
- 5 The names have been changed.
- 6 The International Labor Organization (ILO) adopted the term informal sector as a substitute for traditional sector, based in part on the studies of the British anthropologist Keith Hart (1973). Despite the initial emphasis on the economic aspect, there is an extensive literature critical of this reductionist analysis (Roy and Asayyad, 2004; Jacquot et al, 2016; Boutès et al, 2016; Boudreau et al, 2016; Macfarlane, 2016 and Gonçalves, 2017).
- 7 We defend focusing our analysis on the spatial dimension of the informal from a political approach to informal practices. For more on the discussion of urban informality, See, for example: Roy and Asayyad, 2004; Roy, 2011, Macfarlane, 2016; Collectif Inverses, 2016; Gonçalves, 2017 and Gonçalves et al., 2018.
- 8 The urban policy chapter of the 1988 constitution affirmed the social function of property and of the city itself. It brought new legal instruments, such as the progressive land tax to punish land speculation.
- 9 The military staged a coup in 1964, which led to the country being ruled by the military until 1985. The promulgation of the 1988 constitution put a definitive end to the regime.
- 10 In Brazil context, it is worth highlighting the discussion about properties led by historian Marcia Motta and her research network (Proprietas).
- 11 Source: initial petition dated May 23, 2006, of Process No. 2006.001.067354-4 of the 7th Civil Court of the Judicial District of the Capital of Rio de Janeiro, p. 6.
- 12 Information on this occupation is contained in the legal challenge, dated June 6, 2009, of Process No. 2006.001.067354-4 of the 7th Civil Court of the Judicial District of the Capital of Rio de Janeiro, page 243.
- 13 Carla has numerous letters of support received from politicians of various political spectrums, who were contacted by her late husband to help fight eviction by the city for the construction of the Samba Carioca Reference Center. The Chácara do Catumbi community is close to the Sambódromo, the site of the samba school parades.
- 14 Judicial process No. 2006.001.067354-4.
- 15 Two respondents stated that they received less than two minimum wages, while 11 claimed they received between 1 and 3 minimum wages, while 3 respondents said they received above three minimum wages. The minimum wage in 2019 was R\$ 998. At the beginning of July 2021, one dollar was quoted at approximately 5 reais.
- 16 The surrounding favelas were urbanized by the Favela Bairro project, which was implemented by the city government, initially with funds from the Inter-American Development Bank (IDB), starting in 1993. The project aimed to install public services in the favelas in order to integrate them into the city.
- 17 We don't have information about the payment of 2021 IPTU.
- 18 The *laje* is a type of surface right and has been inserted in the Brazilian Civil Code since 2017.
- 19 There is an effort to think of new, more collective forms of land management, such as the one promoted by the NGO Catalytic Communities (ComCat), which has been trying to discuss the implementation of a Community Land Trust (CLT) in favelas in Rio de Janeiro. Some of the technicians from the ATHIS project are directly or indirectly involved with the NGO ComCat initiative. On the possibilities of applying the CLT in Brazil, see Ribeiro (2020).

COMPETING INTERESTS

The authors have no competing interests to declare.

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