

THE SELL-BUY OF AGRICULTURE CROPS – A MASQUERADE OF REINTRODUCING THE SUBLEASING IN AGRICULTURE

VÂNZAREA - CUMPĂRAREA CULTURILOR AGRICOLE – O FORMĂ MASCATĂ DE REINTRODUCERE A SUBARENDĂRII ÎN AGRICULTURĂ

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Abstract. *In modern time history of Romania, the subleasing agriculture has been a current practice until 1907 when as a result of peasant rebellion it was cast outside the law. Shortly after the appearance of Law 18/1991 regarding the real estate, also was elaborate the Law no. 16/1994 of leasing with the purpose of shorten in the term of real estate area concentration. The farming created after 1991 on the layout of agriculture property leasing couldn't translated to practice the officially held measures throughout governing programs which in turn helped the farmers with coupons, values bonuses etc. The real beneficiary of governmental help were food industry or seed vendors as well as nutrients, pests etc. All of them also develop the masquerade technique by reintroducing the subleasing using the sell-buy contracts of crops. It is necessary the modification of Law no. 16/1994 in order to ban this practice and prohibits leasing above 500 ha. Without these measures, the traditional environment of being and continuity of Romanian ship may well disappear in less then 15 years.*

Rezumat. *În epoca modernă a României subarendarea în agricultură a fost o practică curentă până în anul 1907 când urmare răscoalei țărănești a fost scoasă în afara legii. La puțin timp după apariția Legii nr. 18/1991 a fondului funciar a fost elaborată și Legea nr. 16/1994 a arendei cu scopul urgentării concentrării suprafețelor agricole. Societățile agricole înființate după 1991 pe baza arendării terenurilor agricole nu au putut valorifica în totalitate măsurile adoptate oficial prin programele de guvernare care au acordat sprijin producătorilor agricoli pe bază de cupoane, bonuri valorice, etc. Adevărații beneficiari ai sprijinului guvernamental au fost agenții economici procesatori sau comercianți de semințe, îngrășămintă, pesticide, etc. Tot ei au pus la punct și tehnica de reintroducere mascată a subarendării prin metoda contractelor de vânzare – cumpărare a culturilor. Este necesară modificarea Legii nr. 16/1994 pentru interzicerea acestei practici și limitarea posibilității de arendare până la 500 ha. Fără aceste măsuri, asupra mediului tradițional de menținere și continuitate a românismului planează pericolul dispariției în cel mult 15 ani.*

The agriculture isn't just a economical branch, it is also a life style for the Romanians which live in the country side, being the base of the Romanian country side civilization on which resides on one hand the tradition and customs of Christian Romanian people, and on the other hand it generated a special life style which consolidate the national identity of Romanian people.

As long as between the land and Romanian peasant doesn't exist no other intermediary, both the social environment as well as the economical one have positively evolved. On the time when the intermediaries appear, meaning the leaseholders appears, the social parasitism forms, misplacing, weakening the countryside environment by loosing the tradition and valuable customs, and in the late years, the mass migration of young labor force from countryside has generated a massive depopulating of village, with negative irreversible effects. There is a complex of political and economical factors, which contributes to this phenomenon, between which the most negative is the subleasing.

MATERIAL AND METHODS

According to the Civil code, art. 1294, the sell is a convention through two parts binding themselves one to giving to the other the property of a thing and this one to pay to the first one its price. But this imply, necessarily, the concomitance of two operation (the sell – the buy) which leads to the property transmit. From juridical point of view, the sell-buy contract is a consensual contract, reciprocal and bilateral. The consensual character consists from the thing property transfer, which formed the convention object. The reciprocal character consists from the identity of juridical causes of both contracting parts regarding the assuming obligation. The bilateral character of the contract consists from the reciprocal obligations, on to the other, of each part.

The leasing contract consists in the signed convention between the owner and the leaseholder, regarding the agricultural valuables exploitation on a determined period and to a price established by the parts. The leasing contract is a reciprocal, onerous, consensual, on a determined period, with sequenced execution.

Because the subleasing is interdicted by the art. 22 from Lease Law, the businessman use a "artifice" by which has simulated the closing of sell contract of new se up crops, which once buy they look after and gather after the vegetation period, taking in a silent way in all this time the field property.

RESULTS AND DISCUSSIONS

As I already point out, the sell-buy contract has like main purpose to their signing the transmission of the purchased thing property. In the situation taking into account, we notice that the seller have before already a signed leasing contract with the landowner, towards which he assumed certain obligation. In the moment in which he signed a so-called sell-buy contract of root crops, practical he transferred on a determined period also the possession of the land on which there is the crop, this being a specifically element of leasing contract, and the leaseholder becoming by this way a parasite intermediary between the right landowner and the crop seller which has the purpose and the obligation to entertain the crop until the gather, according to the specifically technology, but doesn't have no other obligation toward the owner himself.

In reality, the lessor receives an average payment, which represents the lease and has the obligation to pay the state taxes for the property surface, the

leaseholder receives from the crop buyer a payment which is situating between 40-5-% from the estimated values of the crop, without assuming any risk, and the crop buyer, practice the sublessor beneficiating by the difference of 50% from the crop valuable and pay the income taxes to state.

We notice at from a bilateral relation, lessor-leaseholder (fig. 1), has reached to a trilateral relation, lessor – leaseholder – subleaseholder (fig. 2). The leaseholder in this situation becoming a parasite, an intermediary, a break in the way of agricultural economical development, which must disappear.

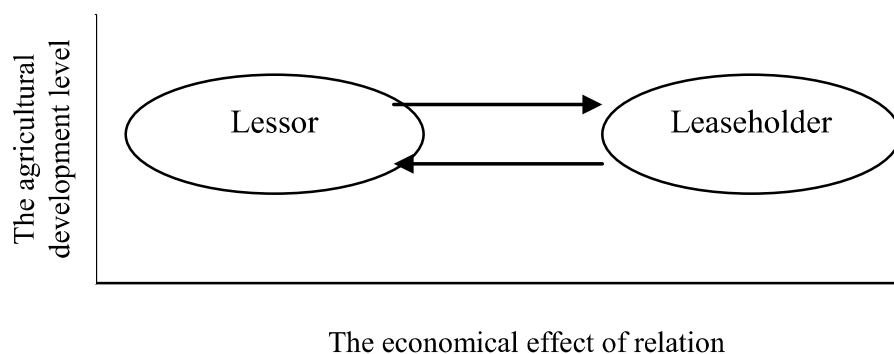


Fig. 1. The enframe in agricultural economical space of lessor-leaseholder relation

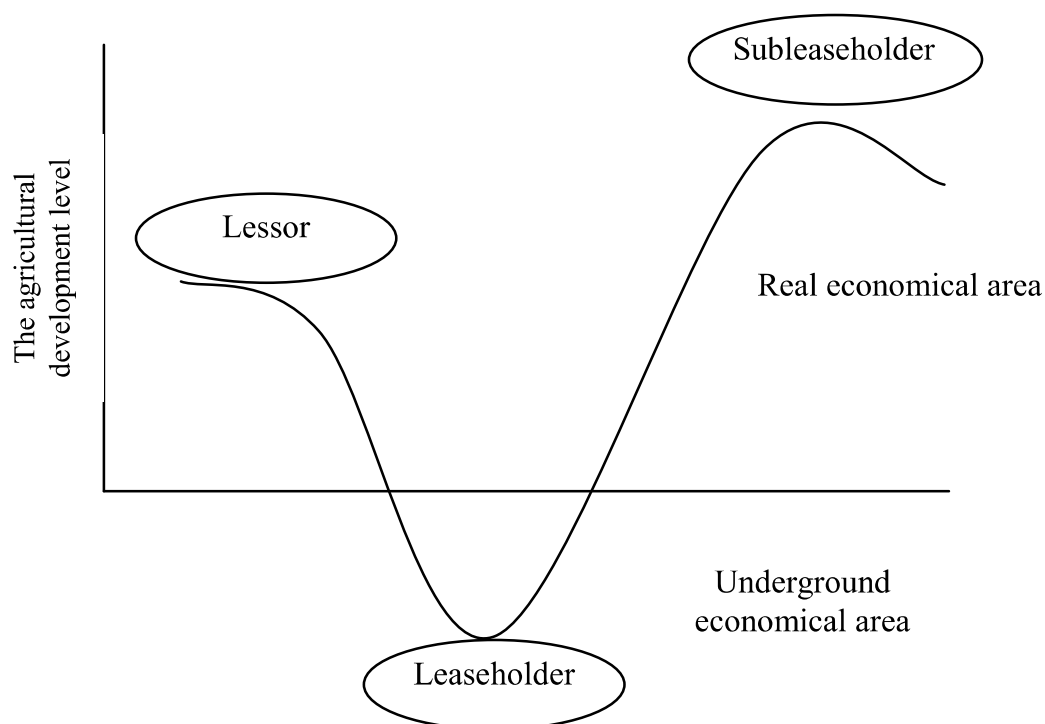


Fig. 2. The enframe in agricultural economy space of the lessor – leaseholder – subleaseholder relation

By this work frame, the owner himself (lessor) is isolated, marginalized, unmotivated to rest in rural environment, because the income obtained from lease land are not sufficient for a decent existence and, as it follows, he faces the need to emigrate, because it cannot always sell the land, by sentimental reasons or due to other juridical nature complications.

CONCLUSIONS

In some country area, some businessman from agriculture area have discovered that they may elude the Lease Low by simulating a sell-buy root contract which in reality is nothing else then a masquerade sublease. This thing has negative effects from economical and social point of view, leading to impoverish and mass migration of rural population and contributing to restraint the authentically Romanian culture and civilization. It is necessary a radical measure which to interdict the sell-buy crops and limit the lease surface to 500 ha, by modifying the Lease Low, in order to prevent the polarization of land property on the hand of a few businessman.

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