

8. *The Origins and Evolution of the rabassa morta Contract in Catalonia. Was It An Emphyteusis?*¹

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What is the purpose of a chapter about the *rabassa morta* contract [literally, ‘dead grapevine’ contract] in a monograph on emphyteusis? This particular kind of lease transferred the *dominium utile* [beneficial dominion or ownership] of a parcel of land so that it was used for growing grapevines. Originally, from a legal standpoint, it was similar to an emphyteusis, although with certain peculiarities. The *rabassa morta* contract shared several elements with a traditional emphyteusis: a shared dominion over the land, the possibility of alienating beneficial ownership, an entrance fee, the right to charge for any improvements, etc. However, they differed in terms of their duration. Unlike in the case of the Catalan classical emphyteusis, whose terms were in perpetuity, the *rabassa morta* contract was a long-term contract with an undefined duration. For example, it could be valid until the first grapevines planted by the *rabasser*—the lessee—died (hence the name ‘dead grapevine’), that is, for approximately fifty years. Some techniques—such as the use of *colgats i capficats*, which will be explained below—allowed the life of the vines to be extended indefinitely, thus *rabassa morta* contracts were passed on from father to son, generation after generation.

Which advantages did this contract offer to landowners? Once the demand for wine and distilled spirits increased, and with it the price of wine products, many landowners decided to cultivate unused lands in order to benefit from the economic growth. The problem lay in the time lag between cultivation and any economic returns, which involved a significant investment of both time and labour. Therefore, landowners—many of whom did not outright own the land but held themselves an emphyteutic lease on it—found in the *rabassa morta* contract the ideal legal instrument to sublease out the cultivation of the land without making a costly investment. Landowners could not use other methods such as the regular land lease (*arrendament*) and the sharecropping (*parceria*) because these were short-term contracts. No *rabasser* would be willing to invest years of work on uncultivated land to then immediately lose their right of use.

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The *rabassers*'s work would only be rewarded if they were able to hold beneficial ownership for at least half a century. In exchange for this, the lessor would receive a share of the annual production, as well as other payments and rights that will be discussed below.

This chapter will address the emphyteusis, the different kinds of legal formulas for the planting of vineyards, and the earliest identified *rabassa morta* contracts. Additionally, it will analyse the importance of the *rabassa morta* contract in different areas of Catalonia, the evolution of its conditions and clauses, and how *rabassa morta* contracts changed once landowners started to model them after other exploitation systems, such as the *parceria* or the *arrendament*. Finally, it will examine—albeit briefly, due to space constraints—the social conflicts generated by these changes.

I. Some ideas about the emphyteusis, the subemphyteutic contract, and the contracts for the cultivation of grapevines.

The history of both rural and urban Catalonia cannot be understood without the emphyteusis. In this region, property rights were divided between the landowner, who ceded the land but retained its *dominium directum* [direct dominion or ownership], and the person who farmed it, who held the *dominium utile*. The landowner received a rent, whether monetary or in kind, and could also exercise the right of *fadiga* (the right to recover the *dominium utile* if the land was sold to a third party, and to do so for the same price) and receive the *laudemium* (a percentage of the purchase price every time the beneficial ownership changed hands). The holders of the beneficial ownership had leave to farm the land in exchange for a payment, as well as to bequeath the property to their descendants or even sell the exploitation rights as if they belonged to them².

Any contract regulates a relationship between unequal parties, and that also applied to the emphyteusis. There were differences between the medieval emphyteusis (in which the payment included a fraction of the crop, and whose duration was longer, although it was limited to one or two generations) and the emphyteusis that emerged in Catalonia after the War of the *Remences* in the mid-fifteenth century and the *Sentència Arbitral de Guadalupe* in 1486 (Serra, 1980; Gifre y Lluch, 2001; Montagut, May 1986). The new

² See also the chapter on emphyteusis and land transfers in Catalonia by CONGOST, GIFRE, and SAGUER in this book .

regulations reflected the change in the relationship between landowners and those who held the beneficial ownership, and the balance of power shifted to favour the latter. Tenants paid a fixed *cens* [rent], which devaluated over time, and had leave to hand beneficial ownership to their descendants, generation after generation. Therefore, in practice, they became quasi-owners of the land and true protagonists of the agrarian transformation. The medieval *mas* [plural *masos*] was an agricultural holding that consisted of a house where the farmer's family and the labourers lived, some other buildings, arable lands, and uncultivated and forested lands. In the Early Modern Period, the accumulation of abandoned lands turned the *mas* into a property of around 80-100 hectares. *Mas* farmers [*pagesos*, sing. *pagès*] held an emphyteutic lease and with it the beneficial ownership of the land, which ensured they were in charge of its exploitation. On many occasions they accumulated a significant amount of properties, usually geographically dispersed, and therefore they needed to use different kinds of contracts in order to secure their cultivation³.

Since the rights over the land were already divided into *dominium directum* and *dominium utile*, an additional long-term lease entailed a legal problem that was solved by creating a second-order *dominium utile*. This is known as *subestabliment* or *nua percepció* emphyteutic contract. The new sublessee paid a fixed rent in kind, or a share of the yield plus an entrance fee. Also, he could bequeath the land to his descendants or sell his right (Broca de Amell, 1987: 278-279). This new division of property rights led to a period of economic stability for peasants, which now had legal access to land. This volume also includes a study concerning the growth in Girona of these contracts— indefinite contracts with a fixed *cens* [rent] to be paid in money or in kind—which provided thousands of peasants with access to the land (Congost, 1990). In the areas where wine became a commercial commodity, the *rabassa morta* contract was the most favoured agreement.

The *rabassa morta* contract was a contract that required the lessee to pay a rent—a share of the harvest—and a variable entrance fee. They also had to settle the payment of the *laudemium* with the landowner at the beginning of the contract. In exchange, they

³ The farmers of these landholdings used the *masoveria* contract when they were not able to farm the *mas* by themselves (CONGOST, GIFRE et al., 1999). However, when they wanted to exploit new lands, which required intense deforestation, they used other agreements such as the *boïga*, the emphyteutic sublease or the *rabassa morta* contract. This chapter will focus on the latter.

could transfer the *dominium utile* as long as they respected the landowner's right of *fadiga*, and the sublease lasted as long as the grapevines were alive, that is why it is called *rabassa morta* [dead grapevine] contract. This type of lease was key to the expansion of viticulture throughout large areas of Catalonia between the eighteenth and twentieth centuries, despite the problems regarding its legality.

The central role played by *rabassa morta* contracts raises many questions, particularly, why did the vast majority of farmers who held the beneficial ownership of a property decided to use legal agreements such as the emphyteutic sublease and the *rabassa morta* contract itself, which meant ceding their propriety rights, instead of using other methods such as sharecropping?

Growing grapes is very different from growing cereals. Cereals have an annual cycle: they are sown, harvested, and then the plant dies thus restarting the process again. The capital is the land itself. Planting grapevines, however, requires hard work, especially if it is done in a forested or uncultivated land. It is necessary to chop the trees down, uproot the stumps, weed, remove the stones and, once the land is ready, dig a hole two-to-three handspans wide and deep to plant the vines. Additionally, it takes four years for the grapevine to be fully productive. All this hard work does not result in a short-term harvest in the first year, as is the case of wheat, but in a crop that could last up to eighty or ninety years. Once planted, the grapevines became part of the land's value as much as the land itself. Due to the enormous cost of planting vineyards, and the need to wait a few years until they started to yield fruit and reach full production, the contract provided a long time frame and the ability to transfer the exploitation rights as a means of compensation⁴. In Catalonia, vineyards expanded over uncultivated and mountainous

⁴ This was a recurring problem when planting grapevines. The need to reward the farmer's work and the fact that it resulted in increasing the immovable capital—the vines—led to the creation of long-term contracts. For instance, in France the most common agreement was the *bail à complant*, which was probably very similar to the *rabassa morta* contract. It started as a *complantatio* (the peasant was given ownership rights over a parcel of land as remuneration) and evolved into a land transfer in perpetuity in exchange for a portion of the vintage. The *bail à complant* disappeared as vineyards spread, but it was still in use in the region of Nantes at the beginning of the twentieth century (GRAND, 1917). In order to encourage the expansion of vineyards, other agreements were created, such as the 'perpetual tenancy' (*locatairie perpetuelle*) in Montpellier (GRAND, 1917: 100). The *complantatio*, or similar contracts, created to promote growth in viticulture were also used in Spain until the nineteenth century (Piqueras Haba, 2007). On these contracts, see COSTA, 1981.

lands in the eighteenth and nineteenth centuries, during which time, there was a clear predominance of long-term agreements. One of them was the *rabassa morta* contract⁵.

II. The Earliest *rabassa morta* Contracts: From the Medieval *complantatio* to the establishment of the *ad plantandum*.

One of the most characteristic contracts for planting grapevines during the Middle Ages was the *complantatio*, also known as *ad medietatem plantationes* or *ad medium plantum*, which can be translated as a planting contract between two parties. The landowner leased a piece of land to a peasant who was obliged to plant grapevines within the first five, six, or seven years. Later, the vineyard was divided into two equal parts, one for the landowner and the other for the peasant. Therefore peasants were given half of the land as remuneration for their work. This was traditionally considered a medieval contract, however it is now known that it was still in use up to the nineteenth century (Piqueras Haba, 2007). In other words, the *complantatio* was not a relic of the past but a type of agreement that continued to be used at either party's discretion⁶.

In the Old Catalonia (roughly the area north of the Llobregat river) the *complantatio* contract was widespread in the tenth century (Aventín and Salrach, 2000: 459). The sources for the period indicate that the land was actually divided between both parties. In his work on the New Catalonia, J. M. Salrach (Salrach, 2001) found *complantatio* contracts from the twelfth century that also stipulated the real division of the land.

The *complantatio* contract was problematic for landowners: by reducing the size of their landholdings, they limited the number of times they could engage in this kind of arrangement. That is why the right of *fadiga* was introduced⁷. In some instances, a clause was added which prevented the peasant from selling his part of the land to

⁵ A variant contract was used in the regions of Sitges and Garraf (MORENO CLAVERÍAS, 1995) and the area of Tarragona (ANDREU, 1994): the 'ploughing contract.' The holder of the beneficial ownership subleased a piece of land to a peasant who would plant grapevines there. In exchange, the peasant held the land for ten to fifteen years and kept the harvest. After the established period passed, the vineyard would return in full to the landowner. This contract was not emphyteutic in nature.

⁶ In France this contract was known as *complant*, *meplant* or *mi-plant* and was used mostly during the medieval period. For instance, in Poitou, it was commonplace to divide the land in half but in the eleventh century the usual was the division of the harvest. In Provence the division lasted for the tenant's lifetime, however they also adopted a system of paying with a portion of the harvest (PIQUERAS HABA, 2007: 8).

⁷ In 1072, the right of *fadiga* was institutionalized to around thirty days. Before this date it was only exercised when considered convenient. Pere Benito affirms that it was this agreement which allowed the landowner to recover his property (BENITO, 2003).

noblemen and clerics (Salrach, 2001: 235). However, this situation also begs the question: was the cost of planting grapevines worth ceding the ownership rights over half the property? It could be argued that peasants solely profited solely from what the grapevines produced, which could allow for the vineyard to be divided between the two parties as long as the plants were alive. Once the grapevines were dead, the land should return to the landowner. In this context, during the twelfth and thirteenth centuries, several clauses began to appear which sought to ensure that the property returned to the landowner. Although the vineyard was actually divided in two, in 1168, for instance, the monastery of Poblet determined that the property held by the peasant could be bequeathed to his progeny, but only until their deaths, when the vineyard would return to the monastery⁸. If the vintage was considered remuneration for the peasants' work, then, once the plants were dead, those peasants no longer deserved to be compensated and everything went back to the starting point. This example could be the origin of the *rabassa morta* contract: the property was actually divided but the peasant had to return his half once the plants were dead.

In the context of *complantatios*, there were some institutions that had no interest in directly exploiting the vineyards, so they started to implement other forms of agreements. Sometimes the land was transferred for cultivation, but once peasants planted the grapevines the property was no longer divided between both parties. Peasants accepted to farm the whole vineyard in exchange for three quarters of the produce. Actually, it was a fair exchange. If the peasant had the right to half the land and harvest when the property was divided, with this contract he obtained his full share plus half of the landowner's (who benefitted from not having to work on the land). The landowner, in return, was entitled to a quarter of the land's production and a cultivated vineyard, which would return to him once the grapevines were dead.

These conditions indicate that the *rabassa morta* system evolved from the medieval *complantatio*, which was problematic and contradictory, and resulted in solutions that were similar to the eighteenth-century *rabassa morta* contract.

⁸ In 1021, the vineyard was shared in exchange for an annual rent during the farmer's lifetime. Once the farmer died, the property would return to the landowner (AVENTIN & SALRACH, 2000).

III. Farming Contracts and the Expansion of Vineyards in Central Catalonia during the Seventeenth Century.

During the seventeenth century there was an increase in the demand for wine, which led to the uneven expansion of viticulture in Catalonia (Valls Junyent, 2004). Farmers who held beneficial ownership, or owned allodial lands, were interested in increasing the amount of land that could be cultivated; in other cases, they wanted to benefit from the higher demand for vintage by receiving a share of the production. This impulse drove farmers to look for contracts to expand vineyards over uncultivated and forested lands, which resulted in different legal solutions. The *rabassa morta* contract was one of these solutions, albeit not the only one. Nevertheless, it became the most prevalent contract almost everywhere in the eighteenth century.

The planting contract between two parties: One of the methods landowners used to expand their cultivated lands was employing the updated version of the medieval *complantatio*. The land was still divided, however the peasants only enjoyed their property as long as the grapevines survived or for a predetermined period of time. The labour force at this time was scarce in Catalonia due to low population, and the peasants' interest in having their own vineyard favoured this type of contract.

Complantatio has been frequently overlooked—mostly because it was considered an exclusively medieval practice—but it is constantly mentioned in studies analysing the spread of viniculture. In 1601 in Mataró, Bartomeu Marc ceded two forested areas for the purpose of planting grapevines. The grapevines had to be cultivated over a twelve-year period, and once they were planted, the property would be divided in half: one for the landowner and the other for the farmer. The agreement clearly stated that the landowner did not have money to plant the grapevines, which is why he would compensate the peasant for his work by transferring half of the property. There was also an additional stipulation, which was frequently present: the *rabassa morta* clause, that is, once the grapevines died, the peasant's half would return to the landowner (Giménez Blasco, 1998: 219)⁹.

Are these isolated examples? Nowadays it is impossible to tell because this issue has not been researched exhaustively, but we believe that a significant part of the expansion

⁹ Other examples can be found in Argentona (BADOSA COLL, 1979) in 1666 and in the Alt Penedès in 1626 (PARÉS, 1944).

of viticulture was carried out through this legal formula. The data from the region of Bages, in Central Catalonia, seems to confirm it.

From the planting contract between two parties to planting for a share: We have analysed the *capbreus* (inventories of the lords' patrimony and the peasants' obligations) of several villages in the area around Bages so we could determine the evolution of farming contracts in this region. The Navarcles *capbreu* of 1635 mentions planting contracts between two parties for thirteen landholdings in Navarcles, Valldelshorts, and Olzinelles¹⁰. In all these cases, the contract specified that once the grapevines were planted, the property would be divided in half, but on condition that once the grapevines were dead (*soca perduda* or *rabassa morta*) the land would return to the landowner.

Over the years, a new legal formula emerged, which was known as the 'right to plant for a share' ("*concessió a plantar a certes parts*"). It seems likely that at first *mas* farmers were interested in having their own vineyard, and planting contracts between two parties facilitated this. However, as time went by, *masos* already had the vineyards they needed, and there was an increase in both the available workforce and the pressure of peasants who wanted access to the land to plant grapevines. All these elements brought about a change in the terms of the contracts. Vineyards were no longer divided up; now peasants farmed the entire property surrendering a quarter of the vintage and the land only returned to the landowner once the grapevines died (*a soca morta*). This type of agreement is the one which most closely resembles the *rabassa morta* contract, although it still lacked the emphyteutic terminology¹¹.

Although this legal formula was commonplace, there were issues concerning the legality of some of its aspects. Could peasants sell their part of the land to someone else? Did they have to inform the landowner of the decision even though they considered the land as theirs? The right of *fadiga* could have remedied these problems, but the contracts of the period do not mention it. Did these new landholdings, developed

¹⁰ We have used the Navarcles *capbreus* of 1635 and 1687 (Archive of the Monastery of San Benet de Bages, and Archive of the Monastery of Montserrat), the Artés *capbreu* of 1697 (Cathedral Archive of Vic) and the *capbreus* of Sant Iscle de Bages (which were kindly provided by Marc Torra).

¹¹ The Artés *capbreu* of 1691 (Arxiu Capitular de Vic) contains thirteen examples of this type of contracts. These include mentions of 'planting between two parties' from 1663, 1675, 1675, 1676, 1678, 1682, 1693, and of 'planting for a share' in 1669, 1681, 1687, 1687, and 1693. The second formula was commonly used in the later years.

within an emphyteutic context, have to pay the *lluïisme*? Did they have to pay a part of the rent owed by the *mas* farmer who held the emphyteutic lease? It is easy to imagine how emphyteusis solved these situations. Besides, the transition from the ‘planting for a share’ system to the emphyteutic sublease was relatively easy.

Agrarian contracts in this period increasingly used this formula. In 1674, in the parish of Viladecavalls, there was an example of a sublease contract with a *rabassa* clause. Jaume Tapias, a farmer, heir to *mas* Tapias, in Viladecavalls, transferred (*establia*) an uncultivated land of the size of one *quartera* (0.294 ha.) to Valentí Oliveres, a farmer from Navarcles, with the stipulation that Oliveres had to grow grapevines there for eight years. The latter had to pay a fifth of the production, ferment the grapes in Tapias’s vats, accept a weight control during the wine harvest, and pay eighteen *diners* to help Tapias defray the rent he owed¹². This contract had the same nature than the ‘planting for a share’ agreement but it already introduced the verb *establi* [literally, ‘establish’, a usual term in emphyteutic leases] and stipulated that the peasant who received the land had to help the sublessor pay their own rent.

In order to find the ideal formula to channel the expansion of viticulture in the seventeenth century, the ‘planting contract between two parties’ was replaced by the ‘planting for a share,’ which later evolved into the *rabassa morta* sublease. By the end of the seventeenth century, the new contracts already used the term emphyteusis, they lasted as long as the grapevines were alive (*a rabassa morta*), and the peasant had to pay a share of the grape harvest and an entrance fee to the sublessor¹³. However, we are not sure whether this formula was used in other regions¹⁴.

¹² The peasant had to help the beneficial owner to pay the direct lord, because the peasant cultivated part of the *mas*. Notarial books of Viladecavalls, 11 March 1674, Parish Archive of Calders.

¹³ In other areas such as Anoia and Penedès the peasants were obligated to plant a certain number of grapevines every year in order to increase the vineyard’s size (JORBA SERRA, 2011: 222-259). This was a mechanism used to expand the vineyards, and it also stipulated who was responsible for planting.

¹⁴ Historians have found very few examples of *rabassa morta* contracts in the sixteenth century. For example, in Argentona, a *capbreu* from the second half of the sixteenth century mentioned a land transfer that included clauses for planting grapevines: paying a quarter of the production and returning the property once the plants were dead (*cuiusdam pecie terre quam dictus quondam vir meus vendidit durantibus vitis sive rabases in eadem plantatis*) (AVENTÍN and SALRACH, 2000: 496-497). Eva Serra’s works confirm the use of *rabassa morta* contracts in Sentmenat (SERRA, 1988: 351-352). An example from 1661 stipulates: *...Stabilio et emphiteosim do et concedo... usque ad primas rabatias tantum instrumentum ut dicitur a rabassa mort et non amplius...* The text clearly indicates that there was a land transfer (*establiment*) and a *rabassa morta* clause. This assertiveness cannot be found in any other document. In the Penedès region the first contract of this kind dates to 1623 (PARES, 1944) and the same formula was used in another contract from 1670 (MORENO CLAVERIAS, 1995).

IV. The *rabassa morta* contract.

The evolution of the emphyteutic formula was a logical step in light of past experiences and the philosophies regarding the compensation of peasants for planting grapevines. Although these contracts included the *rabassa morta* clause, they also allowed the aforementioned technique of ‘*colgats i capficats*’ to keep the grapevines alive and producing fruit¹⁵. There was a long tradition of dividing property rights into different dominions. Therefore, in the eighteenth century, it made no sense to question whether the *rabassa morta* contract was an emphyteusis or not. Beneficial owners felt adequately remunerated by a system that allowed them to obtain a share of the production with minimal oversight and expense.

1. In the eighteenth century the *rabassa morta* contract was very similar to the emphyteutic lease from a legal point of view (Giralt, 1965: 6). There is significant overlap between these two kinds of agreements, as the analysis of hundreds of surviving contracts from the eighteenth century shows:
2. The most common expression used by notaries when writing a contract had a strong emphyteutic component: “*estableix y en emfiteusi es concedeix ad primas vites, vulgarment rabassa morta.*”
3. It involved the transfer of the *dominium utile* to the *rabasser*, a basic and definitive characteristic of any emphyteutic contract. For example, in the postmortem inventories of *rabassers* the grapevines were included as immovable goods, while for their sublessors they were listed as a right, similar to the right of subemphyteutas¹⁶.
4. The *rabasser* paid an entrance fee (a few chickens, a certain amount of money, etc.) that symbolized the alienation of the beneficial ownership of the property. Later, this entrance fee changed and became dependent on the

¹⁵ The ‘*colgats i capficats*’ was a technique which consisted of replacing a dead grapevine with the vine shoot of a living one. That way, it was understood that the vineyard was continuously reproducing so the contract became indefinite.

¹⁶ During the second half of the eighteenth century, more than 70% of the landless peasants are described as *rabassers* in the inventories from Penedès. However, it must be noted that only an approximate 15% of the people in the region had inventories written after their death (MORENO CLAVERIAS, 2004).

prevailing economic situation (the higher the price of the wine, the higher the entrance fee).

5. As with the emphyteutic lease, there was a fixed fee, in addition to a fraction of the production, which consisted of a few chickens, a set amount of grain or money.
6. Like in the emphyteutic lease, the *rabasser* was obliged to make improvements to the land he received. He had to follow the ‘uses and customs of the good farmer’ (*a ús costum de bon pages*). This meant the *rabasser* should practice the technique of the *colgats i capficats*, which could extend the lifespan of the grapevines indefinitely (Giralt, 1965: 3-24).

During this period of expansion and dominance of the *rabassa morta* contract, notaries had no doubts about its emphyteutic nature. For instance, in 1784, Jaume Tos i Urgellès insisted that this type of contract, which was terminated after the death of the first grapevines planted, was emphyteutic. Tos stated that the emphyteutic contract could be either in perpetuity or temporary, and that it could include additional agreements or conditions. It also required the payment of an entrance fee and a rent, which could be paid either in money or in kind (*en rigor y verdaderamente enfiteútico, aunque sea durante las primeras zepas; porque puede el contrato enfiteútico ser perpetuo, y temporal, y admite qualesquier pactos y condiciones, y es precisa, en este, cierta entrada y censo anuo, o en alguna cantidad, o en parte de frutos, y tiene los demás efectos de tal*) (Tos and Congost, 2007: 101; Moreno Claverías, 1995).

However, some jurists, many of whom also owned great vineyards and were sublessors themselves, assimilated this contract to a regular land lease or a sharecropping agreement, an interpretation accepted by some historians. For instance, Juan Carmona and James Simpson (Carmona and Simpson, 2003: 147-176) argue that the *rabassa morta* contract is not emphyteutic. They believe that the *rabassa morta* system, similar to French and Italian sharecropping contracts¹⁷, only gave the peasants rights over the grapevines, not the land, and only for a limited period of time—until the death of the plant. This is the same argument that some sublessors used in order to

¹⁷ The legal formula that presents more similarities with the *rabassa morta* contract is the *bail a complant* and its analysis shows the difficulties to differentiate between the rights of the landowner and those of the peasant (GRAND, 1917).

recover their lands once the price of wine became very tempting, but not before. Nevertheless, if this were so evident, landowners would not have had so many problems incorporating the *rabassa morta* contract into other legal formulas, such as the land lease or the sharecropping agreement, which became more desirable after the boom in the wine industry.

Moreover, if the *rabassers* were unsure about their ownership rights over the land—not just the grapevines—they would not have had enough incentive to maximize the output of the land. *Dominium utile* could be sold, used to guarantee a loan and, more importantly, bequeathed to their descendants. This issue was clearly discussed in a report on ‘the means to maximize the use of the land’, written in 1796. The text stated that a father believed he had left his son a good inheritance when he bequeathed the exploitation rights to him. Also it said that many young labourers did not wait for anything else in order to get married; and that single women thought they have reached the height of their happiness when they married a man who held a *rabassa morta* contract over a vineyard¹⁸. Although this contract was not a cure-all (the landholdings were small required a significant amount of work, and the payments and fees were expensive¹⁹), it is evident that it provided landless peasants with the economic stability that a traditional sharecropping contract could not.

In the second half of the nineteenth century, most jurists were absolutely clear about the fact that the *rabassa morta* contract was neither a regular land lease nor a sharecropping agreement. For instance, Félix María Falguera, the author of *Formulari de Notaria* (1862), stated that in Catalonia *rabassa morta* contracts had never been regular land leases. He also added that all notaries labelled the *rabassa morta* contract in their registers as a temporary emphyteusis. They used the term *establiment*, which is the informal Catalan term for the emphyteutic contract. The reason behind this decision

¹⁸ Dn. Maximiliano OLIVERAS DE PLANA (1796): “Memoria sobre los medios de sacar la mejor utilidad de la tierra o sobre los diferentes medios de cultivarla”. Arxiu de la Reial Acadèmia de Ciències i Arts de Barcelona, Libro de Actas, 1764-1815, 3rd volume, box 1.

¹⁹ During the second half of the eighteenth century in the region of Penedès, the average size of a smallholding transferred through a *rabassa morta* contract was approximately one hectare. Although some peasants held exploitation rights over several holdings, land concentration was very exceptional. Nevertheless, a *rabasser*, unlike an emphyteutic lessee, could not exploit a substantial amount of land under this legal formula, see MORENO CLAVERIAS (2004: 620).

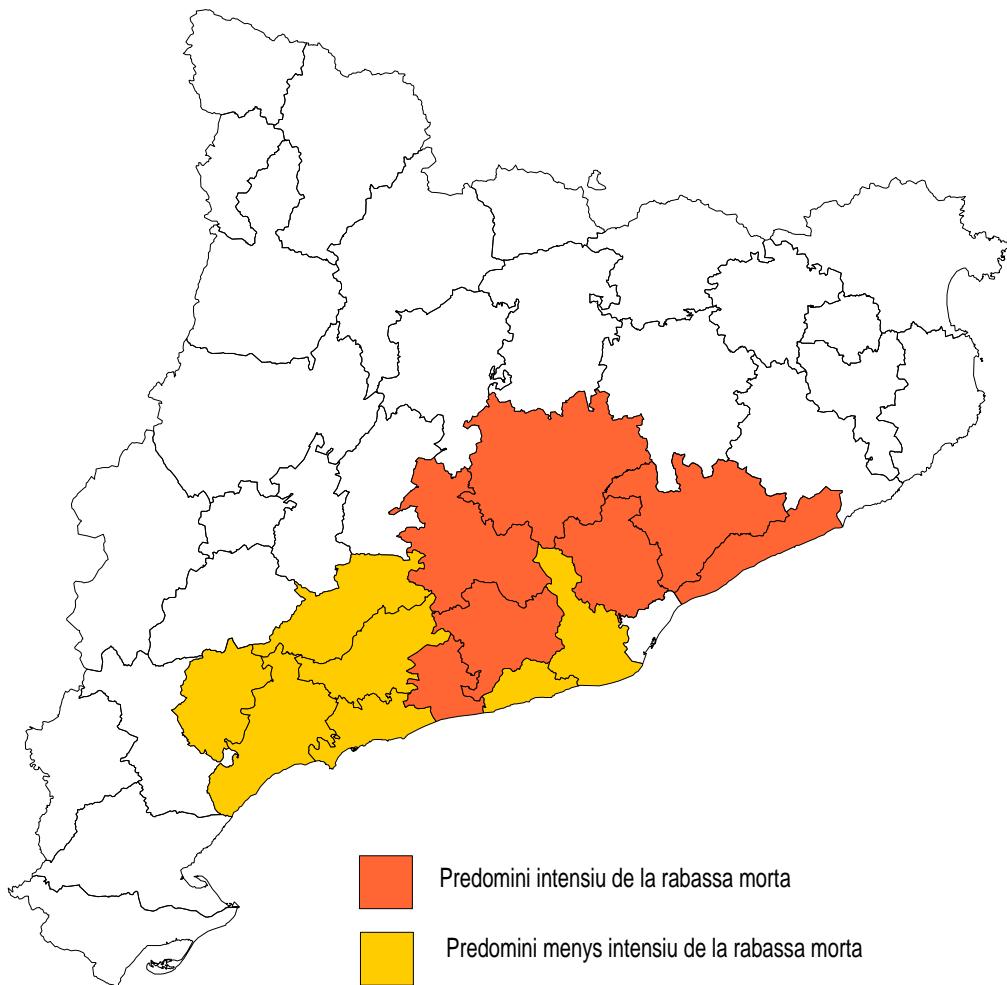
was that all these contracts entailed the payment of a fee but also recognised the *rabasser's* dominium utile over the land²⁰.

V. Expansion and Chronology of *rabassa morta* Contracts

It is not easy to define the chronological and geographical spread of the *rabassa morta* contract. As previously discussed, by the end of the seventeenth century it was clearly defined in the region of Bages, in central Catalonia. There are also some examples, however scarce, in Sentmenat, the Western Vallès, Maresme, and the Upper Penedès (Serra, 1988; Roca Fabregat, Sallas Puigdemívol et al., 2001). The *rabassa morta* formula was central to the spread of vineyards in the regions of Bages, the Western and Eastern Vallès, Maresme, Garraf, Anoia, and the Alt and Baix Penedès. Its presence was not as strong in the areas of the Lower Llobregat and the Alt and Baix Camp, which were dominated by short-term sharecropping contracts.

²⁰ Cited by B. Jané i Jané (JANÉ I JANÉ, 1934). Other authors from the nineteenth and the beginning of the twentieth centuries also saw the *rabassa morta* contract as a temporary emphyteusis. Cardellach, Comes, Brocà, Duran i Bas, Benach i Sonet, Maspons i Anglasell, and Parès i Borrell defend the right of the emphyteutic lessee over the land. This legal tradition affected Supreme Court resolutions, which follow this interpretation. By including a chapter about emphyteutic contracts (“*De los foros y otros contratos análogos al de enfiteusis*”), the Civil Code from 1889 confirmed that these contracts implied the existence of two separate dominions (Article 2, Title 7, Book IV).

Figure 1. *Rabassa morta* contracts in Catalonia in the nineteenth century



[Orange: Extensive prevalence of *rabassa morta* contracts]

[Yellow: Moderate prevalence of *rabassa morta* contracts]

One way of simultaneously analysing the chronological expansion of vineyards and *rabassa morta* contracts is to count the number of contracts registered by different notaries each year. This method can be problematic because there were several oral contracts that were only legalized a few years later, and some other contracts actually covered the replanting of a landholding. Several historians have used this methodology, although with different criteria; here we provide our own estimation.

The spread of viticulture throughout Catalonia (see Table 1) began at different times in different regions. In Bages, the *rabassa morta* contract appeared at the end of the seventeenth century, while in the Alt and Baix Penedès, Anoia, and the Baix Camp these contracts only emerged in significant numbers in the mid-eighteenth century. However, this gap in the regional development of viticulture did not prevent the Upper Penedès from becoming the area with the highest number of registered contracts. In fact, the amount of contracts signed there was greater than the contracts signed in the rest of the areas combined (1040 *rabassa morta* contracts between 1790 and 1800, an average of 95 per year). Does this hint at a process of contract specialization? Everything points in that direction, although there were also some oral contracts (years or decades old) that were now being registered by the notaries. Viticulture expanded during the last third of the eighteenth century and the first half of the nineteenth century.

How much land was cultivated under the *rabassa morta* contract? The *amillaraments*—financial reports drafted between 1853 and 1872 that recorded ownership rights over the land—highlight the importance of this type of agreement. Some of these documents also mention the *rabassers*, which makes it possible to calculate the amount of land subleased in certain villages (Table 2).

Table 1. *Rabassa morta* contracts signed in different regions of Catalonia (18th-19th centuries)

	Bages		Piera (Anoia)		Valls		Baix Penedes		Sentmenat Palau Solita (E Vallès)		Alt Penedes	
	n	Index 1790-1799=100	n	Index 1790-1799=100	n	Index 1790-1799=100	n	Index 1790-1799=100	n	Index 1790-1799=100	N	Index 1790-1799=100
1700-1709	10	4,5		0,0							5	0,48
1710-1719	175	78,8	1	0,5							0	0,00
1720-1729	244	109,9	3	1,6							45	4,33
1730-1739	82	36,9	16	8,8			4	1,8			10	0,96
1740-1749	262	118,0	57	31,3	3	1,4	23	10,5			290	27,88
1750-1759	301	135,6	79	43,4	28	10,6	58	26,4			340	32,69
1760-1769	148	66,7	139	76,4	100	34,1	189	85,9			490	47,12
1770-1779	316	142,3	290	159,3	238	144,7	275	125,0	78	40,6	520	50,00
1780-1789	176	79,3	87	47,8	87	51,6	133	60,5	27	14,1	360	34,62
1790-1799	222	100,0	182	100,0	164	100,0	220	100,0	192	100,0	1040	100,00
1800-1809	112	50,5	33	18,1					83	43,2	267	25,67
1810-1819	412	185,6	57	31,3					62	32,3	751	72,21
1820-1829	277	124,8	188	103,3					98	51,0	966	92,88
1830-1839	137	61,7	175	96,2					1	0,5	761	73,17
1840-1849	58	26,1	415	228,0							1131	108,75
	2932		1722		620		901		541		6926	

Source: PLANS MAESTRA (2010); VALLS JUNYENT (1996); ANDREU (1994); QUEROL (2001); GARRABOU & TELLO, (2004); MORENO CLAVERIAS (1995); COLOME FERRER (1990)²¹.

²¹ These estimates present some problems. For instance, in the region of the Alt Penedès there is only extant information for the contracts signed in the years that end in 5 and 0. In order to homogenize this with the other data sets, we have multiplied the number of documents by 5, except between 1790-1800 when the real data have survived. Therefore, these numbers are just an estimate. In the case of Bages we are not sure if our calculations include all surviving notarial registers. In Sentmenat there are only extant contracts from 1770 onwards, but we do not know whether there were earlier contracts. Moreover, we cannot determine how many oral contracts were made or how many of the surviving contracts were written by the notary years after the original agreement took place. Nevertheless, we believe that this trend and chronological evolution has been shown clearly.

Table 2. Landholdings subleased under the terms of *rabassa morta* contracts in some villages according to the *amillaraments* (1860-1872)

	<i>Rabassers</i>	% of the town's land cultivated under <i>rabassa morta</i> contracts	% of vineyards planted under <i>rabassa morta</i> contracts
BAGES			
Artés	295	40,6	60,1
Calders	461	27,2	67,5
Castelladral	264	8,2	74,7
Rajadell	266	14,3	79,7
Rocafort	184	32	80,7
Santpedor	454	32,6	55,9
Sallent	1261	22,25	68,1
Sant Fruitós de Bages	604	30,07	36,05
ANOIA			
Piera	618	32,1	41,5
Pierola	607	59,1	84,1
Masquefa	388	63,8	75,5
PENEDÈS			
Santa Margarida i els Monjos		52,7	75,-
Gelida		37,05	72,8

Source. (Ferrer Alos, 1987; Colome Ferrer, 1996; Valls Junyent, 1996; Carmona and Simpson, 1999). We gathered the data for Sant Fruitós de Bages, Santpedor, and Sallent ourselves.

In the villages with extant data, the amount of landholdings subleased under a *rabassa morta* contract represents a variable percentage of the total area of the town. The town's forested lands and the active vineyards influence this ratio. Therefore, it is more relevant to analyse the percentage of vineyards that were cultivated under the terms of such agreements, which, in most towns, oscillates between the 60% and 70%, although this number could be lower in some areas where small landholders opted to exploit their own lands.

Table 3 shows the properties' size, and the percentage of vineyards operating under *rabassa morta* contracts in relation to the size of the landholding in three towns in Bages (Sallent, Sant Fruitós, and Artés), and three in Anoia (Masquefa, Piera, and Pierola)²². Small landowners cultivated the land themselves (94% and 97% respectively), but as the size of the landholding increased, the percentage of land subleased under *rabassa morta* contracts is between 40% and 55% of the properties. These percentages are very significant, especially considering that these landholdings usually included forested and uncultivated lands kept in reserve so that they could be exploited in the future. Therefore, the most relevant percentage is that of the vineyards cultivated under the terms of *rabassa morta* contracts. In this case, it can be seen that the increase in the percentage of *rabassa morta* contracts was directly linked to the size of the landholding, so much so, that 80% (or more) of the largest properties used this legal formula. To say it in other words: large landowners only cultivated a small portion of their properties subleasing the remaining land to a second party. This table shows how large landowners match the *masos* in the area, which were the ones behind this strategy for growing vineyards.

²² We want to thank Francesc Valls who provided us with the data for these villages.

Table 3. Land exploited under *rabassa morta* contracts in Piera, Pierol, and Masquefa (Anoia) in 1860

	Landowners	Land size (ha)	Land directly exploited (ha.)	% land directly exploited	Number of rabassers	Size of land exploited with a <i>rabassa morta</i> contract (ha)	% of land exploited with a <i>rabassa morta</i> contract	% vineyards of land exploited with a <i>rabassa morta</i> contract
0,1 - 5 ha	252	406,10	382,83	94,27	21	25,5	6,3	8,1
5 - 10 ha	45	321,13	206,43	64,28	74	114,7	35,7	46,1
10 - 20 ha	30	416,11	338,73	81,40	43	77,4	18,6	21,9
20 - 40 ha	22	590,37	328,74	55,68	138	261,6	44,3	63,3
40 - 80 ha	30	1729,79	1097,32	63,44	269	632,5	36,6	53,5
80 - 160	19	2074,066	883,56888	42,60	511,00	1190,5	57,4	78,5
More than 160	10	2491,707	1125,79848	45,18	557,00	1365,9	54,8	67,3
	408	8029,26	4363,41	54,34	1613	3668,1	45,7	60,6

Land exploited under *rabassa morta* contracts in Sant Fruitós de Bages, Sallent, and Artés (Bages) in 1872

						Size of		%
		Land	Land	% land	Number of	land	% of land	vineyards
	Landowners	size	directly	directly	rabassers	exploited	exploited	of land
		(ha)	exploited	exploited		with a	with a	exploited
			(ha.)			rabassa	rabassa	with a
						morta	morta	rabassa
						contract	contract	morta
						(ha)		contract
0,1 - 5	512	816,5	795,3	97,4	20	21,1	2,6	2,9
5 - 10	51	344,6	313,6	91,0	27	28,1	8,2	8,7
10 - 20	15	217,2	124,7	57,4	62	89,3	41,1	49,4
20 - 40	21	609,3	365,7	60,0	195	238,5	39,1	58,0
40 - 80	28	1564,3	1016,3	65,0	386	546,7	34,9	64,5
80 - 160	27	3010,7	1749,1	58,1	836	1261,6	41,9	72,5
More than								
160	13	2835,5	1605,5	56,6	754	1229,9	43,4	85,8
	667	9398,0	5970,2	63,5	2280	3415,2	36,3	59,6

Source. *Amillaraments* of the aforementioned towns, ACA; the data from Anoià was provided by Francesc Valls²³.

VI. The Corruption of *rabassa morta* Contracts.

From the mid-eighteenth century onwards, the foreign demand for wine and distilled spirits and the rising price of wine made vineyards a very profitable business²⁴. As the number of *rabassa morta* contracts multiplied, they became the most commonly used formula; however, wine's increasing profitability affected the *rabasser's* conditions, especially the fraction of the production they had to pay and the entrance fee. *Domini utilis* started to introduce changes to these contracts. If the demand for wine was high, it was logical to demand a higher percentage of the production or a higher entrance fee. This focus on economic factors explains the regional and chronological differences. Additionally, there was a growing interest in ensuring the land's optimal cultivation

²³ We used the *amillaraments*, a source which registers the landholdings owned by landowners and, in certain cases, whether they were cultivated under the terms of *rabassa morta* contracts. The main methodological problem comes from the fact that some large landowners also possessed lands in other towns, so the difference between a small and a large landholder becomes a bit blurred. This could distort the data presented in this table.

²⁴ On the importance of foreign demand for Catalan wines and distilled spirits see GIRALT RAVENTOS (1952); VILAR (1962); TORRAS ELIAS (1997); TORRAS ELIAS (1976); VALLS JUNYENT (2004).

(even introducing eviction clauses) and in guaranteeing the quality of the final product (setting the day of the wine harvest, the kind of grapevines to be planted, etc.)

During this period, the increase in the benefits yielded by vineyards and demographic growth (which resulted in an increase in the demand for land) led to stricter clauses in *rabassa morta* contracts, especially in relation to their duration and emphyteutic nature. P. Vilar clearly stated that the transfer of *rabassa morta* exploitation rights from father to son was convenient for both parties only in times of limited population growth, a surplus of empty lands, mediocre benefits, and when vineyards were just for seasonal cultivation. Once the growing population made the land scarcer and more expensive, the relationship between landowners and peasants deteriorated and these contracts became sources of conflict (Vilar, 1968: 571).

In the region of Penedès the formal analysis of the contracts and their clauses during the eighteenth century shows the deterioration of the economic and legal position of the *rabassers*. Some examples of this deterioration were:

- 1) As the eighteenth century progressed, the legal formula was modified, separating this type of agreement from the emphyteusis and moving it closer to a sharecropping contract. Early examples stated that the transfer was emphyteutic in nature and would last ‘for the lifespan of the first grapevines, that is, what was commonly known as *a rabassa morta*’. In mid-eighteenth century it was established that the land was transferred *a rabassa morta*, and finally, in the last decade of the century contracts only stipulated that the land was granted ‘for a share’ as long as the grapevines lived. Half of the contracts signed between 1790 and 1800 used this formula (Moreno Claverias, 1995: 67-70). Moreover, the first *rabassa morta* contracts with a fixed duration of forty or fifty years started to appear in the Alt Penedès in the 1770s, according to the sentences of the *Reial Audiència* [the Royal Appellate Court]. However, in other areas of Catalonia they did not appear until later.²⁵
- 2) Over time, *rabassers* had to pay the landowner increasingly larger portions of their harvest. In the Alt Penedès, it was common in the 1750s for rent

²⁵ In Bages, for example, they did not appear until the second half of the nineteenth century (FERRER ALOS, 1987: 459-462).

payments to be between a sixth and a seventh of the production, although this rate tended to disappear when more contracts demanded a third of the production (50% of the contracts in 1780 and 60% in 1795). Valls shows how in Piera—in the region of Anoia—the percentage of the grapes paid by the peasant to the landowner increased from 17% in 1750 to 27% in 1759 (Valls Junyent, 1995: 104). In the contracts signed by the family Pedró, from Igualada, the landowner's share of the production increased from 20% to 28.7% after 1778 (Torras Ribe, 1976: 671). Querol detects a similar trend in the *rabassa morta* contracts from the Baix Penedès during the second half of the eighteenth century (Querol, 2011)²⁶.

- 3) The entrance fee, which symbolized the payment to the landowner for the alienation of the landholding's *dominium utile* as seen in the traditional emphyteutic contracts, decreased throughout the century (it was required in 70% of the contracts in 1745 and in only 40% in 1795). This was another way of separating the *rabassa morta* contract from the traditional emphyteusis. Nevertheless, in those cases where the entrance fee survived, the traditional two chickens were substituted for an increasingly larger amount of money in order to compensate for the price increases of both land and wine. It could be said that the entrance fee acted as a means of regulating the wine economy.
- 4) The obligations of *rabassers* multiplied over time. These included: trimming the vine shoots of the sublessor's vineyard and transporting them to his house at their own expense; transporting the share of the wine harvest they had to surrender; paying for the right to use the sublessor's wine cellar and vats; repairing the roads, making terraces and *formiguers* (sing. *formiguer*, a pile of dry wood covered with dirt, which is burned and spread as fertilizer); allowing the sublessor's cattle to graze on their lands; working on the landowner's property if he needed help; paying an additional amount of

²⁶ When studying the percentage of production demanded by landowners in the nineteenth century, it should be noted that tithes had been abolished. A change from a quarter to a third of the harvest can be interpreted as hardening conditions, but it could mean the assimilation of the old tithe. Paying a third of the production was the same as paying a quarter plus the tithe (COLOMÉ, 1995: 62).

money to hire one or two labourers so they could make sure the produce was evenly distributed, etc.

- 5) Concurrently, sublessors actively intervened in the exploitation of the vineyard. While the early contracts only specified that the *rabasser* had to cultivate the land following ‘the good uses and customs of a good farmer’, these contracts increasingly stipulated which specific tasks had to be done and which did not. For instance, they insisted upon a specific method of planting the grapevines—normally *a rasa oberta* [open ditch]—and they determined the distance between grapevines and between each row of plants, as the following example shows: ‘he has to grow ten thousand grapevines with five handspans between each of them and ten between rows’. They forced the *rabasser* to notify the landowners of their activities at certain times (always during the planting season and during the grape harvest) and they threatened them with eviction if they did not fulfill certain tasks: ‘if the *rabasser* spends more than a year without trimming the grapevines or three years without digging them, the sublease will end’ (Moreno Claverias, 1995: 92-97).

In conclusion, landowners wanted to ensure their control over the lands leased out by highlighting the temporary nature of the agreement. Meanwhile *rabassers* suffered the increase of the payments and obligations over the land that they considered theirs until the grapevines died; which, thanks to the technique of the *colgats i capficats*, never actually happened. The conflict between landowners and *rabassers* was ready to ignite.

VII. The ‘*rabassers* Conflict’.

In 1765 some landowners started to interpret the contract differently. As previously discussed, they were interested in toughening the conditions of the contract and obtaining a higher percentage of the production or a larger entrance fee. They also tried to improve their benefits by recovering the land and exploiting it under other legal formulas. Their desire to obtain more favourable terms and conditions explains their willingness to do away with the *colgats i capficats* technique, which effectively made the *rabassa morta* contract an indefinite one. In 1765 a group of landowners presented

and won a lawsuit before the *Reial Audiència* demanding the prohibition of this technique.

These first rulings were completely ignored because they did not benefit anyone. Waiting for the grapevines to die meant that grapevines would steadily produce less fruit during their last fifteen to twenty years, which meant that both landowners and tenants would reap fewer profits. The solution was to challenge the contract's duration: in 1778, a ruling from the *Reial Audiència* authorized the use of *colgats i capficats* but limited the duration of the contracts to fifty years²⁷. However, this time limitation did not appear in the notarial registers for many years. In the Alt Penedès, for example, the *rabassa morta* contracts with the fifty-year duration clause were not predominant until 1860-1870. In the region of Bages the contracts maintained their traditional conditions during most of the nineteenth century: they only ended with the grapevines' death and they allowed the use of *colgats i capficats* technique.

Nevertheless, *rabassers* defended the emphyteutic character of their agreement since the beginning of the conflict. In 1793 they wrote the first *rabasser* report (*memorial*) to the king (Carlos IV) in order to complain about the rulings pronounced by the *Reial Audiència* regarding the duration of *rabassa morta* contracts. They defended the use of the *colgats i capficats* technique and the fact that the contract was in perpetuity: *a Vuestra Majestad humildemente suplican (...) disponer y mandar que los contratos emfiteúticos (...) deven subsistir mientras que con el trabajo o industria de sus posehedores y con el auxilio de los renuevos permanezca fructífera la viña y pueda con ella el emfiteota suportar los gastos de su cultivo y los censos o parte de frutos que se impusieron al tiempo de su otorgamiento*²⁸.

In 1805, Martorell, El Papiol, and other villages wrote to the King making explicit reference to the landowners' opportunism and stressed the emphyteutic character of the contract: *Pero en este estado floreciente [de l'explotació] es quando el señor verdadero o aparente del terreno, ignorando o no cuidando de lo que antes era y del sudor y sangre que lo ha puesto hermoso a la vista, le parece corto aquel canon, que en otro tiempo fue tan alagüeño a sus mayores. Y haciéndosele sensible en su corazón la prosperidad de los posehedores, pretende apropiarse otra vez la finca o introducir en*

²⁷ For an excellent and rigorous summary of the *rabasser* conflict see GIRALT (1965).

²⁸ The plea was made by representatives from Caldes and other towns (Arxiu de la Corona d'Aragó, Audiència, *Acordadas*, 1014, ff. 568-574).

*ella algún nuevo colono de su devoción (...) Y finalmente amenaza con su poder al pobre emfiteuta y le provoca a un litigio, cuyas resultas han de ser su ruina y mendicidad*²⁹.

In the nineteenth century there was another debate concerning property rights that also affected *rabassa morta* contracts. The liberal revolution tried to simplify the rights over the land in order to progress towards full property rights, but the emphyteusis presented a real problem. The rights over the landholdings were divided between the person who owned the property (*dominium directum*), the holder of the first beneficial ownership, and a third party who held a second-order *dominium utile* (the *rabasser*). Who should become the full owner of a landholding according to the parameters of the liberal revolution? Could the *rabasser* become the owner? (Ferrer Alos, 2001: 78). Each group used the arguments that benefitted them the most: landowners started to introduce a fixed duration into the contracts, changed the name of the agreement, eliminated any emphyteutic reference, and denied its emphyteutic nature, etc. *Rabassers* joined egalitarian movements such as federal republicanism, and continued to defend the contract as emphyteutic, as it had always been.

During the nineteenth and the beginning of the twentieth centuries, the reports (*memorials*) in defence of the rights of the *rabassers* grew, showing an increasingly stronger class conscience. In 1861, for example, the *Ressenya en defensa de las vinyas a rabassa morta y modo pràctich de amillarar-las* [Review in Defence of *rabassa morta* Vineyards and a Practical Way of Improving Them] clearly shows the two sides of the debate surrounding the contracts' duration. The document shows how landowners wanted the emphyteutic *rabassa morta* contract to last only sixty years. However, the *rabassers* or *emfiteutes* considered that this clause did not affect them or their contracts. They considered that the limitation on the duration of the contract conditioned those agreements in which the landowner only leased the right to use the land, which was not their case 'since they had also been transferred property or *dominium utile* over land'. Therefore, *rabassers* believed that a law imposing short-term contracts 'only affected regular land leases, which lasted as long as the first grapevines were alive but not their own *rabassa morta* contracts, which they considered emphyteutic' (D.D.A.A., 1861: 5-28). For instance, the *rabassers* from Rubí reached an agreement to defend the

²⁹ The plea was made by representatives from Martorell and other towns (Arxiu de la Corona d'Aragó, Audiència, Acordadas, 1023, ff. 52-76. 1805).

indefinite duration of *rabassa morta* contracts on the basis of the *colgats i capficats* technique. They also considered that such duration provided the legal grounds for the payment of rents (*cens*) and the ‘redemption’ (*redempció*) (Jané i Jané, 1934: 255-271).

The conflict revolving around property rights was partly settled after the arrival of the phylloxera plague in Catalonia in 1879. This pest had a significant impact on the struggle over land rights. If the grapevines died, the *rabassa morta* contract ended, so the holders of the first *dominium utile* recovered the land³⁰. Arguing that the grapevines were dead, they benefitted from the situation because it allowed them to get back the *dominium utile* they had subleased. Later, they transferred the land again in order to replant the grapevines but under different formulas which did not involve the legal complications of the *rabassa morta* contract, such as regular land leases or long-term sharecropping agreements (*parceria*). Therefore, the phylloxera plague signalled the end of the traditional *rabassa morta* contract and its emphyteutic nature (Giralt, 1965: 126).

Conclusions

The emphyteutic contract provided access to land in Catalonia since the Middle Ages. However, from the sixteenth century onwards, *dominium utile* evolved becoming hereditary, demanding smaller rents, turning farmers into quasi-owners of the land, and giving them the initiative to work the property as they saw fit.

The expansion of vineyards in the seventeenth century emerged despite the lack of capital needed to invest in big plantations and the need to look for alternative solutions. Vineyards required a substantial amount of work and money and they did not yield any fruits for the first four years. It became necessary to reward this investment. There were several legal formulas that facilitated the expansion of vineyards: farmers having to plant a certain number of grapevines each year; the ‘ploughing contract’ (*contracte de rompuda*), which set aside some land for cultivation; profiting from the vintage for a period of time before returning it to the lessor; and the *complantatio*, which implied planting the grapevines and dividing the property in half between the lessor and the farmer.

³⁰ For the eviction process following the arrival of the phylloxera plague see (FERRER ALOS, ÁLVAREZ ARRONIZ et al., 1992) (PLANAS MARESMA and VALLS JUNYENT, 2011).

The formula of the *complantatio* was always limited by the idea that the farmer could only benefit from his share of the land as long as the grapevines were alive. Once the vines died, the land would return to the landowner. In some areas, the fact that *masos* could not further expand their vineyards, joined with the population growth, and the increase in wine demand led to the evolution of the *complantatio* into the ‘planting for a share’ contract (*plantació a certes parts*). The farmer now planted and worked the entire vineyard in exchange for a fraction of the harvest (usually a quarter). The idea of returning the land to the landowner, the one who held the first *dominium utile*, once the plants were dead (*rabassa morta*) was still present. By the end of the seventeenth century, these practices contributed to the terms and conditions of the *rabassa morta* contract that the landowners used to plant grapevines. It had a clear emphyteutic nature so the peasant obtained a second-order *dominium utile*.

During the eighteenth century a series of problems and debates arose. The rise in the price of wine led to a clash between both parties regarding the rent and the increase in the percentage of the harvest paid to landowners. Eventually, this spurred a conflict over the duration of the contract. The terms *rabassa morta* were very ambiguous, especially because the farmer could replant the grapevines so that they technically never died. Once the liberal revolution began, and the socialists and anarchists emerged with ideas that challenged current property rights, those who held rights over the land tried to extend their control over the entire property. Any method was valid: challenging the emphyteutic character of the contract, changing the contract’s clauses to limit its duration, and altering emphyteutic formulas. The clash between those who leased the lands (who wanted to be sure that they would be able to recover them in the future) and the *rabassers* (who did not want to lose the land) led to a very long conflict in rural Catalonia.

The *rabassa morta* contract was a ‘subemphyteusis’, that is, an agrarian contract in line with the legal traditions of Catalonia. The changes experienced since the end of the eighteenth century put this formula into question; however, it was the phylloxera plague—that killed the grapevines and subsequently terminated most of the contracts—which finally ended the emphyteutic debate. Nevertheless, landowners used again long-term leases with similar clauses to those of the *rabassa morta* contract, but without using emphyteutic terminology. They wanted to benefit from the advantages offered by

the traditional *rabassa morta* system, while simultaneously eliminating its inconveniences. Thus, the *rabassa morta* contract evolved into a long-term sharecropping agreement.

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