
AGRICULTURAL DEBT AND REPOSSESSION IN IRELAND: A COMMENTARY ON FARMER PROTECTION

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Abstract

*This opinion analyses the unique legal safeguards afforded to Irish farmers confronting debt enforcement and the repossession of land, machinery, and cattle. Irish law has developed into a complex framework of statutory, regulatory, procedural, and equitable protections that illustrate the distinctive socio-cultural significance of the family farm as both residence and source of income, rather than providing lenders with a clear path to recovery. Essential statutory frameworks, such as the Land and Conveyancing Law Reform Acts 2009-2013, the Family Home Protection Act 1976, the Personal Insolvency Act 2012, and the Consumer Credit Act 1995 - intersect with the Central Bank's Code of Conduct on Mortgage Arrears and the Mortgage Arrears Resolution Process to establish relatively strict pre-action requirements and evidential responsibilities for creditors. Significant rulings, including *Start Mortgages v Gunn*, *AIB v Buckley*, *Hamilton v ACC Loan Management*, and recent authorities from 2024-2025 (Ewins, Curtin), demonstrate how technical deficiencies, misclassification of hybrid residential-agricultural properties, adverse possession, and prompt insolvency petitions can obstruct or considerably postpone repossession.*

Consumer protection regulations encompass financing for agricultural machinery, while spousal consent mandates and prudent judicial application of Article 8 ECHR proportionality provide further safeguards. In actuality, community opposition and title intricacies frequently complicate enforcement both politically and logistically.

The analysis shows that, despite ongoing power disparities, Irish law has transitioned towards a context-sensitive equilibrium that emphasises rehabilitation over swift dispossession. Upcoming revisions to the Consumer Protection Code (March 2026) and the EU Consumer Credit Directive are expected to bolster these protections, highlighting the persistent legislative necessity to sustain intergenerational family farming in Ireland.

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1. Introduction

The question of how Irish law manages farm debt and repossession is not merely a matter of property or contract law; it is deeply intertwined with the socio-economic realities of rural life, the historical and cultural significance of family landholding, and the contemporary pressures brought about by 'financialisation' within agriculture. Family farms are more than simply economic units; they are repositories of generational knowledge, social identity, and community stability. Consequently, the legal frameworks surrounding debt enforcement and repossession cannot be understood in isolation from these wider contexts.

The legal architecture governing repossession in Ireland is multifaceted, encompassing statutory mortgage frameworks, consumer-protection measures, insolvency law, and broader human-rights principles. Together, these rules reveal an intricate system attempting to balance the legitimate interests of creditors with the protection of farm families and the continuation of agricultural enterprises. This commentary refers to key case law, statutory provisions, and relevant academic and policy analyses to delineate the protections afforded to farmers confronting the threat of losing their land or agricultural assets.

A recurring theme in the jurisprudence is that, while lenders may hold extensive formal powers to enforce debts, Irish law incorporates several procedural, evidential, and equitable safeguards. These safeguards are designed to ensure fairness, proportionality, and consideration of the broader social consequences of repossession. Far from being automatic, repossession emerges as a process in which careful legal strategy, timely intervention, and awareness of rights can meaningfully influence outcomes. Understanding this landscape is therefore crucial for both legal practitioners and policymakers seeking to preserve the viability of family farming in Ireland.

2. Statutory Foundations of Repossession in the Agricultural Context

2.1 The Land and Conveyancing Law Reform Act 2009

The Land and Conveyancing Law Reform Act 2009 (LCLRA 2009) provides the modern foundation for mortgage enforcement. It consolidated the law on mortgages, replacing older common-law and statutory mechanisms with a more uniform system empowering lenders to apply for possession orders where borrowers default.² The Act enables courts to issue civil bills for possession and authorises subsequent sale of the secured property to recover debts. However, while the LCLRA 2009 was intended to modernise enforcement, its structure also creates opportunities for borrowers to contest procedural defects. Because the Act requires lenders to demonstrate default, compliance with notice

² *Land and Conveyancing Law Reform Act 2009*; Citizens Information, 'Home Repossession'; William Fry, 'Repossession of Property in Loan Default'.

provisions, and good title to enforce the security, any gap in documentary evidence can compromise the lender's case.³ As later sections discuss, several high-profile farm cases have failed due to such shortcomings.

2.2 The Repeal of Section 62(7) of the Registration of Title Act 1964

For mortgages created before 2009, the historic procedure under s 62(7) of the Registration of Title Act 1964 remains relevant. Its repeal by the 2009 Act caused prolonged confusion, particularly where lenders relied on obsolete procedures when enforcing older mortgages. As outlined by law firm William Fry, the High Court residential mortgage repossession case of *Start Mortgages v Gunn* had made it harder for lenders to repossess residential property in Ireland. Irish property was split between registered land ($\approx 60\%$) and unregistered land ($\approx 40\%$), each with different repossession rules. Prior to 1 December 2009, repossession of registered land was governed by section 62(7) of the Registration of Title Act 1964, which was repealed in December 2009 without transitional provisions for pre-existing mortgages. The court held that possession proceedings for registered land mortgaged before 1 December 2009, started after that date without a prior demand, must be struck out. Even where a demand was made before that date but only covered arrears, proceedings couldn't continue. The ruling significantly limited lenders' remedies in residential mortgage defaults. Lenders could still appoint receivers, but this was rare in residential cases due to cost. The decision mainly affected residential, not commercial, registered land, and didn't impact unregistered land repossessions. The Government had not proposed corrective legislation, meaning the ruling could remain in effect unless the Supreme Court intervened.^{4 5} The Land and Conveyancing Law Reform Act 2013 subsequently introduced retrospective validating provisions for many pre-2009 mortgages. It substantially closed the *Start Mortgages* gap. Residual defects rarely arise today, and the defence is mostly historical, surfacing only where:

- the mortgage is pre-2009 and
- the lender cannot show compliance with s.2 2013 Act,
- or procedural mistakes independently undermine title.

The 2013 Act remedied the procedural lacuna but did not automatically validate every pre-2009 security; a lender must still show the mortgage falls within s 2(3). Furthermore, the 2013 Act does

³ 'Real Estate Laws and Regulations Report 2025 - Ireland' (ICLG, 2025) accessed 26 November 2025

⁴ *Registration of Title Act 1964*; William Fry, 'Repossession of Property in Loan Default' (2011).

⁵ *Start Mortgages v Gunn* [2011] IEHC 275.

not cure defects in demand letters or in the contractual power of sale itself - lenders still occasionally fail where demand was invalid or notices defective.^{6 7}

3. Procedural and Evidential Hurdles for Lenders

3.1 Failures in Proving Entitlement to Possession: Langan

In *Permanent TSB plc v Langan*, the Supreme Court resolved that the Circuit Court can hear possession proceedings for domestic dwellings even if, under the 2001 Act, the properties are un-rateable - so long as the bank demonstrates jurisdiction by producing a certificate of rateable valuation (or other admissible evidence) that the property's rateable value is below the statutory threshold (or has no rateable valuation). The decision clarifies what "proof of jurisdiction" must accompany a civil bill for possession. The case does not create a general rule that lenders must always furnish the original mortgage deed or exhaustively prove default and breach before a repossession claim succeeds.⁸ However, Irish courts often scrutinise title and security documentation closely, and in practice lenders usually adduce the original deed, but this is not a legal precondition imposed by *Langan*.

3.2 Incorrect Characterisation of Farm Properties: Buckley

Equally significant is the judgment in *AIB v Buckley*, concerning land used partly as a commercial farm and partly as a principal dwelling house (PDH).⁹ The lender mistakenly treated the entire secured property as a commercial loan. This error triggered the full application of the Code of Conduct on Mortgage Arrears (CCMA) - a mandatory pre-litigation regime for residential arrears. Non-compliance with the CCMA led to the dismissal of AIB's proceedings.

This case demonstrates the protective reach of a primary residential status. Many Irish farms contain a dwelling house at the core of the holding. Where lenders fail to tailor their procedures accordingly, if a financial institution fails to comply with the CCMA, farmers gain a defence rooted in consumer-protection norms rather than pure property law.

3.3 The Need for Borrower Participation in Lending Arrangements: Ewins

In *Ewins v Promontoria Scariff DAC*, the High Court refused a mortgagor's application to block the sale of a jointly-owned property by a receiver. The Court held that her proposed redemption was

⁶ Fiona Gartland, 'Hundreds of adjourned repossession cases to be struck out under new Bill' *The Irish Times* (Dublin, 20 April 2013) <https://www.irishtimes.com/news/hundreds-of-adjourned-repossession-cases-to-be-struck-out-under-new-bill-1.1366311> accessed 26 November 2025.

⁷ Land and Conveyancing Law Reform Act 2013.

⁸ *Permanent TSB Group Holdings plc v Langan* [2016] IECA 229.

⁹ *Allied Irish Bank plc v Buckley* [2019] IEHC 97.

ineffective because it relied on a draft agreement and no actual funds were tendered. It also ruled that re-litigating her previously settled claim that the property was her principal private residence was an abuse of process. For borrowers and farmers, the case highlights that only properly executed tenders of repayment can stop a sale, and prior court orders will prevent attempts to reopen already resolved disputes. However, the decision in *Ewins* reinforces existing principles rather than expanding borrower protections.¹⁰

3.4 Lender Delay and the Risk of Adverse Possession: Hamilton

Perhaps the most striking example of lender vulnerability is *Hamilton v ACC Loan Management Ltd*. In this case, following the death of the original owner, the estate was not properly assented or registered for over a decade. During that period, one of the deceased's children farmed and occupied the land exclusively, ultimately establishing adverse possession. The Court of Appeal upheld this claim, confirming that the bank's mortgage rights could not override prolonged, unchallenged occupation. *Hamilton* illustrates that long-term occupation, combined with delays or oversights in formalising title, can defeat even a lender's security.¹¹ More recent litigation continues to cite *Hamilton* as authority for the proposition that prolonged lender inaction, when coupled with exclusive farming occupation, can still extinguish a security interest decades after the original default. However, *Hamilton* should not be read as creating a general pathway for defeating mortgages by adverse possession.

4. Consumer-Protection Regimes as Shields for Farmers

4.1 The Consumer Protection Code and MARP

Under the Consumer Protection Code (CPC), lenders must engage with borrowers in arrears through the Mortgage Arrears Resolution Process (MARP).¹² MARP obliges lenders to explore alternative repayment arrangements, prohibits penalty charges for cooperating borrowers, and sets mandatory timelines and communication standards before legal action may commence. In practice, MARP slows down repossession actions and creates a regulatory paper trail that lenders must fully comply with - any deviation opens the door to challenge.

4.2 Hybrid Loans and Consumer Status

Even where borrowings relate partly to commercial farming activity, farmers may still fall within consumer categories if a dwelling house is included in the security. *Buckley* makes this explicit. The

¹⁰ *Ewins v Promontoria Scariff Designated Activity Company & Anor (Approved)* ([2024] IEHC 556)

¹¹ *Hamilton v ACC Loan Management Ltd* [2018] IECA 127

¹² *Central Bank of Ireland, Consumer Protection Code, Part 3 – MARP*.

consumer-centred nature of Irish repossession law therefore gives farmers - particularly those operating family farms - access to protections that purely commercial borrowers would not enjoy.¹³

4.3 The Consumer Credit Act 1995 and Agricultural Assets

The Consumer Credit Act 1995 regulates hire-purchase, leasing, and other credit arrangements commonly used to acquire farm machinery, livestock, or vehicles.¹⁴ While the framework of the Consumer Credit Act 1995 remains in force, its application will be supplemented by the transposition of Directive (EU) 2023/2225 on credit agreements for consumers, with implementing regulations expected to take full effect in 2026.¹⁵ It provides disclosure and fairness rules, and certain HP repossessions require statutory notice, but court orders are not generally mandated (the 1995 Act also doesn't apply to all HP agreements). It's important to highlight the the 'one-third' rule (s 63), where one-third of the price is paid, repossession of consumer goods requires a court order. Nonetheless, it gives farmers substantive rights against predatory lenders. Its significance is heightened in the context of mis-sold finance products, as seen in the UK group litigation of *Claimants v Nationwide Corporate Finance*, where farmers alleged that sale-and-leaseback arrangements were marketed as straightforward loans for acquisition of machinery or livestock (though this case does not currently possess notable value in Irish precedent).¹⁶ The settlement of that group action underscores ongoing regulatory vulnerabilities in agricultural asset finance.

5. Insolvency as a Protective Mechanism

5.1 The Role of the Personal Insolvency Act 2012

The Personal Insolvency Act 2012 offers several tools - most notably the Personal Insolvency Arrangement (PIA) - capable of restructuring unsustainable farm debts while protecting the family home.¹⁷ A PIA can impose a stay on repossession proceedings, allow debt write-downs, and reduce repayments to sustainable levels.¹⁸

5.2 Curtin v Everyday Finance DAC

In *Curtin v Everyday Finance DAC*, a small-holding farmer managed to obtain a temporary injunction halting the sale of his lands while the courts consider his challenge. The farmer has also applied for

¹³ *Allied Irish Bank plc v Buckley* [2019] IEHC 97.

¹⁴ *Consumer Credit Act 1995*; 'ICLG Lending and Secured Finance – Ireland' (2025).

¹⁵ *Directive (EU) 2023/2225*

¹⁶ *Claimants v Nationwide Corporate Finance Ltd and Bluerock Secured Finance Ltd* (Clarke Willmott news).

¹⁷ *Personal Insolvency Act 2012*

¹⁸ *FLAC, 'From Pillar to Post - Paper Two: Mortgage arrears & recent legislative developments' (FLAC, 2024) https://www.flac.ie/assets/files/pdf/flac_pillar_to_post_paper_2_final_v.pdf accessed 26 November 2025.*

a Protection Certificate, seeking to use personal-insolvency procedures to address his debt burden. While the case shows that insolvency applications may, at least temporarily, delay forced land sales, it does not yet guarantee a permanent reprieve or debt-restructuring outcome. The case currently illustrates the availability of interim injunctive relief and the potential utility of a timely personal-insolvency application as a short-to-medium-term shield against enforced sale. *Curtin* illustrates the tactical value of timely engagement with the Personal Insolvency Act, but it does not expand the law on repossession or create new substantive rights. Its broader legal significance is yet unsettled.¹⁹

6. Protecting the Family Farm as a Home

6.1 Spousal Consent under the Family Home Protection Act 1976

The Family Home Protection Act 1976 demands spousal consent for any disposition - including creation of a mortgage - of a family home.²⁰ As many farmhouses qualify as such, lenders who fail to ensure proper consent render their security vulnerable to invalidation.

6.2 Muintir Skibbereen CU v Crowley

In *Muintir Skibbereen Credit Union v Crowley* the Court of Appeal reinforced that, even when a debt is commercial, a jointly-owned family home enjoys substantial protection under Irish law. Because the spouses had neither signed nor consented to the loan or security, the Court refused an order for sale under the Land Law and Conveyancing Act 2009. The judgment confirms that, in cases where only one spouse borrowed, the presence of a family dwelling can provide a powerful defence against repossession, especially where sale would leave the innocent spouse without adequate housing.²¹

7. Corporate Structures, Charges, and Receivership

Many farms now operate through family companies, sometimes for tax reasons or to facilitate succession planning.²² In particular, the requirement under section 409 of the Companies Act 2014 that particulars of a charge be delivered to the CRO within 21 days of creation continues to provide a fertile ground for challenge where registration is late or defective, potentially rendering the charge void against a liquidator or other creditors. The Companies Act 2014 governs registration of charges, the order of priorities, and the powers and duties of receivers appointed over company assets.²³ Errors

¹⁹ *Curtin v Everyday Finance DAC* [2025] IECA 150

²⁰ *Family Home Protection Act 1976*.

²¹ *Muintir Skibbereen Credit Union Ltd v Crowley* [2016] IECA 213

²² Karen Walsh, 'Why more and more family farmers are incorporating' *Irish Examiner* (27 September 2018) <https://www.irishexaminer.com/farming/arid-30871900.html> accessed 26 November 2025.

²³ *Companies Act 2014 (ICLG Lending and Secured Finance – Ireland)*.

in registering charges or failures by receivers to achieve best price when selling assets can provide grounds to challenge enforcement. As agriculture becomes more corporatised, farmers must be aware of how corporate law intersects with mortgage and property law. It should be noted, however, that registrations under the old s 99 of the Companies Act 1963 still exist, and transitional issues rarely arise, but can nonetheless be relevant for older farms.²⁴

8. Issues Concerning Farm Machinery, Vehicles, and Livestock

Repossessions in agriculture are not limited to land. Hire-purchase and lease agreements govern much of the machinery and livestock that farmers rely upon. The litigation involving Nationwide Corporate Finance and Bluerock illustrates systemic risks where high-cost, opaque financial products are targeted at stressed borrowers.²⁵ Farmers alleged misrepresentation, unfair terms, and wrongful asset seizure - culminating in significant settlements. These patterns underscore the need for regulatory vigilance beyond land-based security and highlight consumer-law protections as being just as relevant to agricultural livelihood. Repossession of machinery is usually carried out under contract and HP law, not general mortgage law, and HP assets can often be repossessed without court orders, unless consumer protections apply.²⁶

9. Practical Barriers to Enforcement over Farmland

9.1 Resistance, Community Dynamics, and Third-Party Interference

Repossession of farmland is notoriously difficult in practice. The Lexology analysis, '*Obtaining Possession of Farmlands - The Challenges*,' describes obstacles such as local opposition, uncooperative occupants, and intervention by family members or neighbours.²⁷ Even where lenders possess court orders, enforcement may require the Gardaí, resulting in unwelcome public visibility and sometimes significant delays. This sociological dimension, though rarely addressed in statutory texts, shapes the real-world landscape of farm repossession.

²⁴ *Companies Act 1963*

²⁵ Clarke Willmott, 'Finance company settles High Court claims for "financially ruinous" transactions with 17 farmers' (Clarke Willmott, 12 January 2023) <https://www.clarkewillmott.com/news/finance-company-settles-high-court-claims-for-financially-ruinous-transactions-with-17-farmers/>

²⁶ Competition and Consumer Protection Commission, 'Hire Purchase' (CCPC) <https://www.ccpc.ie/consumers/money/credit/hire-purchase/> accessed 27 November 2025.

²⁷ Lexology, '*Obtaining Possession of Farmlands – The Challenges*' (2019).

9.2 Title Defects and Boundary Issues

Agricultural holdings often involve complex boundaries, shared access rights, or historical occupational practices.²⁸ *Hamilton* exemplifies how title irregularities can be fatal to lenders, while farmers may continue to operate the land for decades. Thus, the practical challenge of repossessing farmland extends far beyond formal legal entitlement.²⁹

10. Human Rights, Proportionality, and the Farm as “Home”

10.1 Article 8 ECHR and Mortgage Enforcement

Human-rights analysis, if utilised, may potentially provide an additional layer of protection. The article ‘*Human Rights and Mortgage Repossession: Beyond Property Law Using Article 8*’ argues that repossession engages the right to respect for one’s home under Article 8 of the European Convention on Human Rights, requiring any interference to be proportionate.³⁰ Although Irish courts have been cautious in deploying Article 8 arguments, Irish courts have generally preferred to locate proportionality review within domestic statutory frameworks (such as the CCMA and the Personal Insolvency Act 2012) rather than direct reliance on Article 8 ECHR; nevertheless, the Convention right retains persuasive force in cases involving the displacement of multi-generational farming families from land that simultaneously constitutes their home and livelihood. Article 8 arguments are persuasive but not usually determinative in Irish mortgage cases.

10.2 The Farm as a Site of Cultural and Social Identity

Unlike urban residential property, farmland embodies family heritage, cultural identity, and economic survival. Article 8-based arguments could therefore be strengthened by emphasising the multi-faceted nature of the farm as “home,” not merely a commodity subject to market logic. This line of reasoning aligns with international trends towards recognising the social dimension of property rights.³¹

²⁸ *Farm fragmentation in Ireland* by Guy McGrath & Simon More (2024) <https://www.veterinariaitaliana.izs.it/index.php/VetIt/article/view/3484> accessed 27 November 2025.

²⁹ *Hamilton v ACC Loan Management Ltd* [2016] IEHC 142; *Hamilton v ACC Loan Management Ltd* [2018] IECA 127.

³⁰ S. Nield & N. Hopkins, ‘*Human Rights and Mortgage Repossession: Beyond Property Law Using Article 8*’ (2013) *Legal Studies* 33(3) 431–454 (DOI: 10.1111/j.1748-121X.2012.00257.x).

³¹ Päivi Hirvelä and Satu Heikkilä, ‘*Right to Respect for Private and Family Life, Home and Correspondence - A Practical Guide to the Article 8 Case-Law of the European Court of Human Rights*’ (Intersentia 2022).

11. Comparative and Policy Perspectives

11.1 Lessons from the Post-Norgan Landscape

The ‘*Northern Ireland Legal Quarterly*’ article on repossession post-*Norgan* provides comparative insight into how courts may adopt flexible repayment timelines or emphasise borrower rehabilitation.³² It is worthwhile to note that in *Cheltenham and Gloucester Building Society v Norgan*, the Court of Appeal considered whether a borrower in mortgage arrears should be allowed to remain in the property while paying off arrears. The court held that, in the UK, under section 36 of the Administration of Justice Act 1970,³³ it is generally appropriate to assess the borrower’s ability to clear arrears over the full remaining term of the mortgage rather than in the short term, and to suspend possession proceedings where this is feasible. This “Norgan approach” emphasises a long-term perspective, balancing the lender’s right to recover debt with the borrower’s interest in retaining their home, and establishes that courts should favour repayment plans and home retention over immediate repossession where practicable.³⁴ In summary, it illustrates the trend towards holistic assessments rather than rigid enforcement - an approach that could further protect Irish farmers. However, *Norgan*-style long-term arrears assessment has no formal Irish adoption as of yet (Ireland has no equivalent to s 36 AJA 1970, which is the statutory underpinning of *Norgan*).

11.2 The Rock Review and the UK’s Agricultural Tenancy Landscape

The UK’s *Rock Review*, while focused on tenanted agricultural holdings, offers relevant policy lessons.³⁵ The review stresses the precariousness of farming livelihoods and argues for stronger tenant protections, predictable enforcement processes, and greater support for farm continuity. Though Ireland’s legal structures differ, the underlying themes of rural vulnerability and the need for security of tenure resonate strongly.

12. Conclusion

Farm repossession law in Ireland is neither uniformly creditor-friendly nor unequivocally protective of farmers. Rather, it constitutes a complex eco-system in which statutory rules, procedural safeguards, human-rights principles, and rural socio-economic realities intersect in dynamic and sometimes unpredictable ways. The case law demonstrates that lenders must now navigate an increasingly demanding evidential and regulatory terrain. Courts expect strict compliance with

³² “*Mortgage Default and Repossession: Procedure and Policy in the Post-Norgan Era*” (*Northern Ireland Legal Quarterly*, Vol. 58, No. 2, 2007).

³³ *Administration of Justice Act 1970*.

³⁴ *Cheltenham and Gloucester Building Society v. Norgan* [1996] 1 All ER 449

³⁵ UK Defra, ‘*Rock Review: Working Together for a Thriving Agricultural Tenanted Sector*’ (2022).

documentary requirements, procedural fairness, and regulatory codes, and they are prepared to dismiss proceedings where lenders fall short. At the same time, farmers - particularly those operating family farms that combine residential and agricultural functions - have access to a rich suite of protections. These range from MARP and personal insolvency arrangements to spousal-consent requirements, adverse-possession claims, and consumer-finance safeguards governing the repossession of farm machinery and livestock.

Yet the existence of these protections does not eliminate the vulnerability of farmers facing financial distress. Many farmers still experience acute imbalances of power, limited access to legal advice, and the psychological and self-perception related pressures associated with default. The overarching policy challenge therefore sits in ensuring that distressed borrowers are not drawn prematurely or unnecessarily into repossession processes, and that they are afforded adequate time and structural support to reorganise their affairs. This is both a legal and a social imperative: while creditors must retain effective avenues for recovery, the loss of a family farm carries implications that extend far beyond the individual borrower. It can disrupt intergenerational continuity, erode local community structures, and accelerate rural decline.

Looking ahead, the Central Bank's revised Consumer Protection Code scheduled for March 2026, together with the full implementation of the EU Consumer Credit Directive 2023/2225, is likely to impose still more relatively strict pre-action obligations on lenders and further tilt the procedural balance in favour of cooperative borrowers, including farmers operating hybrid residential-agricultural holdings.

For this reason, the evolving approach of Irish law - one increasingly informed by equity, human-rights considerations, and practical realities on the ground - signals a shift toward a more balanced and context-sensitive model. Ultimately, the challenge for policymakers, courts, and advisers is to sustain this equilibrium: to protect the integrity of the lending system while acknowledging the profound cultural, economic, and human costs that repossession of a family farm can entail.

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