Risk Identification of Land Contracting and Operating Right Sharing Based on the Precondition of Separation of Three Rights

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Abstract: Rural revitalization can not be separated from the development of "industrialization". The risk in the practice of land contractual management right equity based on the theory of separation of powers can not be underestimated. In recent years, the number of disputes arising from the ownership of land contractual management rights is increasing, and many scholars have also studied it. But most of them are based on the theory and case itself. There is no reliable data analysis to support the research results. This paper collects the factors affecting the risk of land contractual management rights from the three different perspectives of law, participants and participation stages, and collects relevant cases from 1998 to 2018. According to the case of these cases, the factor analysis method is used to standardize the factors to extract the relevant factors, and then the obtained factors are subjected to regression analysis, and the influence degree of each factor on the risk of stock participation is summarized, and relevant and relevant suggestions are proposed.

1. Current Situation of Rural Collective Land Sharing

Since the 18th National Congress of the Communist Party of China, the state has carried out the development strategy of new rural construction and rural "industrialization" throughout the country [1]. The economic development of rural areas has achieved certain results, and the land transfer has shown an accelerated momentum. Supported by state policies, laws and regulations, the reform of separation of powers in rural areas has overcome the shortcoming of separation of powers to a certain extent [2]. With the promulgation of Land Contract Law and Property Law, the legal nature of land contractual management right has gradually changed from creditor's rights to usufructuary rights, and the institutional framework of the separation of rural land contractual ownership and management right has been basically finalized (Zhu Jisheng, 2018). Under the background of the reform of "separation of three rights" of rural land, many regions in China have carried out the pilot practice of farmland contractual management rights, and will enter the summary stage after more than two years [3]. Many pilot areas, such as Chengdu and Fujian, have formed leading enterprises and cooperatives for agricultural industrialization, formed the operation mechanism of joint-stock organizations, and made a thorough exploration of policy and system design [4]. However, it is affected by many factors in the development of rural areas. Such as the traditional concept of farmers, the limitations of development conditions in rural areas, etc.the practice results of rural land management rights in rural areas are not as expected, there are still certain legal risks and obstacles. The operability of the farmland management right in the practice of the cooperative is still worth exploring [5]. The reasons for this are as follows: On the one hand, the promulgation of a series of laws, regulations and policies guarantees the legality and feasibility of agricultural land contractual management rights from the perspective of legal documents. However, it does not define the substantive connotation of land contractual management rights, and lacks strict regulations on land contractual management rights. The concept of land management rights is more in policy documents and theoretical discussions [6].

On the other hand, in the process of advancing the reform of the theory of "three powers separation", some cooperatives, when absorbing the right to operate agricultural land, have set deviations from relevant laws in the proposed contract due to deviations or deficiencies in the understanding of the law [7]. Regulations. The legal risks in the process of land transfer have been increased, which indirectly affected the implementation effect of the "three powers separation" system [8].

2. Journals reviewed

At present, the research on the risk of rural collective land shareholding at home and abroad mainly focuses on the following aspects: First, the reform and problems of the "three powers separation" of agricultural land, such as Zhu Jisheng (2018) on the "three powers separation" of agricultural land And path research, etc. The second is the mode and method of agricultural land investment in cooperatives. Most scholars take agricultural land shares limited liability company or joint stock limited company as the research object, and analyze the mode and mechanism of farmland shareholding based on the research perspective of company law. The third is the legal risks associated with the acquisition of rural collective land. The academic research on the legal issues of land management rights is mainly focused on the interpretation and analysis of the "Property Law", the "Farmers' Professional Cooperatives Law" and the "Land Contract Law". Ren Dapeng and Lv Xiaojuan (2018) believe that although the current law regulates and requires land management rights to participate in cooperatives, it lacks protection of the rights of land contractors. At the same time, in the specific practice of the cooperatives, the members who share in the land management right can not have the same rights as the members who share in the currency. There are also some researchers who analyze the legal risks of farmers' equity cooperatives, and on this basis, put forward risk prevention and control measures. Wang Bangxi (2018) based on the empirical analysis of the relevant judicial documents publicized according to law in China, reflects a series of characteristics of high growth of legal risk, complexity and difficulty in resolving the issue. It is concluded that endogenous risk induction is the main risk of farmland ownership. Based on the characteristics of the risk itself, this paper puts forward prevention and control measures from three aspects: front-end, middle-end and back-end: prevention in the front-end, formulating scientific reform measures; prevention and control in the middle-end, defining the "active" and "inaction" of each participant. The back-end defense line should play the role of the people's court.

To sum up, many existing documents have made a multi-dimensional analysis of rural land contractual management rights equity cooperatives. However, the content of the study is limited to the interpretation and analysis of the content of the legal provisions, and most of the research objects are agricultural land equity joint stock limited company and limited liability company. There are fewer studies on the participation risk of other market participants, and less studies on the prevention and control of the risk of stock ownership. This paper will identify and analyze the risks of participants, government decision-making and supervision, and the risks at different stages, and the Openlaw judgment documents will select the more representative data from 1998 to 2018 for reliability and validity. Based on the analysis results of the sample data, further analyze the factors affecting the risk of farmland contracted management rights, and provide decision-making reference and guidance for the national and government to prevent and control the risk of stock participation.

3. Risk Definition and Identification

3.1 Risks of relevant laws

According to the relevant provisions of the Rural Land Contracting Law of China, "In order to develop the agricultural economy, contractors can voluntarily and jointly share the land contractual management rights and engage in agricultural cooperative production". In the Rural Land Contracting and Management Measures for the Transfer of the Right to Rural Land Contracting and Management, it is also explained that "Sharing" means that in order to develop the agricultural

economy, the contracting and management right of land is taken as equity and jointly engaged in agricultural cooperative production and management voluntarily among the contractors who implement the household contracting mode. Contractors of other contracting modes quantify the right to contractual management of land as equity. In the Property Law, peasants' land contractual management right is also stipulated as usufructuary right. According to the provisions of Article 128 of the Property Law, "the right holder of land contractual management has the right to transfer the right of land contractual management by means of subcontracting, swapping and transferring in accordance with the provisions of the Rural Land Contract Law". However, these transfer policies and legal provisions on rural land contractual management rights are still relatively fragmented and not systematic and comprehensive, which is likely to cause transaction risks in the process of shareholding.

In addition, although the central government has put forward the policy of "separation of powers", because it is still in the stage of exploration and practice, the top-level design is still not perfect, and relevant regulations and policies are also tailored to local conditions. Therefore, in practice, the existing land generally only determines the contractual rights of farmers, and the object of the corresponding management rights is still relatively vague. This makes the issue of confirming the right of collective land contractual management right is not clear and brings risks to the transaction.

According to the collected data and statistics, as of 13:55 on November 18, 2018, there were 3923 referees available on disputes concerning the right to land contractual management, covering more than 30 provinces in China, with as many as 20 cases. Among them, contract disputes caused the most, there are 2 085 cases, accounting for 53.15% of all cases. In addition, in the trial process, 1,652 cases failed to pass the first-instance trial, and the second-instance, re-trial or other trial procedures were implemented, accounting for 42.11%. It can be seen that the number of disputes arising from the acquisition of land contractual management rights is not only a large number, but also complicated and difficult to resolve.

3.2 Participant's risk

At present, many rural areas have established land contractual management rights to participate in farmer cooperatives. This cooperative is a collective economic organization that is voluntarily organized by farmers on the principle of mutual assistance. The method of processing the land of the members is the land for the members to join the society, and is assessed as a number of shares according to their annual production, as the basis for paying the share funds and obtaining the dividends of the land. The assessment of the output of the land for members to join the society is mainly based on the quality and actual output of the land, so that the interests of each member are not harmed. But in this process, besides farmers, the government is also an important participant. Therefore, the following will be from the farmers and government participants to analyze the risk impact of land equity on farmers' interests.

3.2.1 Risks of Farmers' Participation

In the process of farmers participating in cooperatives, there may be risks caused by the imperfect participation mechanism of farmers. According to research and development, Qingta Village of Dujiangyan City, a pioneer area of the pilot project of separation of powers in Sichuan Province, has cooperated with Chengdu Duoli Company. On the one hand, it develops the land for Duoli Company, on the other hand, it lets Duoli Company provide jobs for farmers and pay them monthly. At the same time, a cooperative was established, and the villagers voluntarily chose to participate. After the participation, they also had the power to launch, and the participating villagers could enjoy the profit sharing. Cooperatives will also have regular farmer representatives, open to all farmers according to the relevant interests of the current period, so that farmers can effectively monitor the information and processes related to their own interests. However, in the investigations of other surrounding villages in Chengdu, these villages did not form a perfect farmer participation mechanism, so it is easy to cause the farmers' interests to be plundered by other responsible personnel.

3.2.2 Government decision-making and regulatory risks

As the main guide and organizer of land contractual management rights, the government will also benefit from it. Of course, this will inevitably be separated from the interests of farmers. If the government's decision-making or regulatory mechanism is not perfect, it will be easy to be used by people who are bent on evil intentions, resulting in the final division of the interests of farmers. As the main guide and organizer of land contractual management rights, the government will also benefit from it. Of course, this will inevitably be separated from the interests of farmers. If the government's decision-making or regulatory mechanism is not perfect, it will be easy to be used by people who are bent on evil intentions, resulting in the final division of the interests of farmers.

3.3 Different stages of risk

In different stages of rural collective land ownership, it may also face different risks. The following is a reflection on the risk before and after the circulation.

Before the transfer, it is easy to cause the problem of confirming the right of collective land contractual management right is not clear, and it is difficult for farmers to accurately measure the specific part of the right of management in the process of participation, which brings risks to subsequent transactions. Moreover, the type of land used for rural collective land is difficult to change. Whether it is consistent with the type of land required by the counterpart company at the time of shareholding or whether the cost of change is acceptable is also an important factor in measuring its risk. According to statistics, there are 918 disputes over property rights, accounting for 23.4%.

After the transfer, due to the instability of the docking enterprises and bankruptcy, the related interests of farmers can not be paid. At present, farmers not only have to bear the opportunity cost lost by choosing to invest in shares, but also face the high cost of restoring the land that has been used by enterprises, resulting in the constant squeeze of farmers' interests. According to statistics, there are 78 civil disputes related to companies, securities, insurance and bills, accounting for 1.99%.

3.4 Other risks

In addition to the above risks, according to the data collected, the sources of risks may also be: marital and family disputes, inheritance disputes; tort liability; infringement of property; labor and personnel disputes; intellectual property rights and competition disputes and other factors.

4. Research design

4.1 Data Source and Sample Selection

From the above theoretical analysis, it can be seen that the risk sources of land contractual management rights are mainly composed of more than 20 factors. In this paper, a total of 3923 cases from 1998 to 2018 are counted as sample data. The data of each index are from the National Bureau of Statistics, Openlaw Judicial Document Retrieval and other data sources.

4.2 Research hypothesis

Hypothesis 1: Unsound legal system and supervision policy are positively related to the risk of land contractual management rights.
Hypothesis 2: Government's behavior has a significant impact on the process of stock ownership.

4.3 Data preprocessing

Each data describes the attributes or characteristics of a phenomenon in a certain way. At this time, data has specific connotation and measurement attributes, and the characteristics and rules of data with different attributes can not be directly compared. In order to meet the research needs, this paper standardizes the data. The standardized data no longer have specific meanings and dimensions. The standardized formulas are as follows:

$$y_i = \frac{x_i - \bar{x}}{s} \tag{1}$$

Among:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

$$s = \sqrt{\frac{1}{n-1}\sum_{i=1}^{n}\left(x_i - \bar{x}\right)^2} \tag{2}$$

After processing, we selected the following data:

5. Factor reliability and validity test

5.1 Feasibility analysis

In this paper, we use Bartlett, s-sphere test and KMO test to determine whether the data are suiTable for factor analysis. We use KMO factor to test the relevant statistics, and then use Bartlett to test the sphericity.

Table 2 KMO and Bartlett Spherical

Test of KMO and Bartlett		
Kaiser-Meyer-Olkin measure of sampling adequacy.		.602
Bartlett' s sphericity test	Approximate chi square	297.153
	Df	66
	Sig.	.000

From the analysis results, KMO test statistic value is 0.602, Bartlett spherical test p value is 0, which shows that this case data is suiTable for factor analysis.

5.2 Determining Common Factor

The common factor number is determined according to the principle that the extracted common factor characteristic value is greater than 1. Table 3 shows that two common factors have been extracted (the eigenvalues are greater than 1), and the cumulative variance rate of the first two factors has reached 81.296%, indicating that it is appropriate to extract two common factors.

Table 3 Total variance interpretation result

Ingredients	Initial eigenvalue			Extract square sum loading			Rotation square sum loading		
	Total	% of variance	Cumulative %	Total	% of variance	Cumulative %	Total	% of variance	Cumulative %
1	8.467	70.560	70.560	8.467	70.560	70.560	8.439	70.326	70.326
2	1.288	10.736	81.296	1.288	10.736	81.296	1.316	10.970	81.296
3	.912	7.596	88.892						
4	.637	5.308	94.200						
5	.332	2.769	96.969						
6	.197	1.639	98.608						
7	.095	.789	99.397						
8	.034	.285	99.682						
9	.021	.176	99.858						
10	.015	.123	99.981						
11	.002	.017	99.998						

12	.000	.002	100.000						

It can be seen from the Table 4 that the first eleven factors have a high load on F1, which together reflect the impact of laws and regulations on equity. Whether it is the rules and regulations of the enterprise company, the rules and supervision system of the rural government, or the related confirmation of the rights of the legal squadron, are reflected in them. The last administrative act has a high load in F22, which mainly reflects the impact of specific administrative acts on stock ownership.

Table 4 Rotating Component Matrix[a]

Project	Component	
	1	2
Civil disputes with companies or securities or insurance or bills	.989	.093
Contract or causeless management or unjust enrichment	.962	-.076
Disputes over property rights	.942	-.044
Administrative management	.938	.130
Tort Liability	.910	.137
Township Government Issues	.891	.109
Corruption and bribery	.886	-.103
malfeasance	.834	.227
Particular year	.821	.361
Matrimonial, family or inheritance issues	.818	-.198
Labor or personnel disputes	.558	-.358
Administrative act	.099	.945

Method of extraction: Principal component analysis.
Rotary Valve: Full Rotary Method with Kaiser Standardization.
a. The rotation converges after three iterations.

5.3 Multiple linear regression

According to factor analysis, the selected indicators are taken as explanatory variables, and the stock price of enterprises is taken as explanatory variables. A multiple regression model is established to verify the influencing factors of enterprise value.
Model establishment
Explaned Variables: Stock Price
Explanatory variables: laws, regulations and government behavior.
The model established in this paper is:
$P=\alpha_0+\alpha_1 X_1+\alpha_2 X_2$
P stands for stock price; X1, X2... They represent laws, regulations and government actions respectively, βrepresents the error term.

6. Empirical Analysis on the Risk of Contracting and Operating Right of Agricultural Land

Through the above analysis, the two main influencing factors of the risk of land contractual management rights are obtained. The SPSS software is used for regression analysis:

Table 5 Model summary

Model Summary [b]				
Model	R	R party	Adjust R party	Error of Standard Estimation
1	.982[a]	.964	.958	66.521

a. Predictive variables: (constants), REGR factor score 2 for analysis 1, REGR factor score 1 for

analysis 1.

b. Dependent variable: total number of occurrences

Table 6 Anova Model Analysis

	Model	Sum of squares	Df	Mean square	F	Sig.
1	Regression	1414776.410	2	707388.205	159.862	.000a
	Residual	53099.990	12	4424.999		
	Total	1467876.400	14			

Anova [b]

a. Predictive variables: (constants), REGR factor score 2 for analysis 1, REGR factor score 1 for analysis 1.

b. Dependent variable: total number of occurrences

Table 7 Coefficient

Coefficient [a]

	Model	Non-standardization coefficient		Standard coefficient	T	Sig.	Collinearity statistics	
		B	Standard error	Trial version			tolerance	VIF
1	(Constant)	243.548	17.207		14.154	.000		
	REGR factor score 1 for analysis 1	314.629	17.618	.981	17.859	.000	1.000	1.000
	REGR factor score 2 for analysis 1	-9.467	17.238	-.030	-.549	.593	1.000	1.000

a.Dependent variable: total number of occurrences

From the Table, the R-square is 0.964, and the regression equation can explain 96.4% of the total variation. In the regression Table, sig value is less than the significant level, which indicates that the whole regression model is linear significant.

From the test of independent regression coefficient, the profitability factor and operation factor of enterprises are significant. If the significance level is greater than 0.05, it is refused to enter the regression equation. So the regression equation is:

$$P=243.548+314.629X1-9.467X2 \qquad (3)$$

7. Risk prevention

7.1 Dealing with Legal Risks

Experts said that, in particular, the reform of the separation of powers theory is being promoted. In order to reduce the risk of farmers losing land, it is necessary to transfer the management right of the contracted land within a certain period of time on the basis of retaining the contractual right of farmers, which requires the transformation of legal technology. Relevant organizations should do a good job in top-level design, find and summarize problems according to the preliminary practice and experience, and improve relevant laws and regulations.

7.2 Dealing with Participant Risks

Improve the participation mechanism of peasant households and the working mechanism of the government, and form the mechanism of interest connection between the two sides.

Farmers. Firstly, the establishment and improvement of farmers' participation mechanism should be based on farmers' participation in customization. The government can provide reference suggestions and appropriate help, but the dominant position of farmers must be clarified. Secondly, farmers can elect relevant representatives and supervisory representatives by themselves, and change their terms regularly. Reporting, evaluating and supervising the work done by relevant

representatives on a regular basis to form a self-comprehensive management system for farmers.In addition, farmers responsible for specific work should disclose relevant information to all farmers in a timely manner.

Government work. First of all, we must clarify the functions of government social security and public services, play a major role in guiding and assisting in the process of participation, formulate relevant supervision systems, clarify the specific ways of collective land management rights to participate in shares, and analyze relevant advantages and disadvantages to farmers. Secondly, when cooperating with relevant enterprises, farmers' representatives should also be involved to provide knowledge training and financial support related to farmers. In addition, we should also take into account the operating conditions of the joint venture, pay close attention to and find problems in time. Do a good job of the relevant legal consultation and judicial service system for farmers, to deal with problems in time for farmers.

7.3 Addressing risks at different stages

Before the transfer, the responsible personnel should consult relevant laws, contact third-party assessment agencies and legal service agencies, define the rights and interests of the relevant land reasonably and make expected estimates, so as to reduce the risks brought by the issue of right confirmation.

After the transfer, the responsible personnel should timely provide judicial relief services, pay attention to the financial status of the cooperative enterprises, and formulate a series of measures to deal with risks.

8. Conclusion

The issue of agriculture, rural areas and farmers has always been a key issue of concern to the central government and the society. As a big agricultural country, whether the vital interests of farmers are guaranteed has an important impact on the development of China's economy. Based on the political premise of "separation of three powers" of collective land, this paper makes a simple summary of the risk of rural collective land equity. The purpose is to hope that more scholars can pay attention to the related issues of rural collective land equity, activate rural collective land, and make farmers' income sources more diversified.

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Table 1 Sample Data of Openlaw Judicial Documents

Particular year	Contract or causeless management or unjust enrichment	Disputes over property rights	Administrative management	Corruption and bribery	Civil disputes with companies or securities or insurance or bills	Matrimonial, family or inheritance issues	Tort Liability	Malfeasance	Labor or personnel disputes	Township Government Issues	Administrative act
2018	0.060286	0.233219	0.679145	0.027612	0.797572	0.090736	0.912661	1.122167	-0.4835	0.615329	4.006938
2017	2.089039	1.787004	2.703087	2.015669	1.823021	-0.14259	2.152502	1.683251	-0.4835	2.423641	-0.2357
2016	2.283658	1.882412	1.326806	3.009698	1.823021	2.423946	2.462462	0	1.257103	0.690675	-0.2357
2015	1.410822	1.718855	1.933989	0.64888	1.823021	1.957304	0.6027	2.805418	2.997707	2.64968	-0.2357
2014	1.110048	1.200927	0.193399	0.400373	1.139388	1.957304	0.912661	1.122167	-0.4835	0.087904	-0.2357
2013	-0.29946	-0.35286	-0.29235	0.027612	0.113939	-0.37591	-0.32718	0	1.257103	-0.36417	-0.2357
2012	-0.51767	-0.54367	-0.53522	-0.59366	-0.39879	-0.14259	-0.01722	-0.56108	1.257103	-0.51487	-0.2357
2011	-0.55896	-0.62545	-0.3733	-0.4694	-0.22788	-0.37591	-0.63714	-0.56108	-0.4835	-0.51487	-0.2357
2010	-0.54716	0.873815	-0.5757	-0.2209	-0.39879	-0.14259	-0.63714	-0.56108	-0.4835	-0.51487	-0.2357
2009	-0.07536	-0.65271	-0.49474	-0.34515	-0.56969	-0.60923	-0.63714	-0.56108	-0.4835	-0.43952	-0.2357
2008	-0.25818	-0.67997	-0.53522	-0.59366	-0.7406	-0.60923	-0.63714	-0.56108	-0.4835	-0.51487	-0.2357
2007	-0.65332	-0.6936	-0.5757	-0.59366	-0.7406	-0.37591	-0.63714	-0.56108	-0.4835	-0.51487	-0.2357
2006	-0.67691	-0.6936	-0.5757	-0.4694	-0.7406	-0.60923	-0.63714	-0.56108	-0.4835	-0.51487	-0.2357
2005	-0.67101	-0.6936	-0.5757	-0.59366	-0.7406	-0.60923	-0.32718	-0.56108	-0.4835	-0.51487	-0.2357
2004	-0.67691	-0.6936	-0.5757	-0.4694	-0.7406	-0.60923	-0.63714	-0.56108	-0.4835	-0.51487	-0.2357
2003	-0.6828	-0.6936	-0.5757	-0.59366	-0.7406	-0.60923	-0.63714	-0.56108	-0.4835	-0.51487	-0.2357