

Research on the Innovation of China's Rural Land Legal System in the Process of Urbanization

Jin Jin

Business College, Xi'an International University, Shaanxi Xi'an 710077, China

840211201@qq.com

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Abstract: Due to the wide range of layers involved in the reform of the land system, the contradictions accumulated in history have been entangled, and the balance of interests is very difficult. It has become a new problem of China's new urbanization, agricultural modernization, urban-rural integration, peasant citizenship, and farmers' rights and interests focus and puzzles. Starting from the actual contradiction of land system reform, this paper combines the practical breakthroughs found in the Shenzhen investigation and proposes that in the future, under the existing land legal framework, the gradual reform path can be adopted to implement the land system reform step by step. On the basis of the preliminary experience of Shenzhen's innovation, the land development and utilization can be planned on a single state-owned platform, and the interests of all parties in the one-off plan formed by the negotiation can be realized step by step, so that the market can fully and better play the government functions. Dynamic optimization, adapting to local conditions, encourage local areas to actively explore and innovate China's land system.

1. Introduction

China's traditional urbanization is a kind of land urbanization, heavy urban light rural, heavy industry light agriculture. Under this model, the rights that should belong to farmers, rural areas, and agriculture have been compulsory by the state, cities, and industries, resulting in the widening gap between urban and rural areas in China. Land is the foundation for solving the problems of agriculture, rural areas and farmers. Perfecting the rural land system is the necessary guarantee for promoting the new urbanization process. The reform of the land system should conform to the development of the social economy. The Third Plenary Session of the 18th CPC Central Committee pointed out the direction of the reform of the agricultural land system. It is necessary to build a unified urban construction land market, give farmers more complete property rights, and standardize the land acquisition system and house site system. Based on the existing research results, combined with the requirements of the Third Plenary Session of the 18th Central Committee for Land System Reform, this paper analyzes the trend of China's land system reform through the process of rural land system change and the experience of pilot areas, pointing out that attention should be paid to the reform process.

2. Current Situation and Existing Problems of China's Rural Land System in the Process of Urbanization

In the process of socialist market economy and urbanization, China's rural areas have gradually formed a relatively complete modern land system. At this stage, China's rural land system is composed of five land systems. The status quo of these five systems can be summarized as follows: The collective ownership of rural land has been upheld and improved, but the collective ownership of land still needs to be clarified; the rural land household contract management system has been stabilized and enriched, but it still needs improvement; the rural land contractual management right transfer system Initial formation, but still in the exploratory stage; rural land acquisition and

compensation system is basically formed, but still needs improvement; rural land management system has been established, but still needs to be improved.

In law, the definition of the main body of rural collective land ownership is not clear. The main body of rural collective land ownership is vacant, and the "peasant collective" is an abstract concept that does not conform to the characteristics of the subject of property rights. Judging from the content of ownership, the state and the collective are equal subjects in the legal relationship. Actually, the state is higher than the collective. The state can levy and requisition collective land through urbanization, and vice versa. "The legal definition of rural collective land ownership is unclear. As a result, the land is controlled by a few people. Many farmers' land management rights are infringed. It also leads to the rights of farmers who should be vested interests in the process of urbanization, but by the state or other townships and villages organize infringement. " The ambiguity and lack of rural collective ownership in China, the fundamental reason is that China's current level of productivity development is not high and is still uneven across the country, so the form of collective ownership is within a certain stage. From a legal perspective, the lack of legislation and the ambiguity of legal interpretation are also the main reasons for this phenomenon.

In the property rights arrangement, the current land contracting system is not perfect. The household contract responsibility system is a small-scale family business model characterized by small-scale land for farmers and labor-intensive farming. With the deepening of rural economic system reform and the requirements of market economy development, this land system arrangement cannot be adapted to agricultural modernization, industrialization and scale, and there are different levels of institutional obstacles. The reason is that the production contractual responsibility system of the household contract is small in scale and cannot produce scale effect. Second, the household contract responsibility system only gives farmers the right to use, and there is no ownership. The use of land is often subject to policies. Interference with external factors such as population and rural cadres; Third, the household contract responsibility system has not yet established a smooth and smooth land transfer mechanism; Fourth, "the household contract responsibility system has attracted a large amount of labor, and the lack of labor has hindered The transformation of the entire rural industrial structure and the urbanization process in rural areas."

The current land acquisition and compensation system harms the interests of farmers. In China, the land acquisition compensation system is divided into land compensation, young crop compensation, compensation for ground attachments, and resettlement subsidies for land-expropriated persons. China's land acquisition compensation system can reduce the construction cost of economic development in the planned economy era and has played a positive role in the construction of socialism. In the era of market economy, this land acquisition system shows obvious incompatibility. Mainly reflected in the government's excessive power in the process of land acquisition, the purpose of land acquisition and land acquisition procedures are unclear, the scope is too wide, there is no corresponding legal and institutional supervision and checks and balances, the compensation standard is unreasonably damaging the interests of farmers, and the resettlement of land-expropriated farmers And social security work is not in place. The root cause of this situation lies in the lack of power of the land property rights system and the lag in the construction of laws and regulations.

China's rural land management system is generally divided into two aspects: land property rights protection and land use control. The current land use control, in pursuit of the short-term effects of economic growth, often exceeds the land acquisition plan for agricultural land, causing serious loss of cultivated land. In the details, the lack of land management system is also reflected in the inefficiency of the management of rural housing sites. Under the constraints of the objective factors of China's rural population and limited land, decentralized housing estate management and construction of new socialist countryside and construction of resource conservation the society is different. The reason for this situation is mainly due to the ambiguity of laws and regulations and the confusion of administrative authorities at all levels. Rural land still has a social security function. In China, the dual function of land refers to the economic function of the land itself and the guarantee function of the land to the peasants. At present, China's rural social security is an institutional arrangement with land security and family security as its main contents. "The lack of rural modern social security

system and the dependence on land security have seriously affected the stable transfer of rural surplus labor to urban areas, affected the realization of agricultural land scale management, affected the stability of land contracting relations, and even affected the rural economy. The long-term development is not conducive to the development of the entire social economy."

3. The Countermeasures and Suggestions for the Problem of Rural Land Property Rights System in the Process of Urbanization

Attach importance to system construction and strengthen legislative work. The institutional problem is the foundation of China's rural land property rights system. System construction is the key to the reform of rural land property rights system. The system is a procedure or a code of conduct that everyone follows together. The fundamental principle of system construction is to adhere to economic marketization, political democratization, social justice, and transparency in decision-making. The economic foundation determines the superstructure, and the formulation and implementation of the system must be based on the level of economic and social development, and the combination of adhering to the basic socialist system and developing the market economy. In formulating and implementing rural land policies, central and local governments at all levels should form a stable, standardized and effective system. The reform of rural land property rights system requires the stability and long-term nature of the system. The change of agricultural land property rights system and the accompanying urbanization and industrialization process are a gradual process. It is necessary to recognize the urbanization process and the change of agricultural land property rights system. Long-term, complex, and arduous, while drawing on the successful experience of capitalist countries, based on the actual situation in China, respecting the wishes of farmers, and providing institutional guarantee for the change of farmland property rights system.

Strengthen the construction of laws and regulations. The 30 years of practical experience in reform and opening up and the practice of market economy in the Western capitalist countries for hundreds of years show that the market economy needs strong national legal guarantees. The reform of rural land property rights system cannot be separated from the large background framework of the socialist market economy. There are still many gaps and ambiguities in the legal reform of the farmland property rights system. Many laws and regulations are fragmented, lacking in integrity, and even conflicting and intersecting. Due to legal deficiencies, the confirmation of collective land property owners and owners' representatives in practice has become a difficult point in practical operations and related legislation. Therefore, in order to maintain the equal status among the main players in the market economy, it is necessary to strengthen the building of legislation. The current legislative work focuses on the following aspects: First, strengthen legislation and clarify the main body and nature of "rural collective ownership". Second, the ambiguity and conflicts in the provisions of the Constitution, the Land Administration Law and the Civil Law on the rural land property rights system are sorted out in the form of legislation or judicial interpretation. Third, through the law to protect the land property rights to the household, implement the five rights of the peasants, that is, the right to use the land, the right to operate, the right to transfer, the right to obtain income, and the right to legal disposition. Fourth, the rights and obligations in the land expropriation compensation system in China are not reciprocal, and the specific implementation details of the implementation are adjusted and standardized. Fifth, improve the rural land registration management system.

Stabilize rural land household contract management system. Given the unbalanced national conditions of China's economic development, the foundation of a stable farmland household contracting system is still a rational and steady approach. The main countermeasures are as follows: First, ensure the long-term stability and stability of farmland household contracting rights. Extend the time limit for land contracting as much as possible, change the inevitable connection between population change and land allocation, or take reasonable compensation for the land farmers' investment in the land that has expired, so as to give farmers a sense of security and dare to invest in land for a long time. . Second, separate ownership from management rights and extend the land contract period. When the contract period is extended, the main body of ownership is still the rural

collective, which is conducive to the stability and graduality of the policy. Third, improve the corresponding laws and regulations, so that the property rights of the agricultural land contracting system are protected by law, and the contractual relationship of the agricultural land contracting system is regulated by law.

Improve the rural land transfer system. "The key to the innovation of the rural land transfer system is not to design a set of transfer rules, but to innovate a type of right to freely flow rural land." This type of rural land rights can replace the purpose of circulation. First, establish reasonable land price standards use the theory of Marx's land rent as a guide to combine the reality of land conditions around the country, and the experience of investigating statistical work over the years to develop a reasonable and fair price standard for the land. Second, in the specific implementation process, a unified measurement and balance is established for the circulation of land markets. Third, establish a scientific management system for agricultural land classification, do a good job in the registration and management of agricultural land, and strictly distinguish agricultural land, rural collective construction land and unused land. Fourthly, "establish a reasonable distribution model for the income from land transfer, recognize both the difference and balance, facilitate the unified organization of agricultural structure adjustment and production structure in the village, and promote the direct adjustment of the structure of the farmers who did not participate in the land transfer, or actively Participate in land transfer."

Improve the rural land acquisition and compensation system. Generally speaking, China's land acquisition compensation system is in an unbalanced situation. In most areas, the low compensation standards for land acquisition damage the interests of farmers, which has led people to think about social fairness and justice and directly affect social stability. In some economically developed areas, there are legal loopholes in land acquisition compensation, and the land acquisition standards are too high, which has spawned many speculators and speculators who have become rich overnight. Therefore, a reasonable compensation system for land acquisition should be established: First, improve the laws and regulations on land acquisition compensation, and make strict regulations on the scope, procedures, methods and standards of compensation for land acquisition. The level of economic development varies from place to place, and the content of laws and regulations can be adapted to local conditions, but the legislative principles must be consistent. Second, for the scope of land acquisition, it is necessary to distinguish between public welfare land and commercial land. For the collection of public welfare land, the land price hearing system shall be implemented. For commercial land use, it shall operate according to the rules of the market. Third, the procedures for land acquisition and land use should be transparent and open bidding and auction systems should be used.

Land registration is the basis for ensuring the transfer of rural collective land use rights, as well as the evidence for dealing with rural land issues. It is the standard for land acquisition compensation in the process of rural land management, shareholding and urbanization. The main measures are: First, establish a rural land registration system that covers rural construction land and agricultural land and has a national scope. Second, the rural land registration system should be accurate and efficient, reducing government administrative intervention and approval. Third, regulate the content of land registration and make a detailed record of the quantity, quality, location and boundaries of the land. Fourth, "regulate land registration procedures, registration applicants, registration authorities, registration claims, registration matters, types of registration, registration review, etc." Fifth, each time for farmland property rights Circulation and change are registered in a timely manner. Sixth, the state should establish a unified land registration agency and supervise the behavior of agricultural land registration agencies.

4. Conclusion

In short, the current focus on the "three rural issues" is mainly the village land issue, and the rural land problem in the urbanization process is particularly typical and critical. The study of the problems and countermeasures of the farmland property rights system in the process of urbanization is

conducive to accelerating the process of urbanization in China, is conducive to improving the basic living standards of farmers, and is conducive to the realization of the goal of fairness and justice in the whole society and building a well-off society in an all-round way. Therefore, focusing on the reform and improvement of rural land property rights system, a series of explorations are of great significance in theory and practice.

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