

Rural Land Property Right System of China: Defects and Solutions

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Abstract

The innovations of the rural land property right system have the important meaning to Chinese agricultural and rural development. At the present stage, the rural land property right system of China have such problems as the unclear rural land property right subject, the incomplete rural land property right object, the uneven urban-rural land development right as well as the imperfect land property right management system. In the next stage of the system reform process of China, the innovation problem of the rural land property right system should be fully emphasized, and the related measures should be actively taken to perfect the rural land property right system, including clarifying the rural land property right subject, propelling the real right tendency of the rural land contractual management right, setting up the urban-rural unified market of land for construction, along with deepening carrying out the work of confirming the rural land property right and issuing the property right certificates.

Key words: Rural land; Property right; Land property right system; Ownership dispute

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INTRODUCTION

Land is the most basic means of production in agriculture, and is regarded as a family heirloom and the lifeblood by most of farmers. As far as the supply and innovation problem of the current Chinese rural institutions is concerned, the rural land property right system is just the one in need of the most attention and reform among them, which is related with not only the important status of land but also the actuality and prospect of Chinese rural and agricultural development. The formation of the current Chinese collective property right system of the rural land is reasonable indeed. Meanwhile, since the foundation of People's Republic of China, the economic performance of the collective property right system of the rural land has been proved efficient well by the agricultural and rural development achievements. However, it is not deniable that the rural land property right system of China has the obvious defects, especially the problems of the unclear land property right subject and the incomplete land property right object directly restrict the realization of the land right of farmers and immediately affect the long-term development of Chinese agriculture. Therefore, this paper will mainly analyze the defects of the current rural land property right system of China. Next, the relative solutions will be given out to reform the rural land property right system.

1. DEFECTS OF RURAL LAND PROPERTY RIGHT SYSTEM OF CHINA

1.1 Unclear Rural Land Property Right Subject

Chinese Land Administration Law prescribes that “the People’s Republic of China carries out the socialistic public ownership of land, namely the ownership by the whole people and the collective ownership by the working masses.” Such laws as Constitution, General Principles of the Civil Law, Agricultural Law, Land Administration Law and Law on Rural Land Contract all definitely prescribe that the ownership of the rural land belongs to the rural collectivity. It is known that the ownership of Chinese rural land belongs to all farmers in the region, but it is not prescribed explicitly that who of them can represent the whole farmers. That is, the detailed form of the rural collectivity is not clear. Furthermore, it is obscure in the legal provisions and the realistic conditions as well as the actual cognition.

First, with respect to the legal provisions, the Land Administration Law prescribes that “in accordance with the law, when the collective land of farmers belongs to the whole farmers of a village, it is the collective economic organization of the village or the villager committee that operates and manages the land; When the collective land of farmers has separately belonged to the whole farmers in more than two rural collective economic organization of a village, it is the every rural collective economic organization or the villager group of the village that operates and manages the land; when the collective land of farmers has belonged to the whole farmers of a township (town), it is the rural collective economic organization of the township (town) that operates and manages the land.” In the aforementioned legal provisions, many forms of the rural collective organizations appear, including the collective economic organization of a village, the villager committee, the villager group and the rural collective economic organization of a township (town). Through the careful analysis, there are chiefly three levels of the rural collective organizations in fact, involving a township (town), a village and the villager group. Of course, among those rural collective organizations, there are both the collective economic organization and the autonomous political organization for villagers such as the villager committee. The General Principles of the Civil Law prescribes that “in accordance with the law, when the collective land belongs to the whole farmers of a village, it is the agricultural collective economic organization like the agricultural production cooperative of the village or the villager committee that operates and manages the land; when the collective land has belonged to the farmers’ collective economic organization of a township (town), it may belong to the whole farmers of the township (town).” That is, the General Principles of the Civil Law define the rural land that it belongs to two levels of the

rural collectivity including both a township (town) and a village, referring to the agricultural production cooperative of a village, the villager committee and the collective economic organization of a township (town). From the existing legal provisions, neither the detailed organization form of the rural collectivity nor the detailed level of a township (town), a village and the villager group is clear.

Second, considering the realistic conditions, by reason of the indefinite regulations of the legal provisions, the realistic ownership of the rural land is comparatively complex and the various levels and forms of the rural collective organizations all have the ownership of the rural land to varying degrees. A survey of 1200 villages by Ministry of Agriculture in 1987 shows that that the ownership of the rural land belongs to the village group is 65%; that the ownership of the rural land belongs to the level of an administrative village is 34%; that the ownership of the rural land belongs to other levels of the rural collective organizations is 1%. Moreover, an enquiry of 317 villages by the rural fixed observational points of China in 1997 indicates that that the ownership of the rural land belongs to the village group is 44.9%; that the ownership of the rural land belongs to an administrative village is 39.6%; that the ownership of the rural land belongs to both the village group and an administrative village is 14.7%. According to the ownership realism of the rural land everywhere in recent years, the regional difference among the ownership subjects of the rural land is rather remarkable. For instance, 90% of the rural land in Beijing belongs to the whole farmers of a township (town) and a village; about 90% of the rural land in Sichuan province belongs to the village group; the rural land in the marginal areas of Gansu province basically belongs to the village group.

Third, as for the actual cognition, such groups as farmers, the village cadres and cadres in charge of agricultural work are not fully aware of the detailed ownership of the rural land, which actually embodies the gap between the legal regulations and the practical implementation of China to some extent. An investigation of more than 10 provinces (autonomous regions) in China reveals that when the respondents are asked “do you know whom the contractual land belongs to?”, 86.28% of samples give an affirmative answer; but when the respondents who have given the affirmative answer are further asked “whom the rural land belongs to?”, there are all sorts of answers: “the village group” is 22.26%; “the administrative village” is 20.89%; “the two levels of governments of counties and townships” are 5.75%; “the nation” reaches to 51.10% and is the highest proportion of all answers.

Though the collective ownership of the rural land in Chinese important legal provisions is explicit, from the theoretical perspective, “the farmer collectivity” is just an “abstract aggregate ensemble without the legal personality meaning”; it is not a normative civil subject and is an

obscure concept; it is difficult to define its appointed objects and define its quality as a corporate organization, a partnership or a non-corporate organization.⁴ Although the detailed forms of the rural collective organizations involving the villager committee, the villager group and the collective economic organization of a village are mentioned in both the General Principles of the Civil Law and the Land Administration Law, in the light of the regulations of Organizational Law of Villager Committees of the People's Republic of China, the villager committee is an autonomous organization of villagers and has not the economic corporate qualification, and hence is not the rural collective economic organization and not able to take charge of the responsibility of the rural land property right subject; the villager group is only a member of a rural collective economic organization and not a single rural collective economic organization, and accordingly cannot be the representative of the rural land ownership. At the same time, the definition of "the collective economic organization" in the related laws is also inexplicit so that it is difficult to be applied to the practice.

As a result, the current property right subject of the rural land is empty and diverse, which easily gives rise to two typical problems:

One is that the actual ownership of farmers' land will be in the hands of other "rural collective organizations". Now that the rural collective organizations defined in the laws are empty and abstract, it is inevitable that in reality other objective subjects would replace the abstract subjects to carry out the ownership of the rural land so as to maintain the practical operation of the rural land system. For instance, the collective land of farmers belonging to the whole farmers of a township (town) prescribed in the law belongs to the township (town) people's government in fact. As a primary-level administrative organization, the township (town) people's government simultaneously occupies both the management function of the rural land and the subject function of the rural collective ownership, which results in a mixture of public right and private right and makes private right to be the tool of public right; further, the collective land of farmers belonging to the collective economic organization of a village prescribed in the law belongs to the villager committee in practice. Hence, the township (town) people's government, the villager committee as well as the villager group are the main belonging forms of the rural land in reality. As the component factor of the rural collectivity, it is difficult for farmers to actually perform the ownership of the rural land.

The other is that the conflict of right among the diverse participative subjects accordingly appears in the market circulation of the rural land property right, which not only artificially increases the transaction cost and influences the allocation efficiency of the rural land property right market, but also inevitably gives rise to the interest loss of farmers as the social vulnerable groups in

their competition with such participative subjects as the township (town) people's government and the villager committee.

1.2 Incomplete Rural Land Property Right Object

At this stage, the property right of Chinese rural land is incomplete, which chiefly reflects in the following two points:

One is that the property right of the rural land is fragmentary. As a bundle of rights, the property right of the rural land should be an organic unity of diverse rights. Since the promotion and implementation of the rural household contract responsibility system, the ownership and management right of the rural land have been separated, and farmers have been able to enjoy the land rights involving occupation, use and disposition as well as acquirement of the land revenue according to the contract. For the moment, there are distinct levels of difference in the implementation of the four land rights. For farmers, their occupation and use rights of the rural land should have been actualized well, but their disposition right of the rural land has never been really fulfilled. For example, farmers have never been endowed with the hypothec and inheritance right of the rural land. Besides, farmers' right of acquiring the land revenue has no reliable and effective guarantee. Farmers are not able to share the benefits of the land value-added resulting from the rural land circulation.

The other is that the property right of the rural land is lack of exclusiveness. First, the agent of the rural land property right is powerless. That is to say, the rural collective economic organization (mainly the rural collective organization under the level of a village) cannot resist the harm inflicted on the rural land from other channels. Second, there is the possibility that the rural contractual land might be adjusted dynamically and periodically. A basic feature of the rural land collective ownership is that as long as he is a member of some collectivity, any farmer will be naturally entitled to enjoy the corresponding rights of rural collective land and need not pay out any cost. As the scope of collectivity may be the static or dynamic whole members, the boundary of collectivity will probably be in the inconstant change. Consequently, the rural land area belonging to the members of collectivity will necessarily vary according to the increase or decrease of the rural collective members. As far as the future developing trend is concerned, though the farmers' dependence on the rural land is likely to gradually fall, it does not mean that all the members of collectivity will give up their land. That the contractual management right rising from the periodic adjustment of the rural land is lack of exclusiveness cannot make farmers have the long-term and stable expectations for the land right of the specific block of the rural land, which goes against inspiring farmers' enthusiasm for investigating the rural land and forming the long-term and effective protection system of farmers' land rights.

1.3 Uneven Urban-Rural Land Development Right

The land development right is a real right separated from the land ownership. It is a right of landowners to alter the current uses of their own land so as to profit. The land development right is presented against the land use control that is primarily to achieve the public interest. One situation is that the land use option must be restricted because some land uses will inevitably bring some negative effects so as to result in the loss of the social welfare. The other situation is that as the location of some block of land is suitable for the locale meeting the needs of the public interest such as constructing highways and railways, its use should be decided according to the public interest and the use right and even ownership of the land must be implemented by the delegates of the public interest. As far as the social equity and justice are concerned, both of the above two situations will limit the land development to some extent.

Chinese uneven urban-rural land development right mostly appears in the change of the farmland use. That is, the rural land use changes from the farmland to the land for construction. China carries out two types of land ownership: the ownership by the whole people and the collective ownership by the working masses. The urban land belongs to the state and the rural land belongs to the collectivity. The rural collective land also has the development right. For example, the farmland can be changed to the residential land of farmers, the land for township enterprises or national construction. Under the actual frame of Chinese laws and policies, the rural collective land can be changed to the land for national construction only through the national confiscation so as to realize the free circulation in the land market. Considering the food security guarantee and the agricultural development, the national control of the land use change from the farmland to the land for construction is reasonable. However, despite of the land for the rural construction, its circulation to the enterprises and individuals beyond its own village (town) is also forbidden explicitly, and its property right has not the complete usufruct attribute. That is, because of the urban-rural difference, the land for construction enjoys the entirely different rights in the urban and rural areas, which leads the inhibition of the rural land development right to some extent.

1.4 Imperfect Land Property Right Management System

After decades of development, Chinese rural land property right management system has made great progress and had a significant effect on the smooth advance in the rural land property right management work. Yet, some outstanding problems still exist and have the negative influence on the efficiency increase in the rural land management work.

For instance, the work progress of confirming the

rural land property right and issuing the property right certificates needs to be further quickened. Confirming the rural land property right and issuing the property right certificates are the core stage and the vital base of the rural land management and utilization. Only after the normal and formal confirmation, the property right of the rural land can be freely transacted in the land market and its function of being assets accordingly can be successfully realized. In the recent years, the work of confirming the rural collective land property right and issuing the property right certificates has been highly emphasized by Chinese government and its progress has been obviously improved. But because of many factors' influence, the quality and efficiency of the work still need to be heightened. The complete and systematic cadastre archives of the rural land have not been set up, which has already been one of the main restrictive factors of the rural land management system. At the same time, subjects and boundaries of Chinese partial rural collective land ownership have been controversial for a long time. Therefore, in the process of confirming the rural collective land property right and issuing the property right certificates, the rural collective land ownership certificate can be only given to the economic cooperation and the stock cooperation of a village. As the economic cooperation and the stock cooperation are only economic entities, rights and obligations of its internal members are inconsistent, and they are entirely different from the equivalent rights and obligations among subjects of the rural collective land ownership, which thus gives rise to the unsmooth work progress of confirming the rural collective land property right and issuing the property right certificates as well as the not high possession rate of the rural land property right certificates at the level of a village and a cooperation.

Besides, the present rural land property right management system is difficult to supervise and restrict the illegal actions of the local government in their land management work; the management service of the land administrative department needs to be further strengthened; and so on.

2. INNOVATIVE SOLUTIONS TO REFORMING RURAL LAND PROPERTY RIGHT SYSTEM OF CHINA

2.1 To Clarify Rural Land Property Right Subject

To clarify the rural land property right subject is composed of three parts: first, because of the reality that ownership of the present rural land belongs to three levels of the rural collective organizations involving a township (town) collectivity, a village collectivity and the villager group, we must clarify which level of the rural collective organization is the ownership subject of the

rural land; second, the detailed management subject of the rural collective land must be clarified; next, the detailed construction and operation scheme of the rural land management subject must also be clarified.

2.1.1 To Clarify Ownership Subject of Rural Land

The present rural land system that ownership of the rural land belongs to three levels of the rural collective organizations involving a township (town) collectivity, a village collectivity and the villager group brings much trouble to the ownership definition of the rural collective land. This often induces the rural land ownership disputes in practice, and the classic disputes include the following two types: one type is the dispute about the rural land ownership between the villager group and the villager committee; the other type is the dispute about the rural land ownership between the villager committee and the township (town) government. So, on the premise of insisting on the rural land collective ownership, to clarify the property right subject of the rural land, we must first clarify the ownership subject of the rural land, namely, which level of the rural collective organization is the ownership subject of the rural land.

Considering the management and utilization reality of Chinese rural collective land, the rural collective organization of a village should be the ownership subject of the rural land. As for the rural collective land at the level of a township (town), the Foshan experience of Guangdong province in the late 1980s may be a good demonstration: the ownership of the rural collective land that was in the hands of the township (town) government before will belong to the state, if the property right is clear and the property right certificate has been issued and the land cannot be handed back; other rural collective land at the level of a township (town) whose property right is unclear will be strictly given back to the local rural collective organization of a village. As regards the rural land whose ownership belongs to the villager group now, it still should be returned to the rural collective organization of a village in the long run.

2.1.2 To Clarify Management Subject of Rural Land

Based on the practical situation of Chinese land ownership, the Land Administration Law prescribes three different levels of the rural collective land managers: the rural collective economic organization of a township (town); the rural collective economic organization of a village or the villager committee; the villager group or the rural collective economic organization of a villager group. As far as Chinese historical and practical situation is concerned, though the rural collective land management scheme decided by the land administration law has some problems in both its theory and implementation, it is still a comparatively rational and realistic choice. Some actions referring to the rural land such as contract award, adjustment and circulation are classic economic actions, but the villager committee is only an autonomous

organization of villagers and has not the economic corporate qualification. Meanwhile, its functions and rights do not adjust to the demands of market economy. So, the villager committee is incapable of fulfilling the management function of the rural land well. Likewise, the villager group is also unable to be the manager of the rural collective land because of its own condition limitations.

Consequently, given the ownership of the rural land belonging to the rural collective organization of a village, the rural land management right should definitely be given to the rural collective economic organization of a village in the long term, not other forms of the rural collective organization such as the villager committee or the villager group. Hence, according to the requests of the modern enterprise system, we must establish the rural collective economic organization of a village answering for the demands of market economy indeed. Of course, because of the present rural situation of China, it is not realistic to fully cancel the rural land manager function of both the villager committee and the villager group within a short term. After all, the construction of strict rural collective economic organization of a village needs many conditions, but many areas cannot meet those. So, the rural land manager function of the villager committee and the villager group may be temporarily reserved and will be adjusted when it is the right time and all the conditions have been met.

2.1.3 To Clarify Construction and Operation Scheme of Rural Land Management Subject

Since the management right of the rural land should be in control of the rural collective economic organization of a village, the detailed construction and operation scheme of the rural land management subject has been the problem to be further clarified now. If the problem cannot be handled well, those problems that are castigated by the theoretical cycle as the powerless rural collective organizations and the inexplicit rural land property right in the practice will still continue. Scholar Dang Guoying (2011) point out that the scientific land legal system should comprise two characters: first, the nominal right and the economic right should be unified as far as possible; second, the practical right should be beneficial to improving the utilization efficiency of the land resources and the fair degree. The land collective ownership in the laws of China is “the common joint property right”, but the economic research shows that the agricultural production is suitable for “the share-based joint property right” or “the personal property right”. Our choice is often only the form of “the share-based joint property right” on the premise of insisting on the rural land collective ownership. That is to say, the rural land should belong to the rural collective economic organization or the cooperative organization of a village that is build up by farmers according to the “the share-based joint” principle. On the basis of it, the rural collective economic organization

should be set up in accordance with the demands of the modern enterprise systems and the corporate juridical person governance structure, and the rural land should be operated and managed by the form of the joint-stock company. Moreover, the corporate representative and the management layer should result from the vote of all the shareholders and take charge of the detailed operation and management affairs of the rural collective land when being the representative of the rural collective land ownership. Besides, as the permanent supervision establishment, the board of visitors should be founded to supervise the daily operation and management activities. The members of board of visitors should come from democratic election in the general meeting of stockholders; be responsible for the general meeting of stockholders and cannot simultaneously undertake any position of the management layer. The members of the board of visitors have rights to demand the problems of the land operation and management affairs to be settled. When necessary, they can apply for holding a temporary general meeting of stockholders.

2.2 To Propel Real Right Tendency of Rural Land Contractual Management Right

The conflict in Chinese academic circle whether the rural land contractual management right is a real right or a creditor's right has not been resolved until the Real Right Law is promulgated in 2007. The Real Right Law positively prescribes the rural land contractual management right as a usufruct, and explains many contents relating to the right confirmation, the right relief as well as the absoluteness and exclusiveness of the rural land contractual management right as a real right type. Even if its legal restriction as a real right has been removed, the rural land contractual management right still faces many problems in the practice, the most distinct one of which is that its rights and interests as a usufruct have not been absolutely actualized. At the present time, the first-line task of the rural land system reform is to strictly follow out the regulations of the Real Right Law and continue to boost the real right tendency of the rural land contractual management right, and endow farmers with the more guaranteed property rights. In the past few years, the real right nature of the rural land contractual management right has been emphasized in many fields. Especially since the third Plenary Session of the 17th Communist Party of China Central Committee, the rural land contractual management right has been further endowed with the market circulation right. Yet in regard to completeness and permanence now, the real right nature of the rural land contractual management right has not been richly embodied, both of which are the two key problems to be handled when we keep on pushing its real right tendency.

2.2.1 Farmers Should Be Endowed With Complete Contractual Management Right

As a bundle of rights, the rural land contractual management right should be the organic unification of

four rights referring to occupancy, usage, revenue and disposition. Boosting the completeness of the rural land contractual management right primarily requires the system ties on the disposition right to be taken away. The disposition right means that farmers have rights to decide by themselves how to use and cultivate their land and optimize the land configuration, but have no rights to transform the farmland into the non-farmland and have not the assignment right, the leasehold right, the right of becoming a shareholder, the mortgage right or the inheritance right of the rural land, etc. by themselves.¹⁷ Now, the complete disposition right given to farmers principally includes two sections:

One section is that the rural land contractual management right should be allowed to be mortgaged. First, when the mortgage right establishes, the rural land contractual management right will not be transferred. The mortgage right will not be realized unless the debt cannot be repaid. Second, other possessions that can be mortgaged by farmers now are limited, so it is difficult for farmers to obtain the loans and raise fund and accordingly it is unfavorable for adding the investment to the rural contractual land so as to restrict the agricultural development. The rural land contractual management right possesses the real right nature. As a sort of property right, that it is used for mortgage will avail to fully enlarge the rural domestic demand market, improve farmers' abilities to attain the loans and disperse the loans' risk. Third, if the rural land contractual management right is not allowed to be mortgaged by farmers to acquire the loans, when farmers need capital urgently, they have no choices but to transfer the rural land contractual management right. At that time, farmers will lose their household contractual land management right indeed, which is just what we worry about most. Hence, it is very necessary and in accord with the realistic requirements to establish the mortgage powers and functions of the rural land contractual management right and the all-found supporting polices needed. It is a long-term groping process and cannot be solved in a short time. Further, the generation of the mortgage powers and functions of the rural land contractual management right will perhaps bring some risks. For instance, if farmers go bankrupt after their rural land contractual management rights have been mortgaged, how to repay the related debt? This question requires the reasonable technical instruments of keeping away the risky problems in relation to the bank finance and farmers' survival.

The other section is that the rural land contractual management right should be allowed to be inherited. That is, the rural land contractual management right can be transferred in terms of the legal inheritance procedure. In accordance with the regulations of the Real Right Law, the rural land contractual management right is a usufruct. In the light of characters of the real right and the realistic conditions of the rural land contractual management right,

the usufruct belongs to the exclusive property right and, as per the regulation of the third article of the Inheritance Law, is capable of being the object of the inheritance right. Besides, it is prescribed in the 128th article of the Real Right Law that “according to the regulations of the Law on Rural Land Contract, persons having the rural land contractual management right have the power to circulate the rural land contractual management right in such ways as the land subcontract, the land interchange and the land transfer, etc.” Inheritance is also one way of the property right circulation. Thus, when persons having the rural land contractual management right die within the contractual period, their rural land contractual management right should be allowed to be transferred in the way of inheritance. Meanwhile, in the process of establishing the inheritance powers and functions of the rural land contractual management right, such problems as the scope of heirs, the principles and methods of inheritance as well as the testament inheritance must be clarified so as to totally avoid the possible issues and risks after establishing the inheritance powers and functions.

2.2.2 Farmers Should Be Endowed With Permanent Contractual Management Right

Since the implementation of Chinese rural household contract responsibility system, the rural land contractual management right of farmers has been having the explicit term of contract. The Real Right Law of 2007 definitely points out that the term of contract of the rural land contractual management right is thirty years, but the third Plenary Session of the 18th Communist Party of China Central Committee stresses keeping the permanent stability of the rural land contractual management right. Such a policy change means that farmers do not worry about the problem anymore that the contractual term will be due. It is a revolutionary step and propitious to stabilize farmers' expectations for land.

To keep the permanent stability of the rural land contractual management right demands that: first, all the arable lands should be distributed to farmers in accordance with the relevant contractual standards, and all the powers of the village or villager group cadres to award the arable lands contracts at will in a short time must be cancelled; second, the permanence of the arable land contractual relationship, especially the permanence of the contractual term, should be realized, and under this principle the rural land contractual management right should be readjusted, that is, expect the land occupation of public service such as the country roads, all the other farmland should be dispensed to farmers in terms of the contract right; third, the supporting policies of the permanent land contractual relationship should be continually perfected so as to avert the possible risks of the policy implementation and prevent some farmers and cadres in charge of agricultural work from the dissatisfied and resistant emotions to the

reform because the supporting polices are difficult to ensure the goal to come true.

2.3 To Set up Urban-Rural Unified Market of Land for Construction

China has carried out the dual management system of the urban land and the rural collective land for a long time. This dual management system results in the inequality of rights between the urban land and the rural collective land, which not only limits the urban-rural resource flow but also leads to the generation of many complex problems. As far as Chinese economic development course is concerned, even if the dual differences of the urban-rural land are fundamentally decided by the urban-rural differences of their functions and the economic development strategies and are fairly rational in a certain historical period, it does not mean that the urban-rural land can be separated completely, and the virtual and legal interconnection and interaction of the two land markets are inevitable, especially when cities have been at a certain stage of development. With the development of Chinese market economy and the further advance of the integrated urban-rural development, to break the existing dual land system and set up the urban-rural unified market of land for construction has gradually become the important content of Chinese economic system reform.

The core and fundament of erecting the urban-rural unified market of land for construction are to loosen controlling the rural collective land for construction, allow it to enter the land market to circulate freely and enjoy the equal treatment with the state-owned land. In recent years, China has performed much pilot work centering on the establishment of the urban-rural unified market of land for construction. Based on the summarizing the pilot experience of everywhere, the corresponding system reform measures must be taken:

First, considering the practical conditions, the rural land for construction should be unloosed according to procedures and plans. The rural land for construction primarily includes the profit-oriented land such as the land for the enterprise construction and the nonprofit-oriented land like the land for farmers' housing, the public service and the infrastructure construction, etc. Those types of the rural land for construction may not be entirely unloosed at a time. The profit-oriented rural land should be above all unloosed and be permitted to be transferred and leased, and can enter the land market to circulate freely and enjoy the equal treatment with the state-owned land. Next, on the basis of the success of the profit-oriented land entering the land market as well as the relevant abundant experience, the land for farmers' housing should be allowed to enter the land market to circulate freely. Last, after the profit-oriented rural land has met the basic demands of the rural development, a quantity of the rural land for the public service and the infrastructure construction should be permitted to enter the land market.

Second, the layout and use control of the rural land for construction should be done well. The local government and the rural collectivity have the strong desire and motive for the rural land for construction. Therefore, the layout and use control should be done well to prevent everywhere from let the rural land for construction enter the land market without the careful consideration. Especially in the early phase of allowing the profit-oriented rural land to enter the land market, it should be strictly forbidden that some local and rural cadres turn the rural land for farmers' housing, the public service and the infrastructure into the profit-oriented rural land.

Third, the value-added profit distribution system coming from the rural land for construction entering the land market should be perfected. Once the rural land for construction enters the land market, the great value-added profit will appear. So, the profit distribution system should be mainly clarified to avoid the dispute in the profit distribution among the local government, the rural collectivity and farmers and bringing some disorder. As for the profit distribution system, the total principle is that most of the value-added profit should be reserved in the rural interior to be used for the rural construction and the farmer development on the premise of ensuring the national interests, and the detailed distribution proportion can be decided by the negotiation among the local government, the rural collectivity and farmers as per the practical conditions of the local economic development.

Last, the relationship between the rural collective land entering the land market and the land confiscation system reform should be treated carefully. Though the rural collective land for construction can directly enter the land market, it does not mean that the land confiscation system will be abolished. That is, the governmental land confiscation action is still effective. Hence, it is easy to induce a problem, namely, the rural collectivity and farmers will make a decision between the direct entering the land market and the governmental land confiscation in terms of the difference of the value-added profit. If there is a wide gap between the governmental land confiscation compensation and the profit from the land entering the land market, farmers will probably have more violent resistance to the land confiscation system. Thus, the land confiscation system should be simultaneously reformed while the rural collective land for construction is allowed to enter the land market. Based on the local market price of the rural collective land for construction, the rational land confiscation compensation system should be instituted to avoid the huge profit gap.

2.4 To Deeply Carry out Work of Confirming Rural Land Property Right and Issuing Property Right Certificates

The rural land property right system reform refers to the supporting work of many aspects like the confirmation, the registration and the certificate issue of the property right,

the perfection of the land administrative management system, along with the constitution of the land layout. The emphases of the supporting measures should be placed on the work execution of confirming the rural land property right and issuing the property right certificates, because the property right definition is the radical precondition for the validity of all the property right system arrangements and is more important than the ownership form of the property right to a great extent. Moreover, both the clear definition of the concrete ascription of the rural land property right and the property right certificate issue are the precondition for the rural land system reform.

There are still many problems and disputes in the process of confirming the rural land property right and issuing the property right certificates, which influences the progress and efficiency of the work implementation. The comparatively common problems are the following two:

One is that it is hard to determine the boundary among the property right subjects. The forms of the rural land ownership are various: most of them are the rural collective land, and a fraction of them are the state-owned land. Meanwhile, the types of the rural land property right subject are complex. Both of the two factors induce the fact that it is hard to decide the boundary among the property right subjects in the process of confirming the rural land property right and issuing the property right certificates. For instance, most of the boundaries among some contiguous village collectivities have not the fixed frame of reference and are difficult to be clarified.

The other one is that the ownership disputes among the rural land property right subjects continually appear. Most of the disputes center on the ownership problem between the rural collectivities and among the adjacent villages, and some of them are about the ownership disputes between the rural collectivity and the state-owned land for the water conservancy, the forestry, the military affairs and the railways. For example, in Nongan county of Jilin province, the plots referring to the ownership dispute between thirteen villages of a township and only one state-owned forestry center are more than 300 and cover the whole places of the township, which makes all villages of the township not confirm the rural land property right and issue the property right certificates because of the land ownership disputes.

Above all, the related measures should be positively taken to deal with the problems in the work of confirming the rural land property right and issuing the property right certificates. The correlative urgent treatment system should also be set up to appropriately handle the ownership disputes and the complex problems, further improve the issue rate of the rural land property right certificates, and give farmers more plenty and guaranteed land property right.

CONCLUSION

The appearance of the rural land property right system of China has the profound historical and system sources. As far as Chinese economic and social development process is concerned, the rural land property right system has the vital effect on boosting the development of Chinese agriculture and the rural modernization and is the important drive of the quick development of the rural society of China. However, it is an undeniable fact that the inherent defects of the rural land property right system continually appear with the persistent advance of the market economic system reform of China, and gradually become one of the factors hindering Chinese agricultural and rural development. Such defects chiefly center on the unclear rural land property right subject, the incomplete rural land property right object, the seriously uneven urban-rural land development right as well as the obvious imperfections of the land property right management system. In recent years, especially since the third Plenary Session of the 18th Communist Party of China Central Committee of 2013, China is continuously devoted to solving the present problems of all the internal system and striving to unceasingly push Chinese economic and social development by deepening the reform. Given the current practical conditions of China, the rural land property right system must be the key field of the next stage of the system reform. The relative innovative measures should include clarifying the rural land property right subject, continuous propelling the real right tendency of the rural land contractual management right, setting up the urban-rural unified market of land for construction, along with deepening carrying out the work of confirming the rural land property right and issuing the property right certificates.

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