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Lili Zhu

The School of Public Affairs, University of Science and Technology of China
Ph.D. student, Lecturer
Hefei, Anhui, P.R. China 230026
Hefei Institute of General Professional Technology,
Hefei, Anhui, P.R. China 230088
Main research direction: Public policy
zhulili79@163.com

Yuneng Du

College of Economics & Management, Anhui Agricultural University
Associate professor
Hefei, Anhui, P.R. China, 230036
Main research direction: Agricultural economy

CHINESE RURAL HOMESTEAD LAND: SYSTEM EVOLUTION, DISADVANTAGES ANALYSIS, AND REFORM PATH SELECTION

Abstract: With the process of reform and opening up in China, rural land reform is almost the last dividend of reform. Rural homestead is the unmarked part of rural land reform in China. At present, there are no clear laws and regulations to restrict the transfer of homestead, so there are many disputes in the policy of homestead. The pace of urbanization is faster and faster in China, the rural population is less and less, but the use of rural land alone has increased, so there are a lot of rural idle lands in many rural areas of China. Starting from the evolution of homestead system, this paper focuses on the disadvantages of the current homestead transfer policy, analyzes the means to solve the existing problems, and finally summarizes the development path of homestead reform.

Key words: rural homestead, urbanization, transfer policy, system evolution

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Introduction

The rural homestead land refers to the land used by the villagers to build houses within the village collective organization. Usually, only one homestead land can be acquired by one farm household, and the rural homestead land cannot be traded in the market, which is a unique form of land ownership in rural China (Kong, X., et al., 2018).

In China's current reform and opening up process, the rural land reform is almost the last dividend of the reform (Liu, G., et al., 2017), and the rural homestead land is the unmarketized part of China's rural land reform, which has great potential value (Wu, Y., et al., 2018). In recent years, the

Chinese government has put forward the "three rights division" reform for the rural homestead land, which refer to the implementation of the village collective organization ownership of the rural homestead land, the protection of the qualifications of the rural homestead land and the property rights of the farms' houses, and the moderate releasing the use right of the rural homestead land (Zhang, Y., 2018). This reform measures means that the strict control policy on rural homestead land began to loosen and the economic value of the rural homestead land began to release gradually (Davis, J., et al)

In recent years, the reform direction of rural homestead land is accelerating the use right

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transaction. The academic views on this topic are broadly divided into three categories: First, rural homestead land is regarded as a kind of national resources, and the system framework of rural homestead should be maintained unchanged. Such views emphasize that the social security function of rural homestead land should be insisted, and the transaction of rural homestead land should be restricted. The premise of rural homestead land reform is to maintain the social stability of rural areas, and if rural homestead land market is opened overnight, the unfair distribution of social wealth will be aggravated (Xuefeng, H. E., 2018). Second, rural homestead land is regarded as a kind of rural asset, and the use right transaction of rural homestead land need to be opened. Because the farmers do not have the land disposal right, the value of the rural assets such as rural homestead land cannot be realized through transaction. Therefore, the free transaction of rural homestead land should be allowed, and the owner of homestead should be given the right to own, use, benefit, trade and exit, so as to realize the value of rural homestead land assets. (Chen, X., 2018). Third, the property and security functions of rural homestead land should be taken into account simultaneously, and the marketization reform of rural homestead land should adopt a gradual approach. Due to the close connection between rural homestead land and farms' rural consciousness, farmers' behavior in rural homestead land circulation has become more cautious due to the influence of their rural consciousness. So the transaction range of rural homestead need to be gradually promoted by using the policy pilot basis, and extended step by step.

Since rural homestead land system is a historical product of China's revolution, it is necessary to review and reflect on the formation process of China's rural homestead policy and explore the development direction of rural homestead reform if we want to deeply understand the current reform objective of China's rural homestead land. Therefore, this study first summarizes the current situation of China's rural homestead land, then starts from the system evolution of rural homestead, reflects on the advantages and disadvantages of homestead land policy, and finally summarizes the development path of rural homestead land reform.

II. Current situation of rural homestead land in China

With the acceleration of China's urbanization, the annual urbanization rate in China has maintained at least 1% growth. By the end of 2017, China's urban permanent population was 813.47 million, 20.49 million more than the previous year. The proportion of urban population in the total population (urbanization rate) was 58.52%, 1.17% more than the previous year. On the other hand, according to the data of the ministry of land and resources, from 2007 to 2017, China's rural population decreased by about

20%, while the rural land use increased by about 7%, showing a reverse trend of population reduction and land increase. The main reason for this phenomenon is that for these rural migrant workers and urbanized farmers, they are still unwilling to give up their rural land, including agricultural land and rural homestead land, as well as the rural houses. Therefore, a large number of idle rural homestead land and idle houses appeared in many rural areas of China. When these idle homesteads reach a certain proportion in the whole village, they will form an "empty village".

In terms of the proportion of rural homestead lands idle homesteads varies from place to place. For instance Chen, X. (2018) found through a national survey of 1,529 samples that the proportion of rural homestead lands in rural is between 8-15%. YU J, TANG X (2018) reached the conclusion that the idle proportion of rural homestead lands in China is about 15% to 20% based on the survey of 30 villages in 12 provinces. Other scholars found that many idle and abandoned rural homestead lands account for 15-20% of the total number of rural homestead lands (Kong X, Liu Y, Jiang P, 2018; Li-xin M, 2010). These unused rural homestead lands not only fail to protect farmers' rights and interests, but also cause great harm to China's farmland protection system and food security. Therefore, how to effectively deal with the idle rural homestead lands is an important issue to guarantee the farmers' property rights and increase property income.

III. Evolution of rural homestead land system

A large number of "empty villages" in rural China and idle rural homestead lands have profound historical background and institutional origin. There has been no special legislation of rural homestead land in China, but it is regulated and adjusted by relevant law and policy. These laws and policies are timely adjusted according to the country's control of rural homestead land. Since the foundation of the People's Republic of China in 1949, the rural homestead lands can be divided into five stages according to the subject acquired and the nature of ownership.

Stage 1 (1949-1961): Rural homestead lands are owned by farmers

After the founding of the People's Republic of China, the communist party of China timely fulfilled the promise of the revolution that "the homeowner has his house, the farmer has his field", and the rural areas began a vigorous land reform movement. The rural lands confiscated from the landlords were distributed to the poor peasants, and their ownership of the lands were clarified. Article 8 of the first constitution of People's Republic of China stipulates that the state protects the ownership of farmers' land. In this first stage, the rural homestead land and the houses built on the land all belong to the individual farmer, whose ownership and right of use are combined, and the rural homestead land can be sold, rented, inherited and

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transferred. The state issues the land property certificate to the rural homestead land and the houses.

Stage 2 (1962 to 1981): Rural homestead lands are owned by production teams

In order to move towards a higher form of communism, the central government decided to implement the people's commune system in rural areas since 1962. During this period, the ownership of rural homestead lands were transferred to production teams, and the farms only had the use right of the rural homestead lands. In the second stage, the property right of the rural homestead lands were separated into ownership and use right. The ownership of the rural homestead lands belongs to the production team, and the rural homestead lands was not allowed to be sold or rented. The rural homestead lands could be applied for free and used for a long time by farmers with the approval of the production team. But in this stage, the use right of rural homestead lands were not registered, the buildings in the rural homestead lands does not have building property right certificate either, so the fuse of contradiction for future real estate dispute was buried in this period.

Stage 3 (1982 to 1996): Rural homestead lands are owned by village collective organization

With the progress of reform and opening up and the implementation of the policy of dividing land into households, the rural economic situation began to improve. However, due to the lack of comprehensive planning and necessary management in many places for building houses in rural areas, the phenomenon of occupying farmland with houses in rural areas is quite serious. For this reason, the newly revised constitution stipulates that the ownership of rural homestead lands belongs to the village collective organizations, and the central government has also changed the previous loose policy on rural homestead land management and effectively increased the control over rural homestead land and the construction of peasant houses. The specific changes include the following four points: Change 1: the rural homestead land can only be obtained through the specific procedure of "application, examination and approval", and the application should be approved by the township (town) government. Change 2: the rural homestead land must conform to the two red lines of "planning" and "standards", which comes from the village and the market town planning, and also the standard formulated by the provincial and county governments. Change 3: It is not necessary to acquire ownership of the rural homestead land even if the house in the rural homestead land was transacted without implementation approval procedure according to relevant law. Change 4: If someone sell or rent the house in the rural homestead land, he cannot apply new rural homestead land.

Stage 4 (1997 to 2018): Rural homestead lands started to registered, transferred and retreated

At this stage, the rural homestead land has a strong identity attribute, and only members of the rural collective organization can apply or use it. One family can only have one rural homestead land. The power of examination and approval of the rural homestead land was uniformly transferred to the government at the county level. The government register the use right of the homestead and the ownership of the house in a timely manner. In addition, the central government country began to carry out exploratory reform in the field of rural homestead land, the concept of rural homestead land exiting was put forward, and use right of rural homestead land were encouraged to be transferred within the collective organization.

Stage 5 (start of 2018): The "three-right separation" reform of rural homestead land

The No.1 Central document of 2018 proposes to improve the policies for farmers' idle rural homestead land and vacant farm buildings, and explore the "three-right separation" reform, which refers to the implementation ownership of rural homestead land to the collective organization, protection the farmers' qualification rights of rural homestead land and house property rights, and the appropriate release use right of rural homestead land and their houses.

IV. Analysis on the defects of the existing system of rural homestead land in China

China has come into the middle and later stage of industrialization and urbanization, with the irreversible urbanization of rural population, the static rural homestead land system is increasingly difficult to meet the dynamic demand for housing security under urbanization process. At the same time, the residential function of the rural homestead land is weakening, while the asset function of the rural homestead land is continuously developing and strengthening, which makes the contradiction between the safeguard function and the asset function of the rural homestead land.

Farmer bound with rural homestead land. Rural people was bound to the rural homestead land. The membership of rural collective organization is the necessary condition to obtain the right to use rural homestead land. The basic function of rural homestead land system is providing basic living security for people with rural household registration. The distribution way of rural homestead reflects the characteristics of "binding rural people to the ground". According to relevant land regulations, one farmer household can only get one rural homestead land, however because relevant land regulations are not well implemented, lots of farmer households now have more than one rural homestead land.

The transaction of rural homestead land is restricted. The transaction scope of rural homestead land is restricted within the rural collective economic organization, and only the farmers within the same collective economic organization have the qualification to trade rural homestead land with each

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other. Because economic development, population moves, and urbanization, lots of rural homestead land have been left unused, meanwhile various illegal transactions of rural houses and rural homestead land appeared constantly, such as obtaining the rural homestead land and the use right of the rural house by paying higher rent, building commercial residential building in rural homestead land and selling them to the urban people without China state-owned land use certificate, and private transaction of the rural homestead land.

Other property rights are also restricted. Since the transaction of the rural homestead land is limited to the members of the collective economic organization of the village, and there are few legitimate traders within the collective economic organization, the actual legal transactions are extremely rare, which limits the value use right of the rural homestead land. On the one hand, the limitation of the transaction range makes the real value of the rural homestead land is declined. On the other hand, due to the lack financial liquidity, financial institutions are reluctant to accept rural homestead land as collateral to provide the owner with financing services, so that, the capital function of the rural homestead land is stifled.

The duration of the rights is unknown. Up to now, all kinds of farmland use rights have stipulated different term limits, but there is no restriction on the use duration of rural homestead land, so that farmers also regard the rural homestead land as their private property. However, there is no specific institutional arrangements in rural homestead land acquisition process, so uneven distribution of interests among all parties often happen, and the key confliction is the compensation amount to the farmers.

V. The disadvantage of the rural homestead land system.

First, free distribution, no time limited use, and no cost holding results in wasteful use of rural homestead land. The 2017 rural development report of China pointed out that in the first decade of the new century, the rural population decreased by 133 million, while the land used for rural homestead land increased by 20300 km².¹ The reasons why rural homestead land is wastefully used are as followed: first, because the rural homestead land is free of charge and the local government has failed to supervise the expansion of rural homestead land, farmers often do not demolish old houses when building new ones; second, since the rural homestead land can be obtained for free after the establishment of separate households, and the rural homestead land of the older generation can be inherited, the phenomenon that a family has multiple homesteads is very common, resulting in the waste of land use; third,

compared with the 70 years of use of state-owned land in urban areas, the use of rural homestead land has no time limit and no payment for land use, which makes farmers reluctant to give up rural homestead land. This phenomenon is particularly prominent around the city, because the rural homestead land around the city have higher use value.

The transaction restriction hurts the property rights of farmers. The China's property law prohibits the mortgage of rural homestead land, but the China's guarantee law does not prohibit the mortgage of a farmer's house. According to the provisions of chapter iv, article 32 of the urban real estate management law, when the real estate is transferred or mortgaged, the ownership of the house and the right to use the land occupied by the house shall be transferred or mortgaged at the same time, while the rural homestead land has no direct applicable law. The conflict or absence in laws and regulations related to the transaction of rural homestead land makes the mortgage function of rural homestead impossible to be realized. It can be seen that the transaction restriction of the homestead land not only leads to the idle waste of rural land, but also directly inhibits the property value of the rural house and indirectly deprives its capital function. After labor marketization, the income gap between urban and rural residents is mainly reflected in capital income, which is also mainly reflected in the right differences between urban and rural real estate.

In fact, the rural homestead land and house transaction in developed areas have been very common, forming a hidden market characterized by spontaneous transaction. The regulations restricting the transaction range of rural homestead land within the village collective origination hindered the realization of farmers' property rights, and the rights of both sides in the transaction could not be effectively protected. The regulation measures for transaction of rural homestead land are divorced from reality, and the reform of rural homestead land system lags behind.

VI. The future direction of China's rural homestead land reform

Expanding the transaction range of rural homestead land and realizing the urban-rural integration should be the long-term goal of rural homestead land reform. At present, the urban-rural gap still exists in China, and the rural homestead land is still important to the housing security function of farmers. Therefore, expanding the transaction range of rural homestead land should be taken as the long-term goal and promoted step by step. In order to achieve the goal of gradually expanding the circulation range of rural homestead land, the following steps should be achieved. First, narrow the income gap between urban

¹ <http://www.chinanews.com/gn/2018/07-25/8578848.shtml>

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and rural areas and expand the channels for farmers' income growth. Second, a unified urban and rural social security system should be established to achieve a relative balance of education, endowment and medical level. Third, control the real estate price, especially the real estate price in third- and fourth-tier cities, and reduce the threshold of farmer citizenization. Fourth, we will increase the construction of rural infrastructure such as roads, water, electricity, internet access, and sanitation, so as to provide environmental conditions for expanding the transaction range and providing value-added for rural homestead land.

Select the developed areas with small differences between urban and rural areas, and gradually expand the transaction range of rural homestead land. At present, the registration of real estate of urban and rural residents has been basically completed, providing a prerequisite for the establishment of a unified real estate transaction system in urban and rural areas, transaction range expanding could pilot in the developed areas such as Beijing, Tianjin and the Yangtze River Delta, and the Pearl River Delta. The specific steps can be carried out according to the following three steps and two premise: the first step is to expand the transaction range of rural homestead land from the inside of the rural collective economic organization to the township; in the second step, the transaction range of rural homestead land can be

extended to the county (district) level. The third step is to allow transaction range of rural homestead land to be expanded within the entire administrative area of the pilot area. This gradual expansion of the pilot reform needs to meet two prerequisites: first, the farmers who transact the rural homestead land need to have other suitable accommodations; second, the transaction of the rural homestead land to the urban residents only include the transaction of the use right, and the ownerships of farmers' and rural collective economic organization are retained.

Establish and improve the withdrawal mechanism of rural homestead land. Paid withdrawal of rural homestead land is an effective means to integrate rural land resources in remote areas, retain farmland area and solve the problem of "empty villages". In remote rural areas, the grassroots government should play an active role and become an "investment company" for the rural homestead transaction. On the one hand, through paid acquisition, reclamation, and replacement of rural homestead land, the land obtained can be used in the surrounding areas of cities and towns to build rental housing and affordable housing. On the other hand, by expanding the transaction range of homestead, rent and sell houses built on rural land to urban residents who have rigid housing demand, so as to ease the land shortage in urbanization.

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