

A Study on Forming a Construction Land Market That Unifies Urban and Rural Areas During the Process of the New-Type Urbanization in China

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Abstract

Under the background of China’s new-type urbanization, the transformation of urbanization which is people-centered is quietly underway. The new-type urbanization not only puts people first, but also is firmly based on establishing a construction land market that unifies urban and rural areas. The Third Plenary Session of the 18th Central Committee of the Chinese Communist Party adopted the “Decision on Major Issues Concerning Comprehensively Deepening Reforms” (hereinafter referred to as the “Decision”), in which “forming a construction land market that unifies urban and rural areas” was proposed, and the Decision advocated that the rural collectively-owned construction land can “enter the market with the same rights and at the same prices as state-owned land”. This paper firstly reviewed the status quo of China’s construction land market in which there is segmentation between urban and rural areas. Then under the guidance of the specific reforming measures proposed by the Decision, the paper made a further attempt to discuss and explore the supporting measures of and safeguard mechanism for forming a construction land market that unifies urban and rural areas.

Key words: Urbanization; New-type; Decision

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INTRODUCTION

The important goal of the new-type urbanization is to promote the integrated development of urban and rural areas as well as narrow and eliminate their differences. Feng Guangjing believes that it is an inevitable choice for us to design and adopt land-use model and land-supply mode that are conducive to the realization of this goal. Feng, Jiang, & Zhang et al., 2013) However, the dual urban-rural structure has always been a major obstacle to the advancement of the new-type urbanization (Xu, Du, & Li, 2010). In the integrated process of urban and rural areas, forming a construction land market that unifies urban and rural areas becomes the key part. In recent years, China’s urban and rural construction land market does not allow the direct entrance of collective-owned land, except some individual land for public welfare. So the premise for the urbanization of land must include both collectively-owned land and the state-owned land. Besides, China’s current pattern of land requisition is administratively monopolistic, which also led to unfair distribution of income, rent-seeking behavior, “houses with limited property rights” and other phenomena that affect social harmony and stability (Cao & Wang, 2014), resulting in monopoly in land market and hindering the development of new-type urbanization (Zhang & Jia, 2013).

1. THE STATUS QUO OF CHINA’S CONSTRUCTION LAND MARKETS IN URBAN AND RURAL AREAS

The construction land markets in urban and rural areas are segmented, which finds its full expression in the slow development of rural land market and in the state monopoly of urban land market. It is the special nature of China’s urban-rural dual structure that has led to the “segmented state” of the urban and rural construction land

markets, and such dual structure has also posed many obstacles to the transfer of construction land in urban and rural areas (Zhang & Jia, 2013). China's construction land markets are primarily composed of state-owned land and rural collectively-owned land. The standards for requisitioning rural land are set by government pricing (Jiang, 2014). The transfer of land between urban and rural areas is unidirectional and unequal. Administrative means are employed to turn rural collectively-owned land into urban land. The income gained by farmers from their land being requisitioned is relatively low; the contracted arable land as well as the homestead has no effective access to transfer in the land market to gain income. All these have hindered the equal exchange of land between urban and rural areas, have distorted the price of land, and have become obstacles to the sound development of the land market. Besides, since the land in rural areas was not effectively used, farmers' income has been restricted from growing, which thus widens the income gap between urban and rural areas, and leads to the fact that farmers are unable to negotiate with local governments and developers in terms of land requisition scope and compensation levels, etc.. In this sense, farmers fail to be the main beneficiary of the change of rural collectively-owned land from "agricultural to non-agricultural". (Tang & Xu, 2014) Therefore, we can see that there is no effective safeguard mechanism for urban and rural construction land market, and that the supporting measures for the construction land market are not perfect or reasonable.

2. THE OBSTACLES IN THE CONSTRUCTION LAND MARKET THAT UNIFIES URBAN AND RURAL AREAS

2.1 Legal System and Safeguard Mechanism Are Imperfect

The laws and regulations on the transfer of construction land in China tend to "strengthen public laws but weaken private laws". (Cao & Wang, 2014) According to Cao Xiaohui, the construction land market in China is a market "monopolized by the State", "dominated by government", and "taking the limit as the main factor". With regard to the present laws and regulations, many of them are aimed at the allocation of state-owned construction land market; the state-owned construction land market is relatively mature; local governments and the units which use state-owned land are mainly allocated in accordance with the laws of the market. The State law clearly provides that the allocation of the rural collectively-owned construction land market in different administrative districts shall be prohibited. So the supply and demand sides should not accept the transaction of the use right of rural collectively-owned construction land if the land is not in the same administrative district. As for the form of regulations, the

transfer of construction land use right, despite being the transfer of civil usufruct in nature, is regulated by many public laws with the "Land Management Law" as the mainstay. Civil laws such as the "Property Law" are also enforced in line with public laws, but they fail to play the same role as private laws in terms of giving equal protection to the transfer of land.

2.2 The Construction-Land Transfer Market Is Unsound

After the Third Plenary Session of the 17th Central Committee of the Chinese Communist Party, the transfer of rural collectively-owned construction land has always been a new site in unifying urban and rural construction land. However, under the influence of the urban-rural dual structure, on the one hand, government, as the main representative of the land owners, not only controls the primary land market, but also monopolizes parts of the secondary land market; on the other hand, the collective ownership of land is partially controlled, which makes the allocation of rural collectively-owned construction land market subject to government restrictions and constraints. As the rural collectively-owned construction land or agricultural land is not allowed to be transacted in market, farmers have no right to directly transact their contracted land in the market to meet the needs of state-owned construction land. We can say that a unified urban and rural land market has not been established, and that the driving factor of "transferring agricultural land to non-agricultural land" is not the market but the State and local government. However, we should know that different players are involved in the process of "transfer" and after "transfer" (the former is government, while the latter is market). Government becomes the beneficiary of the price difference in requisitioning agricultural land. In order to pursue profitable land revenue, government requisitions a large amount of rural land, which directly results in the loss of farmer's income from the land, causing black market transaction of rural land and rent-seeking behaviors.

2.3 Farmers' Land Ownership Right Is Not Clarified

China's current laws provide that three levels of rural lands are collectively owned by farmers; however, the factors constituting farmers' land ownership right, its operation principles and realization forms have not been specified, neither have the boundaries nor the status of the representative of the land ownership right. So we can not fundamentally safeguard the interests of farmers and the interests mentioned by the land ownership right. According to the "Constitution of People's Republic of China" and the current "Land Management Law of the People's Republic of China", our land ownership includes state-owned land and collectively owned land. Except the land that is clearly stipulated to be state-owned, the rest land is all collectively owned. Nevertheless, the actual

land users and registered users are inconsistent. Some of them did not even confirm the registration. In the land transfer process, violent conflict crop up between some people because they are at loggerheads over their own interests. More seriously, when a conflict occurs between farmers and the collective economic organizations of land owners, they are not on an equal status, which makes farmers often powerless to protect their own interests. This conflict is somewhat caused by system defects, so it is easier to become a factor harming social stability.

2.4 Urban and Rural Land Markets Are Severely Segmented

Under the existing land requisition system, China restricts rural land from entering the primary land market. The transfer of agricultural land into non-agricultural land is an unequal property transaction process. In order to meet the need of the new-type urbanization, we should establish and improve an integrated urban and rural commodity market system, factor market system and social security system, among which the factor market, especially the land market, is a highly important content in forming a construction land market that unifies urban and rural areas. But we should remember: After the land enters into the market, the red line of 18 million mu of arable land should not be broken. Though the right of arable land can be transferred, it should still be arable land. To this end, the Third Plenary Session of the 18th Central Committee of the Communist Party of China stressed that we should uphold and improve the most stringent farmland protection system. In addition, the Central Work Conference on Urbanization further suggested, “the red line of arable land must be held, including not only the quantity but also the quality of the arable land.”

3. FORMING A CONSTRUCTION-LAND MARKET THAT UNIFIED URBAN AND RURAL AREAS

3.1 Land Management System Should Meet the Demands of Market

The process of promoting urbanization is essentially a process of realizing optimal allocation of resources, in which the most important thing is to achieve intensive land use and efficient allocation of land resources. To this end, we should determine the public interests of requisitioning land in a scientific and rational manner, and formulate clearly-defined laws and regulations, so that we can limit the government’s right of requisitioning land with public interests criteria, thus gradually narrow the scope of land requisition; In accordance with the market principle of “exchange at equal values”, we should also establish fair and reasonable compensation mechanism for land requisition, on the basis of which we should gradually open up the rural collectively-owned

construction land use right transfer market. For rural collectively-owned construction lands that are qualified to be transferred, we should encourage their trade on the open market. However, their access to the market should be strictly in line with land-use regulations and planning. Since construction land is of strong irreversibility, we should not only give full play to the role of the invisible market, but also to the role of visible macro-control so as to achieve optimal allocation of land resources. In fact, it is a common practice taken by most of the countries in the world to carry out land-use regulation, which is the fundamental way to ensure the unity of economic, social and ecological benefits in terms of using land, and is an important measure to co-ordinate economic development and farmland protection. Whether it is state-owned construction land or rural collectively-owned construction land, they could only be developed with more vitality and vigor under the land-use regulation and land-use planning.

3.2 Establishing a Unified Land Market

The key to forming a unified urban and rural land market is to develop the public trading market for rural collectively-owned construction land. Modern market economy is a unified, open, fair and competitive economy which requires equal trade among various market factors, so is the rural collectively-owned construction land, an important factor of production. The restriction imposed on rural collectively-owned construction land leads to obstacles to the realization of the property rights of rural collectively-owned construction land. This also restricts the development of rural collectively-owned construction land market. Furthermore, farmers’ land rights are harmed. Nevertheless, over the years, especially since the 18th National Congress of the Communist Party of China, some places have taken initiatives to carry out collectively-owned construction land and homestead reform. Significant progress has been made. For example, Guangdong, Anhui, Hubei and other provinces have introduced provincial regulations on transferring collectively-owned construction land, laying good foundation for the improvement of rural collectively-owned construction land use right. Moreover, on the basis of the trading platform of state-owned land, we are suggested to integrate the ownership of rural collectively-owned construction land, homestead, forest, and woods into a unified urban and rural land market; we could also integrate construction land norm as well as the transfer, lease, shares, and mortgages of the requisition-compensation balance norm of arable land into the market. By meticulously developing the market, we can ultimately achieve “two property rights and one market”. Apart from what have been mentioned above, we should give clear definition to the rights involved in collectively-owned construction land, and actively carry out the registration work and certificate issuance work of the collectively-owned construction land ownership and its use right.

3.3 Improving the Land Property Right System

In the unified urban and rural land market, land transaction is essentially a trade of land rights; therefore, land property right system plays a crucial role in building a construction-land market that unifies urban and rural areas. According to the current law, the subject of rural collectively-owned land property rights is “personalized” farmers and rural collective economic organizations; and we shall ensure that the subject has complete land property rights (including possession, use, usufruct, transfer right, mortgage, lease and others). More importantly, we should guarantee that the rural land use right and urban land use right are unified and equal. On the basis of clarified property rights of rural land, we should give farmers more property rights so that their lands could become assets bringing them with predictable income, thus narrowing the gap between urban and rural areas.

3.4 Establishing Service Systems for the Market

The service systems serving the unified urban and rural construction land market mainly include market intermediary service system, urban benchmark land price system, market regulation and management system, information disclosure system and the legal and regulatory system. On the one hand, intermediary agents are in dire need or remain to be improved in the vast majority of rural areas, so we should establish service systems for the land market in terms of land market information, consulting, analysis and evaluation services, so as to make intermediary services professional and socialized. On the other hand, we should take into account the opinions of the majority of individual farmers, allowing them to transfer land of their own will rather than forcing them to sell land. Furthermore, we should ensure that farmers will have a fair share of the value-added benefits of lands, encourage villagers to buy commodity houses in cities, so that farmers could fit themselves into cities and thus relieve their worries.

CONCLUSION

In the process of building a construction land market that unifies urban and rural areas under the background of the new-type urbanization, we should thoroughly develop the thought of human-centeredness. While taking the whole situation into consideration, we should make advancement cautiously, fully safeguard and increase farmers’ income, and make urbanization gradually driven by the market. This is consistent with the trend of the present world, and is in line with the target of integrating urban and

rural areas in terms of building urban agglomerations that are managed scientifically and fully-functional. Building a unified urban and rural land market can not only stimulate the vitality of the market and optimize the allocation of resources; more importantly, it can promote the rational development and use of rural labor, land and capital factors. Through a variety of education, such as the education of behavior norms, edification of urban lifestyle, remodeling of values, cultivation of awareness of competition, and the improvement of cultural and educational level, farmers will gradually become the beneficiaries of modern urban civilization and could jointly share the fruits of modernization.

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