



Obstacles and Countermeasures for Building Unified Urban and Rural Construction Land Market

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Abstract

Long-existing urban-rural dualistic structure system in our country has formed separated land use markets and seriously distorted rural land market price and reasonable allocation on land resource. The research takes rural-urban construction land use as objective, expounds its current situation and analyzes those obstructive conditions hindered construction of unified rural-urban land use market at the same time offers logical measures, to finally realize “same land, same right, same price” among rural collective construction land and urban (state) construction land and to provide theoretical basis and policy support for unified construction land market.

Key word: Collective construction land; Urban and rural construction land market; Build unified market; Building obstacles and countermeasures

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INTRODUCTION

The most prominent issue on urban-rural dualistic structure and serious urban and rural land market segmentation significantly affect the reasonable and efficient allocation of land resource elements also they differ from requirements for rapid development of industrialization and urbanization (Chen, 2012). On the

basis of urban-rural dualistic structure system, different land use systems are applied, which formed different rural collective construction land and urban construction land markets, it has seriously distorted the market-oriented allocation of rural land and hindered economic and social comprehensive, balanced and sustainable development (Chen, 2012). Although state-owned land market system gets perfect gradually and agricultural land use system also gets improved constantly, there’s still huge missing on rural collective construction land use system (Jia, 2012) development. With the accelerating of urbanization and industrialization, collective construction land spontaneously entering into hidden land market circulation has become a common phenomenon of the society and it triggered a series of adverse economic and social problems as well.

According to *major issues on promoting rural reform and development by central committee of the communist party of China* at the third plenary session of the 17th assembly of the CCP,

we need to gradually establish a unified urban and rural construction land market, for those rural collective commercial construct land obtained by law, land use rights transfer has to be in public and standard way and under unified tangible land market, only in this way, it is able to enjoy equal rights and interests with state land on the premise of conforming to the planning. Besides, we have to improve the relevant laws and regulations and supporting policies, promote the reform of rural land management system.

It is somehow a major step for land management system reform in China also it is the future reform direction of rural land in our country, it offers chance and points out the direction for our country to establish a unified urban and rural construction land market (Tan & Liu, 2009; Tan & Liu, 2010). On the basis of that, at the third plenary session of the 18th assembly of the CCP in 2013, it further clearly stated that,

we must establish a unified urban and rural construction land market. On the premise of conforming to the planning and use

control, rural collective construction land is allowed for transfer, lease, investment for commercial purposes and owned the same market right and price of state-owned land,

which grants rural collective construction land equal status and same power with state-owned construction land and provides the system guarantee for building a unified urban and rural construction land market (Jiang, 2013). All those requirements show a vital progress on the road of building unified urban and rural land market. In hence, establishing a unified urban and rural construction land market, revitalizing the rural collective construction land market and fully developing the huge potential of collective construction land will be beneficial to ease the contradiction between supply and demand of urban and rural construction land, optimize the pattern of urban and rural construction land and raise the level of land use and promote transfer of government functions and development pattern as well as guarantee farmers' land rights, facilitate overall development on urban and rural areas and maintain social harmony and stability (Zhang & Tan, 2013).

1. STATUS ANALYSIS ON URBAN AND RURAL CONSTRUCTION LAND MARKET

In terms of state-owned construction land market, there's relatively sound market rule and the legal norm and open and transparent land market. However, the collective construction land market is restricted a lot. According to our legislation, collective construction land can enter into land market after transferring into state land through collection or expropriation. Article sixty-three of *land management law* stipulates that, land usage right owned by peasant collective cannot be sold, transferred or leased for non-agricultural construction"; The provisions in paragraph 3, article 10 of the Constitution, "The state may, for the public interest, take over land for its use in accordance with the law or compensate for expropriation." Article 43, "any unit or individual needs land for construction shall apply for state-owned land in accordance with the law." Those state-owned lands could be applied include land owned by the state and state expropriated land originally owned by peasant collective, therefore strict restriction is made on agricultural land into land for construction purposes and rural collective construction land into market circulation.

1.1 Urban and Rural Construction Land Market Under State Land Expropriation System

The only legal way to non-agriculture rural land is going through land requisition or collection, so that land market structure represents that prime land market is monopolized by government. If construction unit has the demand for rural collective construction land, they have to get approved by the department of land management first and then obtain land use rights by transfer when it is into

state land. Taking use of monopoly and administrative authority, government may collect lands from farmers with the lowest price and transfer them with a relatively high price, so the government gets huge "price scissors" during the process but such kind of action seriously damages the interests of farmers. In hence, land requisition system determines the state-owned construction land property right outmatches the collective construction land property rights (Zhang & Tan, 2013) and it leads to unequal position between collective construction land and state-owned construction land property rights, so collective construction land market cannot fit in mature urban state-owned construction land market, both two parties lack necessary connection (Wei, Zheng, & Liu, 2010).

1.2 Urban and Rural Construction Land Experiments

According to *pilot projects for urban and rural construction lands*, urban and rural constructionland experiment means to realize increase of effective area of cultivated land, land quality and make intensive utilization of land which for construction purposes and more reasonable object on urban and rural land layout through measures such as establishing the new and dismantling the old or land arrangement and reclamation and keep all sorts of land balance within project area (Wu & Niu, 2009). However, the urban and rural constructionland experiment doesn't weaken difference between collective construction land and the state-owned construction land: on the one hand, the indicators resulting from the collective construction land are calculated into state-owned construction land market, which reduce the collective construction land market supply (Ma & Qian, 2009); on the other hand, urban newly construction area still involves collection to collectively- owned land, legal procedure "first collection and then transfer" didn't change. So urban and rural constructionland experiment has increased supply scale for urban construction land and driven collective construction land out of construction land market rather than guarantee the same rights of collective construction land and the state-owned construction land.

2. EXISTING PROBLEMS AND TENDENCY OF CITY AND RURAL CONSTRUCTION LAND MARKET

The urban-rural dualistic structure existing in our country in the long-term has formed the intersected city and rural construction land market, impeded the efficient allocation of land resources, and seriously contorted the market value of rural land. Due to the special national condition of our urban-rural dualistic structure, differences always exist between urban and rural areas in construction land system for a long time, and this system presents many

restrictions towards our national collective construction land which is faced with many obstacles. What's more, existing laws and regulations are short of protections towards construction land, and even restrict circulation of collective construction land, which leads to "spontaneous and unordered" rural collective construction land, and "recessive" circulation. At the same time, a series of problems also have been caused. For example, "rent-seeking" behavior greatly encroaches on land rights and interests of peasants, and even disputes from circulation give rise to social instability (Jia, 2012).

The primary market of state monopoly land is short of market pricing mechanism, which leads to dysfunction of the separated construction land market. The price of construction land market shall be determined upon the supply and demand relations of construction land market. Our national rural collective construction land circulation is restricted by relevant laws and regulations, and cannot enter into legal dominant market, which can lead to net loss of social welfare and inefficient allocation of construction land market. On the other hand, according to relevant Transaction Costs Theory in neo-institutional economics, the actual transaction expense in collective construction land transaction is not zero, and definition of property right will have direct effects on the efficiency of market allocation resources. Pursuant to our national existing provisions of law, rural construction land belongs to "peasant collective"; and according to the stipulations of Land Management Law, "peasant collective ownership" can be divided into rural (township) peasant collective ownership, village peasant collective ownership and villagers group collective ownership. The unsharp collective construction land property right of our country leads to relatively high transaction costs, and reduces construction land market disposition resource efficiency. However, when the unified urban-rural construction land market takes shape, with property right of collective construction land explicitation, reduction of market transaction costs and standardization of construction land market operation, an efficient configuration of collective construction land market can be achieved (Xie, 2007), which can bring welfares to the public (Long, 2009). Therefore, construction landmark moves towards urban-rural unification from previous separation, which is the inexorable trend of our national urban-rural construction land market development (Zhang & Tan, 2013).

3. BREAKTHROUGH POINT OF URBAN-RURAL UNIFIED CONSTRUCTION LAND MARKET STRUCTURING

Our state-owned construction land market operation is relatively normative, coming into being relatively thorough land market including the form of bid inviting, auction, public transfer and other modes. However, rural collective

construction land market can only exist innovatively and invisibly in system margin of policy reservation exception. The third plenary session of the 17th and 18th central committees of CPC respectively emphasize active promotion of collective construction land market. With the increasing awakening of peasants' right-protection awareness and increasing enhancement of their organizational degree, as rational-economic men, peasants take their information superiority to select collective construction land for recessive market entry under acquiescence of acquiescence and legal system margin, so as to pursue fat land value-added revenue. Theoretical cycle reveals the reality of collective construction land market evolution (Ye, Jiang, & Zhang, 2000; Wang, 2001), and analyzes the power of collective construction land market evolution (Chen & Lu, 2002; Sun, 2000), and compares the market efficiency before and after collective construction land market evolution (Qian & Ma, 2007). Besides, they state briefly the integrative tendency of urban-rural construction land market (Ma, 2006), and propose a series of policy suggestions for collective construction land market (Liu, 2005). Rural collective construction land gets direct access to the market, which can not only make up the deficiency of land supply under the state of government monopoly against land market, but also can restrain land acquisition demands land acquisition. Besides, peasants can have the opportunity of sharing non-agriculturization incremental benefits of land, and land property right value can be reflected in the land market, which can satisfy the peasants' land right claim, and can benefit to relieve social contradictions from nonstandard government land expropriation behavior. It analyzes that economic society development desiderates market entry of collective construction land for circulation, and market entry of collective construction land is the basic premise and breakthrough point for establishing unified urban-rural construction land market.

4. OBSTACLES OF UNIFIED URBAN-RURAL CONSTRUCTION LAND MARKET STRUCTURING

4.1 Laws and Regulations and Institutional Barriers of Unified Urban-Rural Construction Land Market Structuring

Pursuant to the provisions of *Constitution Law* and *Land Management Law*, if any entity and individual shall use land for construction, he must apply for state-owned land use pursuant to the law. Only communal facilities of communal facilities, public welfares, township enterprise and peasant residence can use collectively-owned land, otherwise, use rights of collective land cannot be sold, transferred or leased for non-agricultural construction. Therefore, if any entity and individual have construction

plan, they have to transfer collectively-owned land into state-owned land through land expropriation first, and then acquire land use right by selling or transferring. This leads to inequality of property right status in rural collective construction land and urban construction land, and incompleteness of collective construction land powers and functions, which lead to “the same land with different property rights”.

In addition, the difference in urban-rural management system of our national land market is obvious. The use right of township state-owned land is gradually opened, and is actively encouraged for further development; while the use right of rural collective construction land is always closed and restrained on the market, which leads to “same land with different property rights”. Under such land management system of “dual-track approach”, the use right transaction of rural collective construction land suffers serious barriers, which become the basic obstacle of unified urban-rural construction land market structuring.

4.2 Obstacles From Unclear Collective Construction Ownership Subject

The definition of our national collective land ownership subject is relatively fuzzy with great uncertainty and variability, and short of clear and normalized land property right subject. *The Constitution Law* stipulates that rural land belongs to collective organization, but no explicit definition of the collective itself is available. *Land Management Law* also stipulates the three-level collective land ownership: township peasant collective, village-level peasant collective and village peasant collective. “Peasant collective”, such a collective concept, often only presents an abstract meaning in ownership exertion issue, which is difficult to become a market entity in practice layer. Therefore, as the definition of collective construction land ownership subject is not clear, it is difficult to practice the landowner as a matter of fact. Collective members’ rights and liability of ownership, use, operation, earnings and disposition towards the land cannot be reflected, and rights and interests of collective construction land sometime cannot be guaranteed. Village committee plays the role of collective organization “agent” to some extent, which makes village cadres hold most disposition rights of land and breeds their corrupt behaviors. The collective unclear ownership subject of land is adverse to cultivation of urban-rural construction land market supply subject, damages peasants’ benefits, impedes collective construction land market, and finally becomes an obstacle to unified urban-rural construction land market structuring.

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4.3 Urban-Rural Segmentation Dualistic Structure Fundamentally Impedes Unified Urban-Rural Construction Land Market Structuring

Our national existing urban-rural dualistic structure system in the long term artificially separates city and village, which impedes the unified urban-rural construction land market structuring fundamentally. The segmentation of city and village gives rise to the development imbalance between them. The urban-rural economic gap is increasingly expanded, so that rural economy greatly lags behind urban economy, rural public service facilities also lag far behind city, and urban-rural development level cannot be integrated with city; then, urban-rural dualistic structure leads to artificial segmentation of urban-rural construction land market, and recessive land market of private transaction. Thus it can be seen that the traditional urban-rural dualistic structure system presents severe obstruction towards unified urban-rural construction land market structuring.

4.4 Unreasonable Allocation of Land Value-Added Revenue

In the current land system, collective land has no direct access to the market, most of which is acquired by local government with knockdown compensatory price. Then the government gains a huge sum of land value-added revenue by means of state-owned land leasing. The farmers only get compensation value in return according to the compensation standard for agricultural land, and cannot enjoy the value-added revenue of the land. However, the country gains excessive profits from the price difference between the market value of land and the compensation value, so that local government thinks of the idea to “make profit by purchasing land at low

prices and selling at high prices". The relation of revenue distribution of collective building land flows is disordered. The lack of regulation by law and the market mechanism leads to the fact that the market value of land and the property of assets resources cannot be fully reflected in the transfer. Plus the disordered relation of land property rights in the country and incomplete organization structure of collective economics, the revenue of land transfer belonging to peasant collective and peasants fails to obtain the practical guarantee of law.

5. COUNTERMEASURE FOR THE ESTABLISHMENT OF A UNIFIED CONSTRUCTION LAND MARKET OF BOTH URBAN AND RURAL PLACES

5.1 Establishment and Improvement of Related Laws and Regulations

Related laws, regulations and the market entry systems for rural collective construction land should be established and improved in order to gradually establish the unified construction land market. The Land Management Law requires amendment as soon as possible in order to abandon the approval procedure that the acquisition of collective construction land has to follow and clearly regulate that the ownership of both collective land and state-owned land is equally protected. The "identical land with identical rights" system should be put into effect for both the collective construction land and urban construction land, and rural collective construction land should enjoy the same rights to sell, transfer, lease and mortgage as state-owned land. In the meantime, the "identical land with identical prices" should be realized. The equitable land price systems for both urban and rural areas should be implemented according to the unified land price systems and used as the basis for the formation and development of the transfer market of collective construction land. The base prices, including factors such as differential land income, position difference, planned use and infrastructure conditions, should be formulated to be used as the reference prices for the transfer of collective construction land and guide it to legally enter the market for transfer in order to realize the "identical land, identical rights, identical prices".

5.2 Make Clear the Subject of Ownership of Collective Construction Land

The land property right guarantee is the important content of land management systems in the market economy. The clear relations of land property rights are the significant conditions to guarantee the safety of market transactions and perform market mechanisms to optimize and allocate land resources. Accordingly, the enhancement of registration of land property right is the basis to regulate

the transfer of rural collective construction land and establish the unified construction land in rural and urban areas. In order to facilitate the reform of transfer systems of collective construction land including rural housing land, the land registration investigation in rural areas must be enhanced so as to complete the registration and issuing work for the ownership and use rights of collective land, and determine the ownership of collective land, by law, as well as make clear the subject of ownership and use rights of collective land in order to guarantee the safety of market transactions.

5.3 Break Away From the Urban-Rural Dualistic Structure System

At present, our country has been experiencing the developing time of promoting agriculture by industry and the countryside by cities, and has stepped into the key period when the urban-rural dualistic structure system is being broke away from. Accordingly, the dualistic structure endowed with different rights by ownership should be put to the end as soon as possible so that peasants can enjoy the bonus brought by industrialization and urbanization with their land rights. The various unreasonable and unfair policies and institutions that cause the urban-rural dualistic structure should be phased out, and efforts should put on institutional innovation in order to realize the uniformity and fairness of policies and institutions.

5.4 Equitably Allocate Land Value-Added Revenue

The peasant collective is the ownership principal of collective construction land. From the perspective of land rights, or in consideration of the reduction of rural and urban income gap and establishment of harmonious society, the land revenue generated by the resource allocation of collective construction land should incline to the peasants to guarantee that they are the largest benefited group. As the administrators, the government and land management departments have not right to share the gains of property owners. However, on account of the expenditure on infrastructure and the management costs on the transfer of ownership of collective construction land, the government can collect due proportion of land revenue. As to the incremental benefit of collective land, it can be adjusted by means of taxation. In the transfer activities of collective construction land, the principle that "initial distribution is based on property rights, government engages in secondary distribution" should be adhered to so as to ensure the fair distribution of land use revenue between owners, users and the country and realize the fair allocation of social wealth. In the meantime, land tax can also be the stable financial resources of the local government so that other land acquisition initiatives can be restrained, which is beneficial to the sustainable development of local economy.

CONCLUSION

China's current policy environment actively facilitates the rural collective construction land to enter the market, which lays a solid foundation for the realization of "identical land, identical rights, identical prices" and establishment of unified construction land market in rural and urban areas. However, the establishment of unified construction land market in rural and urban areas remains a great and complicated systematic project that is in the face of various obstructive factors. It is required to conduct profound and thorough analysis and put forward countermeasures to gradually establish a stable, healthy, energetic unified construction land market in rural and urban areas and give full play to the fundamental effect of market in the allocation of land resources so that the integrated and highly efficient allocation of construction land can be realized.

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