

An Analysis on the Current Situation of Secondary Circulation in Rural Land Contracting Taking H Village of A City in Southwest China as an Example

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ABSTRACT

This article mainly conducts on-the-spot investigations on the current situation of the second transfer of rural land management rights in Village H of City A in the southwestern region, including rural land management rights transfer contracts signed by both parties, farmers' satisfaction, and land transfer construction, and then conducts a case study. The main problems are: the township government has omissions in performing its duties; the village collective organizations and farmers are driven by immediate interests, which is easy to transfer the low-efficiency transfer of rural land management rights; there is a scissors difference between the calculation of the income of land management rights of farmers and the operating income of the transferee; rural land management rights transfer contract is not standardized and other issues. Combined with problems, this paper puts forward corresponding measures and suggestions.

Keywords: rural land, transfer of management rights, secondary subcontracting, case analysis

I. INTRODUCTION

At present, the transfer of rural land in China refers to the transfer of land management rights (that is, use rights) by farmers who have land contractual management rights to other farmers or organizations in accordance with relevant laws and regulations on the basis of the "family contract responsibility system". Production and operation activities. In 1978, the household contract responsibility system divided rural land property rights into ownership and management rights. Among them, the ownership of rural land is collectively owned, and the management right is owned by farmers. The implementation of this system has greatly increased farmers' enthusiasm for farming. In 1982, Article 10 of the Constitution of the People's Republic of China stipulated that land in rural areas and suburban areas, except those owned by the state as stipulated by law, belong to collective ownership. No organization or individual may occupy, sell, lease or otherwise illegally transfer the land [1]. From the height of the Constitution, the farmer's right to land management is guaranteed so that it can be followed by law. Specifically, the main basis of rural land contracting and transfer in China is the "Law of the People's Republic of China on Rural Land Contracting" amended in 2018 and implemented the following year. Details of the transfer of rural land contractual management rights. However, in the course of practice,

collective rights protection incidents caused by the damage of farmers' legal rights in the circulation of land use rights occur frequently, accounting for more than 70% of rural group rights protection incidents [2]. Due to the weak legal consciousness of the peasant groups in protecting the legitimate rights and interests of the land circulation and the asymmetric information flow between the two parties, the farmers are often at a disadvantage. Therefore, it is a more effective and targeted research method to explore the problems of land circulation, especially the secondary circulation, with a case.

II. OVERVIEW OF VILLAGE H IN CITY A

Village H has 15 villager groups under its jurisdiction, with a population of 3520 people and 959 rural households, with an area of 3.2km². In terms of land circulation, the land circulation rate of Village H reached 90%. Mainly dominated by the citrus and prickly ash industries, the industrial economic activities of "government guidance + professional cooperatives + village enterprises + villagers' land shares" were formed, and land transfer was carried out. The land transfer rate of the two industries of sweet orange and prickly ash reached 68%.¹

¹ The case data is the author's field research.

The citrus and pepper industry in village H is mainly dominated by village collective economic organizations. Professional cooperatives such as sweet orange farmer cooperatives, aquaculture cooperatives, and pepper industry cooperatives led by village

collectives were established. At the same time, a collective asset management company with a registered capital of 2 million yuan was established to manage the production and business activities of the village collective economic organization.

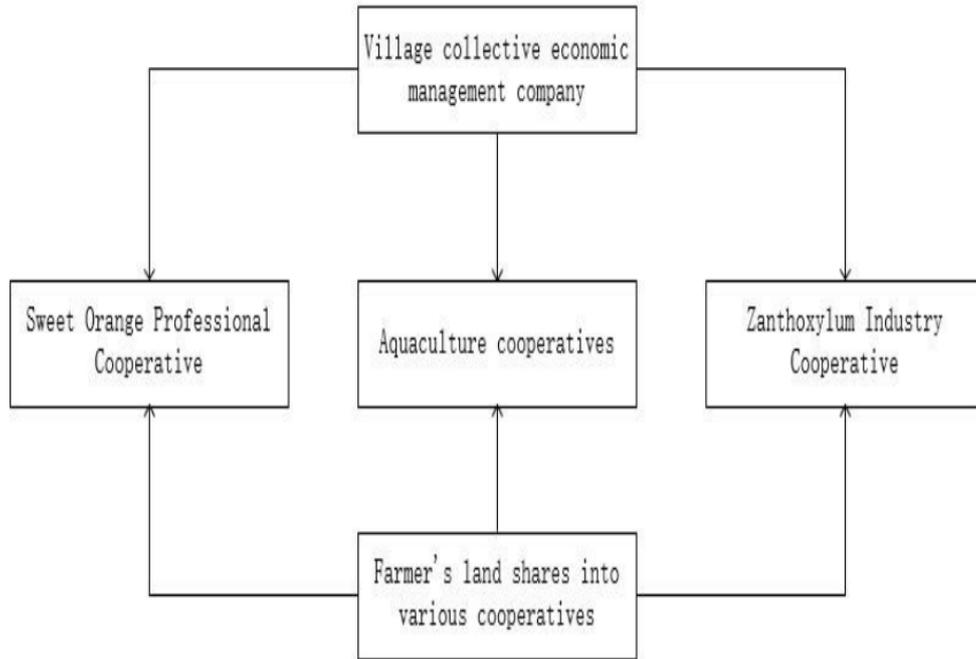


Fig. 1. Model of land circulation in Village H.

As can be seen from the above "Fig. 1", farmers mainly concentrate land in village collective professional cooperatives for large-scale circulation. In addition, village H also introduced non-internal members from outside to transfer land. This article focuses on the case analysis of secondary land transfer for the introduction of non-collective members in the village.

III. CASE ANALYSIS

A. Case overview

This case has a large time span, from the first land transfer in 2006 to the second transfer in 2020, which lasted 14 years. The land type of the project is mainly cultivated land, with an area of about 20 mu, involving 22 farmers. The land circulation purpose is aquaculture, and the secondary circulation purpose is expanded to tourism projects and flower projects, and the corresponding project productive facilities (roads, fishing facilities, etc.) are built.

B. Maintaining land transfer contract

For the first time, the aquaculture land transfer contract was a format contract provided by Party B (land transfer operator), which was signed with 22

farmers. Standard contract, according to the second paragraph of Article 39 of the "Contract Law of the People's Republic of China": "The standard clause is a clause that the parties prepared in advance for repeated use and did not negotiate with the other party when the contract was concluded [3]." Contracts that use standard terms are called standard contracts. The land transfer contract signed for the first time was signed with 22 rural households, which met the pre-prepared terms for reuse, and whether to negotiate with the rural households. Due to the long time, some users have forgotten the signing process at that time, and there is no corresponding written record. In addition, during the visit, most of the contracts retained by farmers in 2006 were not well preserved, and most of them were lost. The author only collected a current land transfer contract from the farmers who signed the contract that year. , Has long been yellowing. According to Article 23 of the "Administrative Measures on the Circulation of Contracted Management Rights of Rural Land" of the Ministry of Agriculture in 2005: The format of the contract for the transfer of contracted management rights of rural land is determined by the competent agricultural administrative department of the provincial people's government, which clearly stipulates that the contract must include both parties Name, domicile, transfer land four sides adjacent and so on. The rural

land contract management department of the township (town) people's government shall promptly provide the contractor who has reached the intention of circulation to provide a circulation contract in a uniform text format and guide the signing of the contract [4]. Obviously, the format of this contract text does not meet the requirements. At the same time, the two transferees of the transfer of land contractual management rights are individuals outside the collective economy, and have not obtained the consent of more than two-thirds of the villagers' meetings of the members of the collective economic organization or more than two-thirds of the villagers' representatives.

C. Time of land circulation

It can be seen from the land transfer contract obtained from the visit that the time for the first land transfer is from 2006 to 2026, and the time is 20 years. According to the time node, it can be seen that the first land transfer period is mainly during the second round of land contracting in China. Due to the changes in the operation of Party B (the land management right transferee), when the land management right transfer contract has not expired, Party B has operational difficulties. Therefore, the second land transfer between farmers and C (new land management right transferee) was introduced. In the newly agreed land transfer contract, the term is from 2020 to 2029.

D. The boundaries of land parcels for the transfer of land management rights

In the two land transfer agreements, the land plots for farmers' transfer of land are unknown on all four sides, and the agreement simply includes the area and aggregate area of the land transferred by a single farmer. In practice, due to the failure to mark the four adjacent borders of the transferred land in time and communicate effectively with the construction personnel, there is an error between the land transfer plot and the actual construction.

E. Calculation of land transfer income

The first land transfer agreement was signed in 2006, stipulating that 600 pounds of rice per mu of paddy field will be paid in cash at the discount of the market price of the year. The calculation of the proceeds of the second newly signed land transfer agreement is the same as the first. According to data from local authorities, the local rice yield per mu exceeded 600 kg in 2011. According to the agreement, the increase in farm household output per mu in the past 14 years is not included in the calculation of income, so the actual income of farmers in terms of land circulation has not increased much.

F. Agreement on recultivation

The first land circulation management right agreement clearly stipulates that Party B (land contractor management right transferee) shall not bear any recultivation costs. The second land management right transfer agreement, that is, the current agreement stipulates that the recultivation cost is calculated at 500 yuan per mu. During the on-site visit, the land transfer project newly built roads, houses, street lights, Diaoyutai and other eco-tourism-related auxiliary facilities. If the land transfer period expires, no one will renew the lease, and the cost of recultivation will be much more than the amount specified in the agreement.

G. The situation of land transfer to farmers

Among the 22 households involved in land transfer, the largest area is 2 mu and the smallest is 0.16 mu. The average land transfer per household is about 0.9 mu. In terms of farmer satisfaction, although there are some problems in the contract, 22 households are generally satisfied, with a satisfaction rate of 95.45%. One farmer is dissatisfied. The reason is: after the second land transfer, he is mainly engaged in agro-ecological tourism projects. Roads and other facilities are concerned that the cost of recultivation will be much greater than the contracted recultivation costs. This is not an example. Judging from the situation reflected in various places, a large amount of cultivated land is illegally occupied every year. Although the state has strengthened the investigation and handling of illegally occupied cultivated land in recent years, from the investigation results, once the original cultivated land is illegally occupied. Apart from demolishing and confiscating a large number of illegal buildings and a large amount of fines and confiscations, the area to be recultivated is very small [5].

IV. PROBLEM ANALYSIS

A. The township government has not effectively fulfilled its role of guidance and supervision in land transfer

It can be seen from the case that this is the second transfer within the first period of land transfer, and the whole process appears hasty, without the consent of more than two-thirds of the villagers or representatives, nor the public bidding for the transfer of land management rights. The township government has not played an effective role in guiding the contract. During the field visit, the farmers reported that the township government staff had not conducted any survey on the transfer of land management rights of the project.

B. Village collective organizations and farm households neglect long-term cultivated land interests for short-term development

From the second land transfer contract and on-site visits, it was found that the land originally belonged to cultivated land was transferred to the land management right mainly based on ecological farming and tourism development projects, and durable materials such as brick, wood and concrete were built on the cultivated land. Buildings and facilities have obviously changed the nature of cultivated land, mainly agricultural. Village collective organizations and farmers are obviously aware of this kind of behavior, but no corresponding preventive measures have been taken. The main reason for the analysis is the village collective organization and farmers, and it is hoped that through the transfer of land management rights, farmers can be freed from the heavy agricultural production, and the village collective can also change the industrial structure of the collective. Part of the cultivated land occupied by farmers can work nearby or work in the city to generate additional income, which can also promote the local urbanization process to a certain extent, but in the long run, the country's 1.8 billion mu of cultivated land red line will be challenged.

C. Peasant households use the land to produce agricultural products to calculate their income, and it is easy to lead to "low land prices damage farmers' interests"

In the case, the income from the transfer of land management rights of farmers is mainly calculated based on the amount of rice per mu of cultivated land, and it is based on the exchange of benefits between primary agricultural products and tertiary industry tourism development and ecological breeding. In this process, farmers are more likely to be in the passive position of the information disadvantage, and enterprises occupy the dominant side of the game of turnover income, and it is easy to reach an agreement with farmers on a lower compensation amount [6]. This is obviously unfair and there are great price scissors.

D. The development of land transfer contracts is not standardized

The land transfer contract in the case simply stipulated the rights and obligations of both parties to the transfer of land management rights, and did not refer to the contract model established by the provincial department. In the contract, the farmer's land transfer information is only the size of the land, and the specific four sides of the land are unknown. This leads to irregularities in the construction process and large randomness.

V. SUGGESTIONS

A. The township government should effectively perform its duties in the transfer of land management rights

First, the township government should follow the principles of fairness, openness, and fairness in the transfer of land management rights, organize the orderly and lawful participation of those who intend to participate in the transfer of land management rights, and select the best contract based on enterprise qualifications, village collective organizations, and farmers' opinions. The second is that in the process of contract formation, a legal model contract should be provided and the two parties to the land transfer should be instructed to sign. The third is that the township government, as the grassroots government closest to the parties involved in the land transfer, should strictly abide by the various land policies of the country and effectively safeguard China's limited cultivated land resources.

B. Village collective organizations and farm households should focus on long-term interests, and should not transfer low-efficiency land management rights for short-term benefits

One of the main reasons for this type of information is the asymmetric information flow between the two parties. The village collective organizations and farmers have relatively weak information on all aspects. The inflow of land management rights is mostly enterprises or individuals with certain advantageous resources. The asymmetry of the information flow leads to the weak bargaining power of the farmers with weak information flow, which is prone to low-price circulation. As village collective organizations and farmers, while actively protecting rights, they should also strengthen the acquisition of common knowledge of laws and regulations on land transfer, master the necessary knowledge of land transfer, improve their own land rights protection capabilities, and jointly protect the red line of cultivated land.

C. Establishing a public platform for the transfer of rural land management rights

Based on the decisive role of the market in the allocation of resources for the transfer of rural land management rights, the marketization of the transfer of rural land management rights will be marketized. This measure can not only effectively alleviate the information disadvantage and weak bargaining power of the farmer's side in the transfer of land management rights, but also help improve the efficiency of the transfer of land management rights and increase farmers' income. At the same time, the establishment of a public platform for the transfer of land management rights also helps the supervision of all sectors of

society, and promotes the standardized and regular operation of the transfer of land management rights.

D. Establishing a legal and standardized contract text

In relevant laws and regulations, government agencies have issued relevant contract models, but in practice, land management rights are transferred to both parties, in order to save time and effort, and simplify in specific terms and operating procedures, such as the location information of the land Area and basic information of farmers, no adjacent information on all four sides of the plot. The legal and standardized contract text is the strongest proof for the protection of the transfer of land management rights. As farmers of the relatively weaker party, the awareness of establishing a legal and standardized contract text should be raised to protect their legal rights.

VI. CONCLUSION

The transfer of rural land management rights is an activity in which farmers transfer their rural land management rights and generate profits. It is a business activity and should participate in market competition, introduce market mechanisms, and gradually improve. This is also the earnest expectation of the majority of farmers, and it is also one of the important measures to prevent the return to poverty after industrial poverty alleviation.

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