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Research on the Protection of Contracted Land Rights and Interests of Farmers who Settle Down in Cities under the Background of New Urbanization: Empirical Analysis and Foreign Reference

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Abstract: Farmers who settle in cities are the main element of urban-rural mobility, and how to protect their land rights is one of the key and difficult points in promoting China's new urbanization. In this paper, contracted land that bears the social security function of farmers is selected to study the protection of the rights and interests of farmers who settle in cities. Combined with relevant judicial cases, the current protection status of the rights and interests of contracted land of farmers who settle in cities is analyzed. It is found that there are still problems such as the imbalance of supply and demand in legal norms, the operation failure of supporting systems, and insufficient response to property protection. Summarize the basic experience of foreign countries in dealing with farmers' problems in coordinating urban and rural areas, and base on China's unique national conditions and policies. In order to further improve the protection of contracted land rights and interests of farmers who settle in cities, measures should be taken to strengthen the legal regulation of supply, deepen the reform of household registration, clarify the land ownership, build a diversified relief system, expand farmers' property rights and interests, and improve rural social security.

Keywords: Farmers Settling in Cities; Contracted Land Interest; New Urbanization; Empirical Research.

1. Introduction

The new type of urbanization in China has entered a stage of steady deepening [1]. This new type of urbanization requires more active integration of urban and rural factors. Only by effectively guaranteeing the legitimate land rights and interests of farmers who have settled in cities, and allowing the majority of farmers to settle in cities with confidence, can we smooth the flow of urban and rural factors and promote the new people-centered urbanization. As the bearer of farmers' social security, contracted land is the top priority of rural land system reform. The guarantee of contracted land rights and interests is a key link to realize the land rights and interests of farmers who settle down in cities. At present, due to the complexity of China's rural land property rights system, the lack of specific rules for the protection of contracted land rights and interests of farmers who settle in cities, and the related supporting systems are also in the period of practice and exploration, the protection of contracted land rights and interests of farmers who settle in cities is still a weak link in the protection of agricultural land rights and interests. How to improve the protection of contracted land rights and interests of farmers who settled in cities is the key issue to be solved in this study. Based on this, this study combined with the background of China's new urbanization, Firstly, through empirical analysis, identify the problems in protecting the contracted land rights and interests of farmers who settle in cities; Secondly, summarize the basic experience of foreign countries in dealing with farmers' problems in coordinating urban and rural areas; Finally, based on China's unique national conditions and policies, to explore effective ways to solve the problem, to achieve the improvement of the rights and interests of farmers settled in the city contracted land protection system.

2. Case Analysis and Reflection on the Current Situation

2.1. Sample Case Sources

The relevant cases selected in this empirical study are from China Judgment Documents Network. 96 civil judgment documents were obtained by searching with the keywords of farmers settling in cities and contracting, and 134 civil judgment documents were obtained by searching with the keywords of farmers who settling in the city and contracting. The 230 selected judgment documents were read and sorted out, and 113 cases were related to the subject and met the requirements. Some of the cases that do not meet the conditions are the existence of repeated searches, while the other part is related to rural homestead disputes and collective organization equity disputes, which are not within the scope of this topic.

2.2. Case Empirical Analysis

2.2.1. Lack of Targeted Laws and Regulations, Lack of Reason

A total of 113 cases fit the research content, including 9 cases of the high court, 59 cases of the intermediate court and 45 cases of the basic court. The trial of the case often fails to convince the parties, and after the basic court makes a judgment, the parties often file an appeal. By counting the legal provisions cited in 113 effective cases, and as shown in Figure 1, the top ten cited laws are ranked in order to show the legal application of disputes over the rights and interests of contracted land for farmers who settle in cities. By analyzing Figure 1, the legal provisions applicable to disputes over the contracted land rights and interests of farmers who settle in urban areas present the following issues: First of all,

citing legal provisions is too outdated and insufficient to adapt to the new disputes arising in the current environment over the contracted land of farmers who have settled in cities. Secondly, the articles cited are mostly provisions of principle and lack operability of legal practice. Finally, the cited laws and regulations are all related laws and regulations, without responding to the special characteristics of farmers who settle in cities. It is for these reasons that the law invoked by the court is unconvincing. The judgment made on this basis makes the parties unconvinced, resulting in frequent appeals of cases, which seriously affects the judicial credibility of our country in this field.

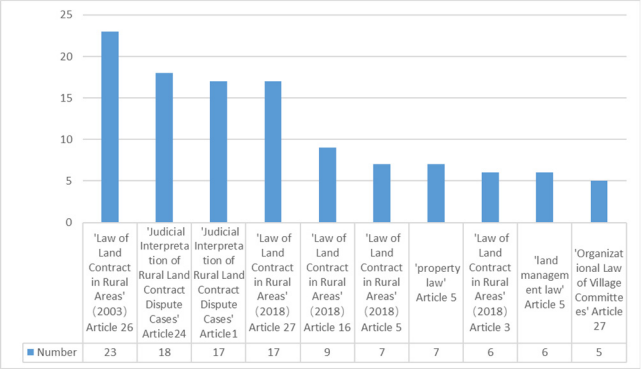


Figure 1. Number of times the case law applies

2.2.2. The Phenomenon of Different Verdicts in the Same Case is Serious

Through the summary analysis of the results of 68 cases that were appealed, it was found that there were 17 cases in which the higher court made a decision to revise the sentence, accounting for 25%, and the proportion of the revised sentence was significantly higher. There are two main reasons for the higher court to change its judgment. The first is the different understanding of the scope of cases accepted by the people's court, believing that relevant cases are the scope of villagers' autonomy, or they should seek help from government organs, with a total of 10 cases, accounting for 58.8%. The second is the different recognition of the conditions for the loss of membership of collective economic organizations. The main opposition points lie in the recognition of the role of household registration and the recognition of farmers who settle in cities to obtain alternative social security, with a total of 7 cases, accounting for 41.2%. Not only do judicial organs at different levels in the same region have different standards for adjudicating similar cases, but judicial organs in different regions also have different standards. Therefore, the more serious phenomena of different judgments in the same case affect the judicial fairness and justice, and also damage the judicial credibility in our country.

2.2.3. The Types of Disputes are Diverse, and the Demands of Farmers are Concentrated

Through the summary of the causes of 113 cases that meet the conditions, the current disputes over the Rights and interests of contracted land for farmers who settle in cities are mainly divided into four types. The first is the disputes over the allocation of compensation fees for the expropriation of contracted land, with 25 cases, accounting for 22%; The second is the rural land contract disputes, a total of 27 cases, accounting for 24%; The third type is disputes over land contract management rights, with 27 cases, accounting for 24%, and the fourth type is disputes over rights and interests of members of collective economic organizations, with 34 cases, accounting for 30%. Further analysis of the appeals of the parties shows that the first kind of dispute directly requires reasonable distribution of collective property, while the other three kinds of dispute appeals require the return of the original property, the cessation of infringement, and the identification of qualifications at the same time, they also require the compensation of property. From this, it can be seen that the demands of farmers who settle in cities are relatively concentrated, and they all hope to receive property compensation to relieve their rights and interests.

2.3. Reflection on the Current Situation

Continue to reflect on the appearance of the current protection status, and explore the causes behind the current protection status. Summarize the problems and difficulties in protecting the rights and interests of contracted land for farmers who settle in cities

2.3.1. Legal Regulation of Supply and Demand Imbalance

The fundamental reason for the difficulty of judicial adjudication is the gap in legislation. The existing legislation has not been updated in time, the relevant laws have obvious characteristics of principle, and the legal practice is too weak. In addition, the current legislation lacks the differentiated provisions for the protection of the rights and interests of the vulnerable group of farmers who settle in the city, and the pertinence is insufficient. With the continuous advancement of new-type urbanization and the deepening of rural reform, the development of rural areas has also produced new legal problems. China's rural land property right system is unique and complicated. Diversified subjects of contracted land property rights, and diversified stakeholders involved in the contracted land rights of farmers who settle in cities. The reform of land property rights needs to consider too many issues, and the reform is still in the stage of practice and exploration. Therefore, legislation is unable to respond promptly to emerging issues. It is this lag of legislation that makes the current supply of legal norms unable to meet the actual needs of society. The particularity of this group of farmers who settle in cities makes their demand for specific laws on the protection of rights and interests of contracted land greater and more urgent. Under the serious imbalance of supply and demand, the protection of the rights and interests of the contracted land for farmers who settled in cities is relatively weak.

2.3.2. The Supporting System Fails to Operate

In addition to the lack of legislation, the supporting system for the protection of contracted land for farmers who settle in cities is also not sound enough. There are system failures in the protection and relief of rights and interests. First of all, the urban-rural dual household registration system makes the farmers who settled in the city lose the rural household registration, the original land rights and interests obtained according to the status of farmers, obstructing their continued enjoyment. The household registration system has not yet made a clear and unified targeted response. Secondly, the division of land ownership needs to be further clarified. China's land property rights system is very complicated, the rural development and urbanization, farmers originally a single land contract management rights began to transform into a series of contracted land rights and interests. Such as land management rights for financing guarantees. The lack of clear and reasonable division of ownership makes it lack of basis for farmers to enjoy legitimate rights and interests.

Thirdly, the transfer and exit mechanism of contracted land for farmers who settled in cities is not perfect enough. The problem of lack of subjectivity exists among peasants who settle down in cities. This has dampened the enthusiasm of farmers and prevented the normal implementation of the system. Finally, the relief system for the contracted land rights and interests of farmers who settle in cities is not diverse enough. The rural residents who settled in the city have a low level of culture, a weak sense of rule of law, and low economic conditions. Therefore, a single private interest lawsuit cannot provide comprehensive protection [2]. Compared with the rigid litigation approach, the flexible and more efficient mediation should also be paid attention to. However, due to the lack of legal talents, the lack of professional talents, and the lack of enforcement of mediation agreements, the success rate and actual effect of mediation are greatly reduced.

2.3.3. Inadequate Response to Property Protection

Judging from the demands of most farmers who settle in cities, getting more economic compensation on property is the popular desire. The high level of the state, with great foresight and people-oriented, found this problem early on. Recently, it has been repeatedly emphasized that we need to deepen the reform of the rural land system and grant farmers more full property rights and interests. We will ensure the lawful rights and interests of rural residents who have settled in cities. This points out the direction for improving the protection of the rights and interests of farmers who settle in urban areas in China in the future. At present, there are still shortcomings in the property response to the protection of the contracted land rights and interests of farmers who have settled in cities. The financing guarantee for land management rights mentioned above is difficult to implement due to insufficient expectation of rights transfer and unclear consideration for rights [3]. For example, the mechanism for paid exit and transfer is not sound, the exit compensation is not sufficient, the exit compensation standards are not appropriate, and the compensation methods are too single to meet the actual needs of farmers who settle in cities. In terms of paid transfer, the lack of subjectivity among farmers who settle in cities, the lack of standardized transfer behavior, and inadequate management after transfer all hinder the transfer of property rights by farmers [4].

3. Foreign Experience Reference

Urbanization is an inevitable stage for a country to go through from an agricultural country to an industrial country, and it is a difficulty that all countries have experienced or are experiencing to solve the threat posed by the imbalance of urban-rural development to the protection of farmers' rights and interests. On the other hand, developed countries and regions such as the United Kingdom and the United States started urbanization early and have a high degree of urbanization, and have basically achieved balanced urban and rural development. Under the background of China's new urbanization, systematically summarizing and learning the basic experience of developed countries in coordinating urban and rural areas, protecting farmers' rights and interests, and promoting the citizenization of agricultural migrant population will be conducive to coordinating the integration of urban and rural elements, guaranteeing the legal land rights and interests of farmers who settle down in cities based on China's unique national conditions and policies

3.1. Perfect Legislation and Clear Property Rights

The characteristics of rural development in the United States are distinctive, especially the protection of the rule of law. The US federal government often uses planning bills as a means of implementing its policies. The planning bill ensures the timeliness of the federal government's short-term policies and the stability of medium to long term policies through a combination of short-term legislation and medium to long term legislation. The American Farm Rural Act is enacted by Congress every five years. The bill establishes a special fund for rural development to protect farmers who are disadvantaged in the process of urbanization, and specifically expands its application plan. Increase the allocation of funds to farmers, focusing on the sustainable development of rural areas and farmers. The United States has successively introduced a series of laws such as the Land First Refusal Act and the Homestead Act, encouraging further rural exploration and development, while also ensuring the urbanization of agricultural transfer populations, concentrating land production factors, and promoting the process of urbanization [5]. At the same time, the United States implements private ownership of land, which has a clear property relationship. The Federal Land Management Act clearly stipulates the legal rights and obligations of land owners, effectively avoiding some land infringement behaviors [6].

3.2. Freedom of Movement, Removal of Restrictions

The narrow household registration system is unique to a few countries such as China, but the broad household registration system, as a basic means of governance, exists in most countries [7]. The population management system in Britain has experienced a course from strict to relaxed. Before the Industrial Revolution, Britain carried out the enclosure movement, and large farms quickly formed the enclosure, and a large number of farmers lost their land. But the British government could not provide jobs, so it severely restricted the movement of people. The Industrial Revolution brought about productivity development, and the British government began to enact laws to relax population mobility and promote the transfer of rural productivity to the secondary and tertiary industries. The United Kingdom has continuously improved the household registration management system, began to transform it from a restriction to a tool for serving citizens, and established a perfect social security system for population management. Japan's household registration system has played a positive role in the process of urbanization. In the process of urbanization, there are many social problems in Japan, and the regional development gap is large. But instead of imposing laws to restrict the movement of people, the Japanese government enacted laws and made plans to guide and regulate the migration of people. Japanese household registration moves with people, and Japanese citizens who live in a city for more than three months can enjoy the legal rights and interests of the city.

3.3. The Procedure is Perfect and the Mechanism is Reasonable

Many developed countries have relatively perfect procedures concerning the protection of land rights and interests, such as land expropriation procedures. South Korea has enacted a series of laws such as the Land Acquisition Law,

the Implementation Order of the Land Acquisition Law, and the Implementation Rules of the Land Acquisition Law, which have made specific and operational provisions for the land acquisition process [8]. The related supporting mechanism is also relatively sound and reasonable. For example, the land withdrawal compensation mechanism, the United States Constitution clearly stipulates: 'without reasonable compensation, private property shall not be expropriated for public use.' In practice, the U.S. compensation standard not only compensates for the current value of the land expropriated, but also considers the expected future value of the land. Britain offered farmers two compensation schemes when their land was withdrawn. One is to receive a reasonable amount of compensation in a lump sum, and the other is to convert the compensation into a pension guarantee for the farmer, and pay a pension to guarantee the basic standard of living every year.

3.4. Government Led Strengthening of Social Security

Land is the guarantee for the survival of agricultural population. The successful citizenization of the migrant agricultural population requires a new social security after the loss of land security. In terms of providing alternative social security in a timely manner, many developed countries and regions have established diversified supply social security led by the government [9]. The United States has a special security fund for landless farmers, and provides tax relief for this special group to a certain extent. Based on its highly developed market economy and historical background of regional autonomy, the United States has formed a diversified supply model of farm social security led by the government and jointly implemented by enterprises and social organizations. The Japanese government has led the establishment of the foundation of the rural social security system. The Japanese government has taken the lead in establishing the foundation of the rural social security system, while fully leveraging the important guarantee role of the Japan Rural Association. The Japan Rural Association is a powerful intermediary organization between the government, the market, and farmers, assisting the government and collaborating with agricultural cooperative organizations at all levels to participate in the supply of rural social security.

4. Suggestions for Improvement

4.1. Strengthen the Supply of Legal Norms

Legislation is the leading link in strengthening the protection of rights and interests in the construction of the rule of law. To improve the process of the protection of farmers' contracted rights and interests, we must first strengthen the legislative supply to meet social needs. First of all, the legislation should adhere to the principle of equality and voluntoriness, and ensure the subjective status of farmers in the implementation of rights and interests of contracted land. Secondly, legislation should strengthen targeted protection for the special group of farmers who settle in cities, fully considering their transitional, phased, and long-term nature [10], in order to formulate rules that meet the current social needs. Once again, to enhance the practicality of legal norms, the formulation of rules should be specific and ensure the operability of practice. Local legislative bodies should combine with central legislative norms to develop practical and feasible local implementation plans. Finally, to strengthen the legal supply, we should pay attention to the important role of village rules and people's covenants. Firstly, it is necessary to help grassroots understand the spirit of legislation [11], master legal rules, and formulate appropriate village regulations based on the characteristics of the village; Secondly, it is necessary to strengthen the legality review of village regulations and agreements, ensuring the stability and unity of the law

4.2. Deepen Household Registration Reform

To strengthen the targeted protection of the rights and interests of the special group of farmers settling in cities, we must deepen the reform of the registered residence system. The plight of the rights and interests protection of the farmers who settled in cities in the contracted land is the inevitable result of China's long-term implementation of the urban and rural dual track registered residence management system. China's household registration reform is continuing to advance, still need to continue to deepen [12]. First of all, the Household Registration Regulations promulgated in 1958 are no longer applicable to the current social development. There are different standards in the local laws and regulations on registered residence management issued by various provinces. It is urgent for the central government to make unified legislation to improve the registered residence system. Secondly, the key role of registered residence registration in the enjoyment of rights and interests should be weakened, and targeted responses should be made to urban settlement groups, such as canceling the restrictive role of registered residence in the identification of members of collective economic organizations. Finally, it is necessary to gradually realize the free movement of citizens in the true sense and abolish the "status system" of household registration [13]. Efforts are made to narrow the gap between the welfare levels of cities and coordinate the development of urban and rural areas.

4.3. Clarify Land Ownership

To clarify the ownership of land, it is first necessary to continue to improve the rural land "three rights separation" system, and further define the distribution of rights and obligations of each subject in the land property rights system. Secondly, it is necessary to balance the weight between the identity and property rights of land rights, endow farmers with more comprehensive property rights, and focus more on the rights of land use and guarantee. Finally, it is necessary to promote the construction of the contracted land rights and interests' system, clarify the land contract management right and a series of rights derived from it, and promote its concrete implementation.

4.4. Establish a Multi-relief System

Due to the low cultural level, weak legal concepts, and low economic conditions of farmers who settle in cities, a single private interest lawsuit cannot meet their needs for protecting the rights and interests of contracted land, and a diversified relief system needs to be constructed. Firstly, the litigation level of this special vulnerable group should be taken into account, and disputes over the contracted land rights of farmers who settle in cities should be included in the scope of public interest litigation. Secondly, the living conditions of this special vulnerable group should be taken into account, and protective services such as judicial preferential treatment and legal aid should be provided, such as delaying payment of litigation fees, providing more care and convenience

during legal enforcement, and the government leading the establishment of a specialized legal aid team [14]. Finally, to maximize coordination, widely absorb talents, set up a multi-level mediation team. Encourage and guide the establishment of specialized and specialized mediation organizations, and actively carry out strong coordination with the court to ensure the implementation effect of mediation agreements, and ensure the realization of the purpose of protecting the rights and interests of farmers who settle in urban areas.

4.5. Expanding Farmers' Property Rights and Interests

Focusing on land use rights and their derivative property rights has become a common practice in different land systems around the world when dealing with land and farmer issues. The overall direction of China's policies is also to grant farmers more full property rights. Firstly, we need to seize the opportunity of comprehensive rural revitalization, promote the development of rural industries, such as non-traditional agriculture, tourism, and processing industries, strengthen our own economic capabilities, promote the growth of rural economic benefits, and drive the appreciation of land wealth. Secondly, it is necessary to improve the rural financial service system and expand various investment and income channels, such as establishing and improving the mortgage loan business for land contract management rights, in order to promote the circulation of farmers' funds and promote the transformation of land from guarantee to asset based. Finally, we must continue to deepen the reform of the rural land system. Firstly, promote the entry of land into the market, establish a market bidding mechanism for land transfer, enhance the dominant position of urban settled farmers in land transfer, and improve the operational mechanism of the land transfer market. Secondly, reform the land acquisition system and optimize the mechanism for distributing benefits [15]. Thirdly, improve the paid exit mechanism for contracted land, introduce more suitable entities with compensation capabilities, determine appropriate exit compensation standards, and enrich exit compensation methods.

4.6. Improve Rural Social Security

To improve the protection of the rights and interests of farmers who settle in urban areas with contracted land, it is also necessary to fully consider the role of contracted land in rural social security, and ensure that farmers who settle in urban areas receive alternative social security after losing their contracted land security. Firstly, it is necessary to clarify the main responsibility and dominant position of the government, regulate resources at the macro level, and implement the second and third distribution of wealth, Timely policy formulation, implementation and supervision. Secondly, through the improvement of the system, alternative protection will be provided to farmers who have settled in cities during the process of exiting contracted land, and innovative exit paths will be explored that can provide farmers with property compensation while also taking into account farmers' access to alternative protection. Third, establish a diversified supply model of social security. Under the guidance of the government, the market and social organizations will be included in the main body of ensuring supply. The government encourages and guides the establishment of rural associations and other public welfare organizations to serve as intermediaries between the government, the market, enterprise organizations and farmers. Finally, we will deepen the reform of the social security system guided by fairness and unity, unify the security standards, and explore a social security system that is not restricted by registered residence and occupation.

5. Conclusion

Under the background of new urbanization, the protection of contracted land rights and interests of farmers who settle down in cities in China is mainly faced with three difficulties, such as the imbalance of supply and demand in legal norms, the failure of supporting systems, and the insufficient response of property protection. By summarizing the basic experience of developed countries in coordinating urban and rural areas, protecting farmers' rights and interests, and promoting the citizenization of agricultural migrant population, based on China's unique national conditions and policies, this paper puts forward some suggestions on the protection of farmers' contracted land rights and interests. It can resolve the layers of difficulties faced by practice, improve the current protection situation in this field, and protect the legitimate rights and interests of farmers who settle down in the city on contracted land. This is of great and far-reaching significance for deepening the reform of the rural collective property rights system, unimpeded the flow of factors of production between urban and rural areas, advancing the new people-centered urbanization process, and comprehensively promoting rural revitalization.

Acknowledgments

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