

The Development of Chinese Agricultural Land Transfer System: Transaction, Concentration and Commercialization

Du Yuneng (Corresponding author)

The School of Public Affairs, University of Science and Technology of China

No. 203, 7 building, Wen yuan, Shu shan district, Hefei, China

Tel: 86-130-8306-2933 E-mail: fbdjlove@hotmail.com

Sun Bo

Foreign Language Department, Hefei Normal University

No.508, 52 building, Xi yuan, Shu shan district, Hefei, China

Tel: 86-138-6590-7191 E-mail: sun8506@163.com

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Abstract

Currently, the Chinese agricultural land transfer activities are carried out extensively. Starting from the research on the historical development of Chinese agricultural land transfer, this paper analyzes three modes of Chinese agricultural land transfer, namely, transaction, concentration and commercialization. After that, the necessity of agricultural land transfer in China and the bottlenecks thereof are discussed. Finally, some policy proposals to perfect Chinese agricultural land transfer market are made.

Keywords: Agriculture, Land Transfer, Transaction, Concentration, Commercialization

1. Introduction: The history of Chinese agricultural land Transfer system

Chinese agricultural land transfer is not a new thing. When the rural household responsibility system was established in 1978, the Chinese agricultural land transfer and trade began to come into existence. But in those days the Chinese government banned any form of land transfer. As stipulated in constitution at that time, any organization or individual cannot encroach on agricultural land or illegally transfer it through buying, selling, leasing or other means. During this period, agricultural land transfer in rural areas was spontaneously formed, and the transfer market is a black-market.

In 1984, the No.1 files of central government, for the first time, permitted agricultural land transfer under certain circumstances. In accordance with the No.1 files, farmers who was not able to cultivate land by themselves or who turned to other businesses could transfer their land to other farmers after receiving the permission of villagers' committee. But the legitimacy of agricultural land transfer was not acknowledged until constitution was amended in the first meeting of the seventh National Peoples' Congress convened in April 1988. The amendment stated that the right to use land might be transferred according to law. From then on, the Chinese government gradually issued a series of files to admit the legality of agricultural land transfer.

On March 1, 2003, the Chinese central government issued the "Rural Land Contracting Law". According to this law, land contract management right can be transferred through subcontract, rent, exchange, assignment or other means. On March 1, 2005, "Regulations on Transfer of Rural Land Management" was issued by the Chinese Agricultural Ministry, which was more detailed and distinct than previous relevant laws. Afterwards, Chinese local governments established different agricultural land transfer systems pursuant to their respective situations. From then on, the Chinese agricultural land transfer system was established.

On October 12, 2008, the third plenary session of the 17th CPC Central Committee issued "The Decision as to Several Significant Problems in Promoting Rural Reform and Development". This document clearly suggested that the supervision and service of land contract management right transfer should be strengthened. The market of land management right transfer should be established and perfected. In order to develop various types of appropriate-scale management, the transfer of the contractual right of land must be conducted according to law and on a voluntary and compensatory basis. Land contract management right transfer can take the form of rent, exchange, assignment or joint stock partnership. Areas where conditions permit may develop professional

investors, family farms, farmers' cooperatives and other professional main-scale operation. Moreover, the document put forward three principles of land contract management right transfer. 1. The collective ownership of agricultural land cannot be changed. 2. The use of agricultural land cannot be changed. 3. Contracting farmers' rights cannot be harmed. The above content shows that the agricultural land transfer system is the core of Chinese new rural reform. (Wang Jinhong, Huang Zhen-hui, 2010, P12-17)

2. The characteristic of Chinese agricultural land Transfer system

In the current Chinese land management system, the ownership of the land belongs to the collective entity while the land using right belongs to the farmers. The ownership and the using right are both separated and connected (Du Wei, Huang Min, Huang Shanming, 2010, P55-60). On the premise of the fact that the land management right will last for a long time, the using right is the actual object of agricultural land transfer. Gradually, Chinese agricultural land transfer activities took different forms in different areas.

2.1 Transaction of agricultural land

Two-field-system mode. It appeared in the early development of agricultural land transfer. This mode is based on the household contract responsibility system. It divides the contacted agricultural land into grain ration agricultural land and responsibility agricultural land. The grain ration agricultural land is used for social security, which safeguards the basic need of farmers. The market-oriented operation is conducted on responsibility agricultural land, which tends to be contracted by one large entity or one individual. In fact, this mode separates the function of social security function and the function of economic development. Therefore, it combines justice with efficiency better. At the same time, the Two-field-system mode overcomes the shortage of the small-scale operation based on household and transfers the agricultural lands to the more capable farmers appropriately. This mode realizes the optimization combination of different agricultural production factors, which can help achieve scale operation and mechanized farming (Liang Meng, Wang Xuecai, Mi Yuanyuan, 2006, P9-12).

Land joint-stock cooperative model. This model is also based on household contract responsibility system. Specifically, this model introduces joint-stock cooperative into agricultural production by trading the land using right. Farmers purchase stocks with their land using rights so as to become shareholders and enjoy the corresponding rights and interests. This model can help farmers start up joint-stock entities of agricultural industrialization or develop scale operation program. Turning from land owners into shareholders, farmers can acquire profits according to their stock dividends. This model combines household contract responsibility system and joint-stock system, which guarantees both the validity of household contract responsibility system and the asset value of the agricultural land. So this agricultural land transfer model is widely used in many Chinese areas (Jiang Ailin, Chen Haiqiu, 2007, P40-46).

2.2 Concentration of agricultural land

Moderate scale management is a symbol of a country's agricultural modernization (Zhang Baojian, Li Shiping, Zhou Qingsheng, 2006 P193-196). So the economic benefit maximization of Chinese agricultural land can be achieved only when the agricultural land is operated in a moderate scale. As a foundation of modern agriculture, agricultural land transfer plays an important role both in moderate scale management and agricultural modernization. To a certain degree, there is no modern agriculture without agricultural land transfer. So only when agricultural land is developed and operated by some farmers can China reach the goals of both preventing land desertion and promoting rational utilization of agricultural land. If so, the adjustment and optimization of agricultural structure will be promoted, the market competitiveness of agricultural products will be strengthened and the agricultural economic benefits can be improved (Wu Hao, Miao Yuhong, Jiang Hui, 2008, P547-550). To be more specific, several routes stated below can be used for the concentrated utilization of agricultural land in China.

Agent-cultivated or entrusted management. Farmers, who are temporarily unable or unwilling to cultivate land, can entrust the contracted land to others after consultation, and people entrusted are often their friends or relatives (Chen Haizhen, Li Yinxin, Shang Chunrong, 2007, P28-31). In this case, the original contract relation of agricultural land remains, and the rent is agreed upon through consultation by both parties. As a kind of temporary land transfer, this mode becomes the most popular in Chinese current agricultural land transfer because of its straightforward form and simple formality. Many off-farmer workers who don't want to abandon agricultural lands often adopt this mode.

Big farming household mode. Many farmers transfer their land to big farming household for industrial operations. Through transferring land to experienced farmers, some agricultural professional investors are formed. Therefore, large scale mechanized land farming and scientific farming are realized. Finally, agricultural

land use efficiency and agricultural production level are improved (Wang Wanzhang, Ning Yuwei, Li Baoqiang, 2007, P13-15).

Enterprise contracting mode. Through cooperation between enterprises and farmers, farmers rent their agricultural land to enterprises and the enterprise operates the land in a uniform way. After harvest, the enterprises distribute food or fund to farmers as rent. In this way, the problems of high production costs and low quality caused by the operation of individual farmers are solved. After the agricultural land is transferred to enterprise appropriately, the enterprise can make use of advanced technology and management experience to conduct scale operation (Yuan Fengchao, Yan Xincheng, 2009, P58-63).

Agricultural Modernization Zone. Large enterprises which have quite a lot of capital cooperate with the local government to establish modern agricultural zones, and transfer the contracted agricultural land from ordinary farmers in a large scale. This transfer mode has some features as below. Firstly, based on modern agricultural projects, this mode can promote centralized operation of land. Secondly, boasting standard transfer mechanism and procedures, this mode can combine land transfer with new rural construction, so that transfer and development can be made at the same time. Thirdly, the transfer scale is large and the project contains relatively more scientific and technological ingredients (Zhou XiaoJuan, Zhang Changtu, Yu Jin, 2008, P83-86). According to the author's investigation in Lu'an rural areas of Anhui province, Lu'an "Tian Ye" group rents agricultural land of nearly 10,000 mu from Double River town and Sun Gang town in Jinan district to construct a modern agriculture demonstration area. On the one hand, farmers can gain stable rent income without any investment after transferring their land to "Tian Ye" group. On the other hand, "Tian Ye" group can reduce the manpower cost through corporate business. In the coming years, "Tian Ye" group will enlarge the modern agriculture demonstration area to more than 100,000 mu.

2.3 Commercialization of agricultural land

With the development of Chinese land transfer market, the land using right is commercialized step by step, and becomes a kind of flow asset. Its commercialization is mainly manifested in the following respects:

Lease mode. Farmers who have the land using right lease their land to other people or companies. The lease mode changes the land owned by collective and operated by family into land owned by collective and leased and operated by family. The relationship between collective and farmers is changed from "employer and contractor" into "lessor and tenant". The village collective leases agricultural land to farmers to do household operation and farmers pay rent to the village collective per annum. Farmers can not only cultivate land under the contract but also transfer, sublease and mortgage the land using right. Compared with the contract system, property right is clearer in the lease mode. Because the lease term is generally long, farmers have strong sense of stability (Gu Shuzhong, Wang Xingjie, Lu Jinping, 2009, P1-7). Farmers obtain the land using right by paying rent, which can promote both land use efficiency and compensable land transfer. However, the tenants need to pay high rent. So they often reduce investment and conduct predatory operation on the agricultural land.

Trust mode. By charging trust service fees and signing the trust service contract with farmers, the trust department transfers the land to other units or individuals under the agreement within proper time limit. According to this mode, "land trust service center" is often established in counties or districts and "land trust service branch" is established in towns. In villages, economic cooperative organizations are responsible for specific land trust service. Farmers entrust the agricultural land which they are not willing to operate or unable to cultivate to the village. The village sends the message to the town. The town in turn collects and reports all the information to the "land trust service center" in which all the information will be processed and operated. This transfer mode breaks through the organization boundary, forms the "land trust service center" on the county level and finally gets the mutual benefit effect (Yue Yiding, Wang Qiong, 2008, P30-34).

Reverse rent mode. The village collective rents farmers' land contrarily, makes a unified planning and land consolidation and then leases the land to farmers or other economic organizations that are capable of scale operation. According to this mode, the operational risk is shifted to the collective economic organizations and farmers whose ability to resist risk is higher, so the income of farmers can be insured. On the other hand, village collective can establish risk fund from the agricultural land rent, so the operation risk can be avoided (Wang Yanqi, Guo Xiangyu, 2010, P34-44).

Wasteland auction mode. Wasteland includes useless hill, gutter, mound and beach which belong to the collective. The collective sells the wasteland to the public, so the wasteland can be transferred to those who have the ability to operate them. After their operation has expired, the wasteland and attachments should be returned to the collective. Because auction is used in this mode, and tenants who rent the wasteland can get long-term benefit, they will enhance investment in the wasteland. Through this method, the short-term activities can be avoided so

that the wasteland can be operated well (Wang Chun-meng 2010, P45-49).

3. The dilemma of land transfer

At present, although the Chinese government adopts effective measures to promote the agricultural land transfer, but free agricultural land transfer is still restricted by many factors. So it is necessary to analyze the dilemma and restrictions of land transfer in order to find out how to solve these problems.

As the objective requirement of the modern market economy, property clarity is the premise and foundation of the agricultural land transfer. But because of some peculiar historical reasons, Chinese land property is divided into two parts, ownership and using right, which are hard to distinguish clearly. According to Chinese laws, the ownership of agricultural land belongs to the village collective and the contacted farmers only have the using right of agricultural land. Only the using right of agricultural land can be transferred. Because the village collective still has the ownership of agricultural land, the collective tends to wield their power to weaken or even deprive contacted farmers of their land using right in order to get huge interests. Especially in the large scale land transfer, the local government and the collective organization often discuss with the company directly, so the right of ordinary farmers are usually neglected. As contacted farmers often act a weak role in the land transfer market nowadays, free land transfer is greatly restricted and farmers' enthusiasm of agricultural land transfer is harmed.

The land transfer market is the trading place of land transfer, which is also a comprehensive market, including buyers, sellers, prices and intermediary organizations. At present, the operating mechanism of Chinese agricultural land transfer market is not perfect, which are mainly manifested in the following respects. Firstly, the infrastructure construction of the land transfer market is weak, and market information is asymmetrical. Many farmers transfer their land in private, usually without contracts of binding force, legal guarantee or necessary supervisory mechanism. Therefore, conflicts and disputes often occurred. Secondly, the distribution of land transfer proceeds is unreasonable. At present, no law admits the land using right can be equal to property right. In other words, the land using right cannot be treated as property right. So the land value of farmers is not fully reflected. In the large scale agricultural land transfer activities, the transaction right mainly belongs to the local government and collective organization while the farmers are lack of the right to speak. Most of the profits obtained from land transfer belong to the local government and collective organization. Thirdly, there is no market intermediary system. The intermediary service system is necessary for the land transfer market, but there is no special provision in Chinese laws about it. Many disputes in agricultural land transfer market thus arise.

Two-dimension household register system restricts the living space of the farmers who transfer their land to others. These farmers are hard to get the permanent urban residence certificate in a short time. These farmer lose their land and haven't the same opportunity as urban residents to develop their lives in the cities. These farmers often swarm into the cities as rural migrant workers, which brings great pressure to urban cities, such as job offering, housing, education, and traffic. What's more, these farmers and the common urban residents are not treated equally. The social security system only for urban residents excludes these farmers.

The rural social security system is imperfect. China has already established urban social security system which includes the low income urban residents. Most Chinese cities have established this kind of social security system. But in the vast rural areas, the social security system has not been established yet. For farmers, the contacted land is still their last resort. However, after land transfer, the farmers actually lose their last resort. This leads to the shortage of transfer land and harmful effect on the land scale management and the transfer speed. Moreover, farmers often have the idea that land should be divided equally. New farm cooperative organizations and agricultural experts are in short supply seriously. These problems are also harmful to the width and depth of land transfer.

4. The policy suggestions to improve the agricultural land transfer market

In present China, establishing a perfect rural agricultural land transfer system is very necessary and urgent for urbanization and agricultural modernization. In order to solve the problems in the rural agricultural land transfer, firstly, land contract management right should be insured, secondly, more land transfer modes should be innovated, and thirdly, supervision and services need to be strengthened.

Maintaining the endurance and stability of land contract management right is the basis and guarantee of the development of land transfer market. So the "Law of Land Contract in Rural Areas" needs to be vigorously propagandized and thoroughly enforced, and the sense of law-abiding and protecting land stakeholders' right needs to be strengthened. At the same time, the local governments and collectives should not retrieve the land contracted at their will, or interfere with the land transfer activities of famers. At present, land acquisition

threatens the benefit of the farmers most, because the low price of land acquisition arouses farmers' discontent in many areas. Nowadays, Chinese land acquisition standard is based on three years output of the agricultural land, but the market price of the agricultural land is higher. So the benefit of the farmers is harmed during the land acquisition. Some scholars find that the local government has acquired RMB 2,000 billion from farmers though land acquisition since 1978. So the Chinese government needs to borrow from the international experiences, which calculates the land acquisition standard on the basis of market price. The disordered acquisition and construction of agricultural land can be suppressed through market price and it can also help protect the agricultural land and the farmers' land contract right.

More agricultural land transfer modes should be innovated. The second part of this paper summarizes some modes of Chinese agricultural land transfer, but these modes are not spread wildly in the whole country. So it is necessary to develop the land joint-stock cooperative mode, encourage farmers to change the land using right into stock right in order to give farmers long-term benefit from the land and promote the agricultural land transfer under the cooperation of ordinary farmers. The concrete methods can be as follows. Farmers buy stock directly with their land using right to join in the specialized cooperative company, change the land using right into the long-term investment in stocks, and finally get proceeds from the cooperative company. Against the backdrop of a new socialist countryside construction, agricultural land can be re-cultivated by constructing residential areas extensively. This method can improve the economic value of land without reducing its area.

Resolution mechanism of land transfer dispute should be established and perfected. The land transfer activities involve farmers, village collectives and land purchasers. Because land property right relation is complex, disputes often occur. Therefore, a precaution and reconciliation mechanism of social contradictions needs to be founded. The agricultural land transfer service system which is based on the actual situation of local areas also needs to be founded. The contradictions and disputes of the land transfer should be solved immediately, such as setting up a website to allow farmers to speak out their difficulties on the internet. According to international experience, the judicial review mechanism should be established for farmers to file a law suit when they are treated unfairly when conducting land transfer. The government can also establish arbitration organization to promote the healthy development of agricultural land transfer.

Management and supervision of land transfer should be strengthened. The government needs to found a perfect land transfer system step by step, disclose more land transfer information and give more legal advice and contract guidance. Agricultural land transfer should be mainly in the form of shareholder system or long-term lease. Farmers who lose the land using right must be given a long-term economic guarantee. Agricultural land should not be sold once and for all in order to maintain the social security function of agricultural land for farmers.

In the land acquisition activities, farmers should get the rational payment. After the land acquisition, farmers who lose their land need to be helped to learn some skill for making a living. And farmers can be advised to use their payment to participate in rational investment rather than just squander it away.

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