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The Innovation and Plights of Farmland Property Rights System Reform in Chongqing Municipality

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Abstract Based on the background of national urban and rural comprehensive reform pilot area and the introduction of the profiles of research region and the data obtained by on-the-spot interview survey, the innovative models of farmland property rights system reform in Chongqing are introduced by applying participatory rural appraisal methods and examples. The innovative models cover buying shares of contract management rights, transforming from farmers to townspeople and mortgaging contract management rights. The plights exist in the reform are analyzed, among which the plights of buying shares of contract management rights are introduced from the following five aspects: the conflict with the present land contract laws, the possible new round of massive scale land loses, the confounded functions of government and enterprise caused by risk transference and the difficulties of handling assets when the contract management rights expired. Besides, the plights of the transforming from rural residents to urban residents are analyzed from four aspects, which include the particularity of reform, high financial pressure, emergence of interbedded people and difficulties of payoff of village-based companies. From the facets of limited mortgage area, risks of reimbursing the loan, legal risks of mortgage. The results show that the stock purchasing model of contractual management rights reveals the capital value of land and the model is of theoretical and practical significance in law and economics. However, the social security system is not perfect, so the stock purchasing model of contractual management rights can not be expanded. In addition, the participation of more farmers and the expansion of enterprises are limited as well. The land comprehensive reform model of transforming from rural residents to urban residents is of positive significance to the comprehensive exploration of farmland property system reform, but this kind of model should be supported by strong economy. The stock purchasing model of contractual management rights is of significance to perfect the contractual management rights, but it conflicts with the existing laws and financial systems.

Key words Farmland property rights, Participatory rural appraisal method, Stock purchasing of contractual management rights, Mortgage of contractual management rights, China

The experimental plot, which has become the experimental plot of rural comprehensive reform, planned by the nation in June 7, 2007, is applied as a sample. Based on it, the farmland property reform can be divided into two stages, which cover the mass voluntary stage before the establishment of experimental plot and the government-guided reform stage. The voluntary stage is represented by the contractual stock purchasing in Paifang Village, Lishi County of Jiangjin District and in Qilin Village, Shiyuan County of Changshou District. The government-guided reform stage is represented by the land property reform in Shuangxi Village of Yuzhui County in Jiangbei District and by the mortgage of management rights in Kai County. In 2009, four districts, namely Jianbei District, Jiulongpo District, Banan District and Liangping District, became the experimental counties for the reform and construction of rural farmland property system^[1]. Chongqing seizes the opportunity of national reform of experimental plot, deepening the reform of farmland property in rural and urban areas.

1 The general situation of research area

Chongqing Municipality located in the southeast of China mainland, the upper stream of the Yangtze River and the edge of Sichuan Basin. It covers from the longitude 105°11"E to 110°11"E and from the north latitude 28°10" to the north latitude 32°13". It is the biggest municipality in China with 8 240 thousand square kilometers. It enjoys subtropical monsoon climate, featuring moderate climate, cool in summer and warm in winter, long frost-free period and the annual rainfall from 1 000 mm to 1 450 mm. The landforms are dominated by hills and mountains, so it is called "mountain city". There are 19 districts and 17 counties in the municipality. By the end of 2008, population in the municipality has come to 32. 533 2 million, with 13. 611 5 million urban residents. The urbanization rate reached 49. 99%.

2 Data source and method

2.1 Data source The data is collected by the following four ways: field survey conducted on Jiangjin District, Changshou District, Jiangbei District and Kai County; relevant data and cases provided by agricultural departments; interview data of village cadres; the relevant report from magazines and newspapers.

2.2 Research method The Participatory Rural Appraisal is applied. PRA is a rural investigation and study method^[2], under the assistance of outsiders; the local people can use it to analyze their own environment and situations related to their

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productivity and livelihood and draw up future plan and take relevant actions. Finally, the local people can benefit from it.

3 The model of reform and innovation

3.1 Stock purchasing of contractual right of shares In October, 2005, 77 rural residents in Paifang, Lishi county of Jiangjin District, converted the contractual farmland property of 206 hm² and became share holders. The valued shares are 1.41 million yuan in the aggregate. The residents set up Chongqing WeiRen Confectionery Company Limited, with the 1.50 million registered capitals. The company is run and managed by professional people and the shareholders received dividend payments. The Macao HengHe Confectionary Company signed "production and sales agreement" with WeiRen Company. The Macao HengHe Confectionary Company provides technical director to WeiRen Company. Besides, HengHe Company purchases the oranges produced by WeiRen. 508 rural residents from Qinlin, Shiyan county of Changshou District set up Zongsheng Confectionery Company Limited in March, 2006, with 3.6203 registered capitals, among which the shares of land evaluation account for 2.534 million and the shares contributed by rural households account for 0.15 million^[3]. The Zongsheng Confectionery Company Limited signs thirty years' exclusive sales contract with the Macao HengHe Confectionary Company. In order to show sincerity, Henghe Company purchases 0.1 million yuan of shares of Zhongsheng Company in cash to share the risks of farmers^[4].

3.2 The land reform of transforming farmers into townspeople The specific ways of realizing the transition from farmers to townspeople are as follows. In the first place, establishing new village office of Jiangbei District, the branch of bureau of land resources, the land expropriation office, work groups composed by related government departments of Yuzhui County; formulating the program of work; promoting the program and mobilizing farmers in Shuangxi. Secondly, the farmers file the application to the rural credit cooperatives, village committee, then to the town government. Thirdly, submitting long-term working contract, income verification, registered residence, and certifications of land contractual management rights, forestry rights, housing ownership and the copies of these certifications. Fourthly, the working groups will conduct field investigation on the applicants. Fifthly, many departments work together to examine and determine the finalists. Then measuring the lands and houses of the finalists, and then the related department will public the results. After reexamination, calculation of subsidy and publication, the related procedures will be handled.

After the investigation and the initial examination of working groups from the community, village, and county and the joint examination of related department from Jiangbei District, the district government replied that 335 people from 97 households is the first batch and 499 people from 142 households is the second batch. The total 834 people will be transformed into town people, and the just-for-once job subsidy and attachments compensation will be granted. The savings type endowment in-

surance will be provided for people aged from 40 to 50. Besides, the procedures of registered residence transference, endowment insurance, medical insurance and the matriculation of their children will be handled by the government. In addition, the government also provides the policy consultation of land transference, urban and rural minimum living standard and preferential allocation.

The land revoked is under the control of the new village construction company limited of Shuangxi in Chongqing. Most farmers, who have not been transformed into town people, entrust their contractual land rights to the village-based company. The rural residents are still farmers but they enjoy the rights of shareholders and completely free from agricultural production. The farmers, who have handed over their land contractual management rights, will enjoy the guaranteed dividends at the end of year. Each farmland will be given the cash in accordance with the value of rice and 50% of the added value of the company in the current year.

3.3 The mortgage of land contractual management rights The big cropper, WEI Jiu-hai in Shilong of Houba Town in Kai County, mortgaged his land circulation and management rights for 0.1 million yuan of a year. The big cropper WU Da-quan mortgaged his 10 hm² land management rights, which has become the first case of land management mortgage in Chongqing^[5].

During the process of mortgaging land management rights, the highlights are the income rights of farmers and the credit security of banks. If the farmers can not repay the loan on schedule, the banks will revoke the land management rights within the period of circulation and then circulate the land again in higher price (the price does not over the circulation fee paid to the farmers plus the principal and interest of bank loans). This kind of policy protects farmers' rights as well as credit security of commercial banks. Therefore, this operation model not only does not violate the Rural Land Contract Law, but also effectively shuns the problems of capital collecting of agricultural operation and production and evades risks of various aspects. Besides, it does not affect the land contractual rights of farmers and their basic needs of existence, so it will not cause the social unrest^[6].

4 The analysis of the plights of reform

4.1 The plights of the stock purchasing of land contractual management rights

4.1.1 The conflicts with the existing land contract law. After the stock purchasing of land contractual rights, the non-rural collective members have the land contractual rights, which conflict with the existing land contractual system. The result is that after several rounds of market transaction or bankruptcy, the contractual management rights may fall into the hands of people from non-collective economic groups or urban residents with strong capitals.

4.1.2 The possible new round of massive land loss. Because of the particularity of farmland use, the stock ownership of united fields company still has risks. The establishment of united

fields company is based on evaluation and contribution as shares of land contractual management rights, so the capital source of united fields company is limited. The problem of mortgage of financial institutions will appear definitely in the process of production and operation, if the company goes into bankruptcy for its bad management, the dilemma at the legal level will appear when settling the claim, for financial institutions have no rights in revoking and auctioning famers' land contractual management rights.

4.1.3 The indistinction of functions of government and enterprises caused by risk graft. In order to reduce the risk, the security companies under the control of governments all provide capitals to vouch for the united fields companies. But as a result of the shortage of other efficient capitals, the back bond can not solve the problems of agricultural capitals. At the request of the government of Jiangjin District, the Lv Feng Security Company provides loan guarantee for Weiren Company in three installments, in order to let it get the 0.6 million's loans from Chongqing Branch, China Development Bank^[7]. But out of the consideration of risk avoidance, the Lv Feng Guaranty Corporation requests the Weiren Company to provide counter-guaranty, so the Weiren Company mortgages the houses of the five responsible members in the company, fruit trees of the company and land contractual management certificates to the Lv Feng Guaranty Corporation. If the united fields company can not be managed well and can not repay the loans, the problems of liquidating stocks will still appear. However, according to the existing laws, the land contractual management rights can not be used to mortgage, so the pays can only be repaid by guaranty corporations, governments and banks.

4.1.4 The assets are hard to handle when the contractual management is expired. According to Rural Land Contractual Law, the second round of land contract period is 30 years. At the expiration of the second round of land contract period, the rural land contractual rights can be redistributed. At that time, the assets handling problems of united fields company will become very difficult. The existing law is hard to solve the problem of whether the shares and capitals occupied by land contractual management rights belong to the former contractor or the later contractor.

4.2 The plights of land reform of transforming from the farmers to townspeople

4.2.1 The reform has its particularity. Jiangbei District has strong economic power and forceful political power among main body of Chongqing Municipality. Shuangxi owns favorable environment as well, with 1 km away from Yuzhui development area. Besides, the Guangda cattle farm in the village plays the role of attracting non-agricultural employment, forming the white chain dominated by cattle. Therefore, the reform of Shuangxi has great particularity comparing with other undeveloped rural areas in Chongqing, so it can not be popularized.

4.2.2 Great financial pressure. The establishment of the New Village Construction Company Limited of Shuangxi, Chongqing is based on financing platform of the mortgage of land management rights and the stated-owned-Jinshihai Rural Development

Company Limited. Two batches of the transformed famers are 834 in an aggregate, every one of them is given 78 thousand fiscal subsidies, so this expenditure alone has cost the government over 0.1 billion yuan. In addition, the initial estimated input of agricultural infrastructure is about 30 million yuan. As for a village with the population of only 1 600, such extravagant input has over the holding capability of most villages in Chongqing Municipality.

4.2.3 The emergence of laminated people. The experimental pilot in Shuangxi does not get involved in the related policies of the municipality level. 834 transformed households can not enjoy the treatments like townspeople, even can not enjoy the treatment of peasants transformed into non-agricultural people caused by land exploration. According to the existing policies of transforming from farmers to non-agricultural people, the non-agricultural people is got by divided the land per capital of the areas of expropriated land only, the rural social security can be bought to the social security system of the whole municipality. Under such circumstance, the Jiangbei government has to pay the social security fee for the farmer by its finance. The sum of payment reaches more than 2 million every year, but the farmers who have transformed into non-agricultural people can only get the 190 yuan pension every month.

4.2.4 The village-based companies are hard to gain profits. The village-based companies are established by stock purchasing of contractual management rights, and they mortgaged their lands to the Jinsihai Agricultural Development Company Limited, which is set up by the district government, to get financing. The capital of the stock purchasing of the mortgage of contractual land only accounts for 1% of the equity of the Jinsihai Agricultural Development Company Limited. Although farmers can get the rent of land circulation per mouth, it is impossible for them to get dividend income from the village-based companies. The village-based companies can get profits only by pay off the capitals paid in advance by the Jinsihai Agricultural Development Company Limited.

4.3 The mortgage of land contractual management rights

4.3.1 The mortgage scope is limited. Launching the mortgage of land circulation management rights, the mortgages are transferred lands, so in fact, it is the mortgage of land tenant right. During the contract period, the proprietor of land can not transfer the land. The bank does not transact the mortgage of land, whose contractual management rights have not been transferred. Kai County requires that the maximum area of land mortgage is over 3.33 hm². The farmers have to apply more than five times to get one mortgage loan; the process often cost much money. Driven by the economic interests, the financial institutions demand the scattered contracts and collective transference. Based on this policy, the proprietors are responsible for the mortgage, but farmers are excluded. Therefore, we can say that government and farmers can not sustain the cost of this policy.

4.3.2 The risk of repay the loan. There is risk exist in the process of operation, so the risk of can not repay the loan out of poor management exists. The households own the land con-

tractual management rights only, rather than own the ownership, so they can not sustain the debt burdens. As a result of the particularity of farmland contractual management rights, the rights can not be used to pay the debt according to the existing laws. Thus, the guaranty cooperation, the government and the bank have to pay for the company. Therefore, the satisfaction of financial demands of millions farmers in Chongqing will be a huge financial risk.

4.3.3 The legal risk of mortgage. The mortgage is also called lien. The creditor or the third party will move their properties to debtor and the properties are taken as guarantee of creditor. When the debtor does not fulfill its responsibility, the creditor has the right to enjoy the priority of repayment according to the law. According to the differences of pledged properties, the mortgages can be divided into chattel mortgages, real estate collateral and pledge of rights. Laws in China only stipulate the chattel mortgages and real estate collateral, but whether the real estate collateral can exercise mortgage is unclear. The land belongs to immovable property, so when emerging the financial disputes during the process of mortgage, the right guarantee of creditor and debtor will become a hard nut to crack.

5 Conclusion and discussion

(1) The land contractual management rights fully display the capital properties of land. The rights refine the handling capability of property rights and present the capital value of land, which are of great significance in the continuous input and expanding reproduction capability of lands. However, before the establishment of rural endowment insurance, unemployment insurance and social helping system, the social security function and basic life support capability of land can not be replace by suitable substitutes, so the stock purchasing model of land contractual management rights can not be popularized.

(2) The registered "united fields company" allows the establishment of enterprises by the way of stock purchasing of land contractual management rights, which is of theoretical and practical significance in law and economics. But the 50 shareholders stipulated by the existing company law are obvious in conflict with the dispersedly scattered lands, so the participation of more famers and the expansion of enterprise's size are limited. What's worse, it just externalism of the "united fields company" for seeking the legal protection. Without the perfection of various kinds of social protection systems, the stock purchasing model of land contractual management rights is just a flash in the pan.

(3) The comprehensive reform of land in Shuangxi tries pushing the reform of land management on scale and the reform of land stock purchasing in small scale by the way of transforming farmers into rural residents. The attempt is of positive significance for the comprehensive exploration of farmland property rights reform. But the small scale reform can not integrate well with the large scale reform, for it do not have the support from social security system or do not have strong financial support. Thus the possibility of promoting this reform is limited.

The model can only be conducted under the background of forceful economic power.

(4) The reform and exploration on mortgage of contractual management rights have a positive effect on the improvement of real power capability of contractual management rights. Besides, they are beneficial to improving the input on modern agriculture and contracting infrastructure. However, this kind of mortgage does not match the existing laws. The laws and regulations need to change correspondingly, so does the existing financial systems.

(5) The construction of farmland property system should take the reform of the farmland property capability and the operational environment into consideration. The rural production capability will get qualitative leap, only by constructing the macro laws and regulations system and the micro property capability simultaneously, and establishing the modern farmland property system suited to the market-oriented economy.

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