

Research on Legislative Improvement of The Distribution System of Value-Added Income of Homestead

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Abstract: From 2013 to 2021, the For eight consecutive years, the Central No. 1 document and relevant meetings have repeatedly proposed to gradually improve the protection of rural homestead rights and interests and improve farmers' property income. As the rural collective construction land, the rural construction land with the widest audience, the largest area and the most far-reaching impact of interests is an important property enjoyed by farmers and farmers. How to formulate a fair and reasonable compensation method for homestead expropriation and the distribution method of value-added income generated after expropriation is an important link of homestead system reform in China. From the current distribution standard of homestead value-added income in our country, it is still far from the real fair and reasonable distribution standard of homestead value-added income. The distribution standard of "District comprehensive land price" for house land value-added income adopted in the Land Administration and Administration Law of the People's Republic of China (hereinafter referred to as the Land Administration Law of 2019) amended in 2019 is higher than that of the annual output value multiple method adopted in the Land Administration and Administration Law of the People's Republic of China (hereinafter referred to as the Land Administration Law of 2014) for house land The value income distribution standard has some progressive significance, but the compensation standard is still very low. This paper conducts judicial empirical research on the distribution of value-added income of homestead, and analyzes the distribution of value-added income of homestead from three aspects: system introduction, collection scope and compensation principle.

Keywords: Homestead, Value-Added Income, Legislative Improvement.

1. Introduction

With the continuous advancement of urbanization, the property income gap between urban residents and rural residents continues to widen. The reason for the continuous expansion of property income of urban and rural residents is that urban residents and rural residents enjoy different property rights. Because the Chinese government adopts different policies to treat the land property rights of urban and rural areas, the land rights system of urban and rural areas is completely different, so there are problems such as the widening of the property income gap between urban and rural residents. Specifically, when rural residents face land requisition required by the process of urbanization, compensation for rural houses and homestead can only be made according to the security function of houses and the original use of land, which cannot be regarded as the assets of farmers and farmers, and farmers and farmers collectively cannot naturally obtain value-added benefits brought by land and housing assets. How to protect farmers' property rights, give rural residents the same ability to value property rights as urban residents, and distribute the value-added income of homestead fairly and reasonably between urban and rural areas is directly related to the realization of the overall development goal of urban and rural areas in China's new urbanization, and also relates to the implementation of policies to increase farmers' income.^[1] Compared with the old version of the Land Administration Law, the 2019 revised Land Administration Law only adds the regional land price when collecting the collection compensation for rural housing land, and the price is designated by the government, failing to

fully consider the market value of farmers and farmers' collective housing property rights and interests.

Based on the theory of property right economics and land development right, this paper first analyzes the operating mechanism of rural house land expropriation compensation and house land value-added income distribution, and builds a logical framework of house land value-added, house land expropriation compensation and house land value-added income distribution.^[2] Based on the theoretical analysis and logical framework of this paper, this paper analyzes the specific cases of the distribution of the value-added income of residential land, in order to better protect the land property rights of farmers and rural collectives, and ensure the fairness and rationality of the income distribution method.

2. Institutional Analysis of The Distribution of Value-added Income of Homestead

2.1. Institutional analysis of the distribution of value-added income of homestead

The goal of the two rounds of homestead pilot reform since 2015 is to improve the distribution mechanism of homestead value-added income, so as to realize the long-term guarantee of farmers' income.^[3] In the new era, the distribution system of homestead value-added income in China should follow the principle of "taking into account three parties". The first is the farmers who enjoy the rights and interests of homestead. When farmers have a material foundation, they can inject new vitality into economic growth and urban and rural construction. The second is the rural collective economic

organizations, because only when the rural collective economic organizations are economically rich, can they better promote economic development. ^[4]Finally, there is the government, which represents the country. However, as an abstract goal that needs to be realized by law, this idea must rely on the concrete system to implement it. Therefore, the key of the expropriation compensation system actually lies in the determination of its compensation standard. In the past, due to the incomplete property rights of the homestead, farmers lacked the power to make use of the homestead, which seriously restricted the realization of the property function of the homestead. "When the increase of 'external profit' cannot be internalized, there must be an incentive for institutional innovation."

In recent years, Beijing Daxing, Yiwu, Zhejiang, Lu County, Sichuan, Meitan County, Guizhou and other regions of the homestead "three rights separation", paid use, paid withdrawal, ownership registration and other system innovations are the core of the clear property rights to fit the market allocation of homestead resources, so as to internalize the value-added income brought by the price increase of such homestead. ^[5]In theory, we usually divide appreciation into investment, use, supply and demand, and policy appreciation based on the reasons for the increase in property value. Some scholars further define this value-added classification as the path based on value-added contribution, and also summarize the path based on the form of land rent, ownership of property rights and equity and justice. It points out that "due to differences in research routes and methods", there are great differences in the basis and proportionality of value-added distribution. ^[6]

2.2. Analysis of the collection scope of the distribution of value-added income of homestead

In terms of the scope of expropriation, the protection of private interests should first be confirmed, and the core content of the procedure is to make a resolution on expropriation, including the procedural legality of the expropriation resolution, the definition of the largest beneficiary group, and the determination of the amount of expropriation compensation. ^[7]These are the key matters that should be paid attention to in the protection of private interests. Effective restriction on the scope is an important means to ensure the effective distribution of the value-added income of homestead. Public interest is the basic requirement of income distribution, which should meet the requirement of maximizing public welfare. If this requirement is not met, there will be problems in the legality and rationality of expropriation, and judicial protection of value-added income distribution is not clear enough.

In the judicial protection stage, the payment scope of collective construction land expropriation compensation and the smooth transfer of related land ownership or use rights will be determined. In terms of the scope of compensation, the pricing of compensation amount comes from the government's market evaluation survey, through which the most appropriate compensation method is determined. At present, although the provisions of the law on the compensation methods and methods are specific and clear, there are still many problems. In terms of the expropriation of residential land in different regions, the compensation methods and methods are different, and the compensation standards are different in developed and underdeveloped

areas, which also leads to the disposable income of rural residents cannot be compared with that of urban residents. Some differences in the scope of collection lead to the emergence of related problems. On the basis of ensuring the distribution of value-added income of homestead, it is also the view of some scholars to properly tilt farmers' rights. ^[8]The difference of the scope of collection is not only reflected in the developed area and the less developed area, but also reflected in the agreed rural areas, but the disunity of the scope of collection and the standard of collection is a major problem of the distribution system of the value-added income of homestead in our country.

2.3. Compensation analysis of the distribution of value-added income of homestead

In terms of expropriation compensation, some scholars believe that the expropriation of collective construction land should establish the full compensation standard and clarify the compensation path for the loss of homestead use right and contracted management right caused by the expropriation. Some scholars believe that the expropriation compensation standard for homestead expropriation should be based on the expropriation compensation standard for residential housing and non-residential housing expropriation compensation standard. What is important is that the third-party market estimation mechanism is not a simple regional comprehensive land price, so as to ensure the expropriation compensation and non-residential housing expropriation compensation standard. What is important is that the third-party market estimation mechanism is not a simple regional comprehensive land price, so as to ensure the fairness and fairness of expropriation compensation. Objectively and practically, this paper believes that the third-party market evaluation mechanism is more important, because the market judgment is more flexible, and the full compensation standard for the use of machinery will make the distribution of value-added income of homestead more rigid, further widening the compensation difference in different regions, making the differentiation more and more obvious. The property value released by the homestead reform determines the content and distribution of value-added income. ^[9]The standard system of the distribution of value-added income of homestead based on the basic types of use, power and location is the specific path to balance the distribution of national, collective and individual income.

The problems of income balance foundation is not uniform, the balance norm is not clear, the balance way is not stable, the balance pattern is not consistent, etc., can be solved well in this standard system. In the United States, in order to prevent the federal government from seeking the interests of individuals or small groups in the name of public interests, the United States has formulated relevant laws to clarify the scope of public affairs and the measurement method of public interests, and the federal government must make clear the legality and rationality of the expropriation of collective construction land. In terms of the scope of expropriation compensation, the expropriation court ensures that the expropriator and the expropriated determine the expropriation compensation for collective construction land in a fair and voluntary manner.

3. Research on the System of Distribution of Value-added Income of Homestead

3.1. The function orientation of property rights and interests

The reasons for the uneven distribution of value-added income of homestead can be summarized as the lack of right protection and the monopoly of land market, which cause the uneven distribution of value-added income. Land transfer revenue has become an important source of funds for local governments' industrialization and urbanization. Through the model of "selling low and selling high", local governments have obtained rich returns, and these returns are based on the encroachment of land property rights by village collectives and farmers. Regarding the property rights, land development rights and location positioning of homestead, the legislative arrangement of the distribution of value-added income of homestead should also determine a specific rule system in a normative system built with use, power and location as the basic types. Use, power and location are both different and related. Based on this, the legislation on the distribution of value-added income of homestead can be divided into different chapters according to the property rights of homestead, land development rights and location factors.^[10] And determine the use, power, location of three value-added income distribution corresponding to the specific application of the situation, the rights and obligations of the subject involved, specific distribution methods, related cost accounting and increased property value assessment methods and other rules.

At the same time, in order to ensure the consistency of the rule system, in the future, it is not only necessary to consider the introduction of a special "Interim Measures for the Administration of the Collection and Use of the Rural Residential Land Value-added Income Adjustment Fund" to systematically determine the distribution rules of residential land value-added income.^[11] It is also necessary to consider adding provisions on the distribution of value-added income from residential land to laws and regulations closely related to the management of residential land, such as the Rural Collective Economic Organization Law, the Land Management Law, and the Interim Measures for the Administration of Rural Residential Land (Draft for Comment).

3.2. The implementation of measures to allocate the contribution degree of land value-added is not in place

Due to the continuous improvement of infrastructure in the rapid advance of urbanization, the appreciation of rural housing land around cities and towns is caused. This part of value-added income comes from the externality of urban development.^[12] On the other hand, the expropriation realizes the transformation of the original use of the collective construction land and generates some value-added income, which depends on the ownership of the rural collective and the use right of the farmer's land. It can be seen that the value-added income of land, whether it is urban capital or rural collective land ownership and use rights, has made an indelible contribution. In order to increase the value of house land value fairly and reasonably, we must fully consider the contribution value of village collective-owned land to the

appreciation of land price. In the village collectives, the contribution of farmers and village collectives to the value of land value is relatively small, but they pay the sacrifice of the right to use, and this kind of ownership has a personal character.

Compared with the system of the United States, the compensation of collective construction land expropriation in the United States is based on the current and future market value of the expropriated land, highlighting the legitimacy and legitimacy of the expropriation procedure. At the beginning of the founding of the United States, the right to expropriate collective construction land has been recognized as the exclusive right of the federal government, which does not need to be recognized by the Constitution of each state government.^[13] Meanwhile, the Constitution of the United States has also made relatively strict restrictions on the federal government's right to expropriate collective construction land. The expropriation compensation procedure is divided into the judicial interest review stage and the third party review stage. First, the public welfare needs of the collective construction land collection are identified by professional institutions, the judgment of public welfare undertakings is expressed in the way of listing, and the public welfare is confirmed by judicial review. After the collective construction land expropriation appraisal committee to apply for expropriation appraisal.

4. The Legislative Improvement of The Distribution System of Value-added Income of Homestead

4.1. Establish a standard system for the distribution of value-added income of homestead

First of all, use, power and location are the basic types of the standardized system of the distribution of value-added income of residential land, which are direct, comprehensive and differentiated. From the perspective of market value, the use, power and location corresponding to land development right, property right of homestead and location factors are not only the direct causes of value-added, but also comprehensively cover the possible causes of value-added of homestead. At the same time, use, power and location also effectively distinguish different value-added reasons and distribution methods.^[14]

It is not difficult to find that the reform of the same homestead system in practice may mix two or more different value-added reasons. Simply using fixed or floating values to determine the distribution ratio is not an appropriate solution. Secondly, the construction of "use-power-location" value-added income distribution standard system is conducive to the formation of a coherent and unified whole. From the perspective of rights, land development right and homestead property right are the re-division of homestead property right after socialization expansion, and the location factor is the positive externality in the process of homestead property right expansion. In the context of market economy, the proper separation between land use and land power in the homestead planning and construction area should be consistent with its economic location.

For example, the areas with geographical advantages should focus on releasing the property rights of homestead for commercial operation to realize the marketization of allocation. This is not only an effective way to increase the

value-added income of homestead, but also an economic law to realize the property value of homestead. In practice, the market price of homestead often deviates from its property value, and there is a contradiction between price and value. For example, part of the rights and interests of the homestead in Yiwu urban and rural agglomeration area have no corresponding market value. This is because the property value of homestead includes subjective value and objective value, and the market price reflects the actual objective value of homestead, while the subjective value is significantly different due to personal cognition, cultural tradition, regional policy and other factors. Under market conditions, objective value, as the product of sufficient competition mechanism, further widens the gap between subjective and objective value, resulting in the imbalance of supply and demand.^[15]The unification of subjective and objective values of homestead is a necessary condition to stimulate the participation of farmers, improve the distribution efficiency of value-added income of homestead, and then achieve the balance of supply and demand exchange. Therefore, according to the law of the market to build a standard system of value-added income of homestead, but also need to properly consider the subjective value of homestead, so as to truly balance the relationship between urban and rural interests.

4.2. Implement the legislative arrangements for the distribution of value-added income of homestead

In order to implement the basic policy of balanced distribution, the legislative arrangement of the distribution of value-added income of homestead should clearly take "different value-added reasons, different distribution paths, common pricing, and different distribution" as the basic principles of legislation. The newly promulgated Civil Code and Land Management Law fully affirm the property value of homestead by virtue of the system effect of "separation of three rights" and rural land rights, but the current law of our country has not yet issued the institutional arrangement and unified provisions on the distribution of value-added income of homestead. The policy requirement of balancing the income distribution of the state, the collective and the individual has not been properly reflected in the legal level. The "Interim Measures for the Management of Rural Housing Land (Draft for Comment)" recently issued by the Ministry of Agriculture and Rural Affairs has not determined the specific norms in this respect.

In practice, only some pilot places have scattered provisions for the paid use of homestead, paid withdrawal, and income distribution rules in the circulation situation. For example, Meitan County in Guizhou promulgated the Interim Measures for the Management of Rural Residential Land in Meitan County, the Interim Measures for the Vacation of Rural Residential Land and the Use of Surplus Construction Land in Meitan County, and the Interim Measures for the Management of Paid Use of Rural Residential Land in Meitan County. Such methods have made some progress, but they still fail to cover the value-added income of homestead and the property content of its distribution, and do not take into account the basic principle of balanced distribution of the state, collective and individual. Combined with the policy provisions and pilot practice, the normative system of use, power and location is the institutional arrangement to solve the problems of the absence of relevant subjects of benefit distribution, the lack of distribution rights and power and the

improper allocation of income distribution.

In the case that the informal institutional arrangement has determined the value-added income of homestead and its distribution law, it is necessary to confirm the law as a formal institutional arrangement to encourage the cooperation between the state, the collective and the individual.^[16]The standard system that legally stipulates the use, power and location can promote the institutional change of the distribution of value-added income of homestead, so as to achieve a balanced state of institutional adjustment. In addition, the legislative arrangement of the distribution of value-added income of homestead should determine the legal provisions that are compatible with other systems, including the collective internal consultation procedure for the distribution of value-added income of homestead, democratic supervision and management, as well as the specific way of collecting taxes or adjustment fees, floating proportion and subsequent use rules.

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References

- [1] Gong Xuanjie. Research on the legalization of rural collective land value-added benefit sharing [M]. Beijing: Law Press, 2019.W.-K. Chen, Linear Networks and Systems (Book style). Belmont, CA: Wadsworth, 1993, pp. 123–135.
- [2] Sun Jianwei. Research on the legal issues of homestead replacement under the background of urban and rural coordination -- A case study of Shanghai [M]. Beijing: Intellectual Property Publishing House, 2018.
- [3] Zhang Zhenyong. Study on the evolution of rural homestead system [M]. Beijing: Social and Economic Science Press, 2014.J. Wang, "Fundamentals of erbium-doped fiber amplifiers arrays (Periodical style—Submitted for publication)," IEEE J. Quantum Electron., submitted for publication.
- [4] Jin Xiangmu, Chen Yang. Research route and comparison of land value-added income distribution [J]. Exploration of economic issues. 2017(10):1-5.
- [5] Cheng Xueyang. Distribution of land development rights and land value-added income [J]. Legal Studies, 2014(5):76-97.
- [6] Chen Baifeng. The theoretical basis and institutional prospect of land development right [J]. Legal Studies, 2012(4):99-114.
- [7] Zhou Cheng. Land value-added distribution should be "private and public" [J]. Chinese Reform, 2006(5):77-78.
- [8] S. Chen, B. Mulgrew, and P. M. Grant, "A clustering technique for digital communications channel equalization using radial basis function networks," IEEE Trans. Neural Networks, vol. 4, pp. 570–578, Jul. 1993.
- [9] Zhu Daolin, LI Yaoyao, ZHANG Lixin. On the essence and source of land price [J]. China Land Science, 2021(7):1-6.
- [10] Zhu Daolin. Land value-added income distribution paradox: Theory, practice and reform [M]. Beijing: Science Press, 2017.
- [11] Wang Yuesheng. Study on changes of family structure and intergenerational relations in the early stage of social transformation [M]. Beijing: Science Press of China, 2018.
- [12] Wu Zhaojun. Distribution of value-added income of collective construction land: Pilot summary and system design [J]. Journal of Law, 2019(4):45-56.

- [13] Sun Jianwei. Land development right should be characterized as a new usufructuary right [J]. Journal of East China University of Political Science and Law, 2019(6):137-150.
- [14] Wu Shengli. Research on the relationship between land planning right and land property right [D]. Chongqing: Southwest University of Political Science and Law, 2015.
- [15] CAI Lidong. From "separation of power" to "exercise of right" [J]. Chinese Social Sciences, 2021(4):87-10.
- [16] Yang Yin. Convergence of Public and private law and evolution of Administrative Law [J]. Chinese Law Journal, 2004(2):39-47.