

Research on Legislative Issues Related to The Reform of Homestead Management System in Ningxia

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Abstract: According to the Proposal of the CPC Central Committee on formulating the 14th Five-Year Plan for National Economic and Social Development and the Long-term Goal of 2035, it is necessary to “explore the realization form of the separation of homestead ownership, qualification right and use right. We will guarantee the right of settled farmers to contract land, use homestead land and distribute collective income, and encourage voluntary transfer with compensation in accordance with the law.” Deepening the rural homestead system reform is a beneficial exploration. Revitalizing and utilizing idle rural homestead and rural housing plays a positive role in activating rural land resources and promoting the integrated development of urban and rural areas. The fourth Promotion Meeting of the Party Committee and the Government of the Autonomous Region to build the Pilot Zone for Ecological Protection and High-quality Development in the Yellow River Basin specially made arrangements for the reform of the “four rights”, emphasizing that the reform of land rights is conducive to revitalizing land resource elements, activating land market value, and improving the level of economical and intensive use of land.

Keywords: Reform of homestead management, Legislative support suggestions, Exit mechanism barriers.

1. Introduction

It is a necessary policy to accelerate the construction of the pilot zone, and we should follow the trend. We should grasp the direction of reform of the “three plots of land”, take into account the interests of the state, village collectively-owned groups and farmers, take the lead in making breakthroughs in institutional reform, and strive to revitalize value-added. Homestead reform is an important part of land rights reform. Stimulating the vitality of rural resources and assets, deepening the reform of rural collective property rights system, and accelerating the “separation of the three rights” of homestead ownership, qualification right and use right are important measures to further promote the reform of homestead management system in Ningxia. The reform of homestead management system in Ningxia should not only comprehensively summarize the experience of Pingluo county and other pilot districts and counties, but also take the opportunity of the reform of “four rights” such as land rights in the autonomous region to find problems and analyze their causes from a broader perspective and at a deeper level, so as to promote legislative support. In the process of promoting the reform of rural homestead management system, Ningxia pilot cities and counties have explored a lot of valuable experience, but also encountered many problems, which are in urgent need of research, interpretation, analysis, and the formation of countermeasures and suggestions. Relevant research results should also be fixed in the form of legislation to strengthen the guarantee.

2. The Main Obstacles and Problems Are Faced by The Reform of Homestead Management System in Ningxia

After field visits and interviews, in addition to sorting out and summarizing the basic content and experience of the reform of the homestead management system, it is also necessary for us to face up to the problems and potential

challenges that cannot be ignored in the reform of the homestead management system. At the national level, there are widespread national problems in rural homestead, such as extensive utilization, non-standard management, fuzzy understanding of farmers’ concept of homestead property rights, invisible trading market, scattered macro layout, incomplete infrastructure, excessive residential land, and lack of overall village planning. Ningxia, as an inhabited area and autonomous region of ethnic minorities in the west of our country, has its particularity in homestead management system based on its unique natural environment, population conditions, social structure and economic development, and it is necessary to pay more attention to it.

2.1. The main obstacles are faced by the reform of homestead management system in Ningxia

2.1.1. Management mechanism obstacles in the process of right confirmation

It is the basis of homestead management to make a thorough investigation of the basic situation of the existing homestead and confirm the right of the homestead according to the policies, laws and regulations. However, in the work of confirming the right of homestead, the responsible organs, departments and personnel have the problems of separated functions, unclear rights and responsibilities, and unable to form a joint force for reform. “Legal ownership, clear to the four sides of the house, accurate area” and “one house for one household” are the basic requirements of the work of homestead ownership confirmation. The implementation of the homestead land index, the establishment of territorial spatial planning, the production and issuance of the homestead use right certificate and the house ownership right certificate involve the division of ownership of the land department, the housing and construction department, and the agricultural and rural administrative department respectively. Ningxia implements the management mode of “separation of premises”, the housing ownership registration department is the real estate department, and the approval, confirmation and

registration of homestead are undertaken by the land department. At the same time, the basic household registration information needed to apply for the homestead use certificate and the house ownership certificate shall be managed by the household registration department of the public security. In practice, it is found that in the confirmation and registration of rural homestead and house, the policy stipulates that the right should be confirmed and registered to the “household” in accordance with the principle of “one house for one household”. Therefore, the applicant is generally required to submit the household registration book to identify the “household”, and the local public security household registration department for rural “household”, requires the applicant to hold the certificate of real estate ownership before the “household” can be divided. As a result, it is trapped in an “endless cycle”.

2.1.2. The objective conditional obstacles of the homestead.

The empirical investigation has found that due to the lack of planning guidance and the influence of traditional agriculture, natural conditions, economic development level and other factors, a large number of villages in Ningxia have disordered village layout, and most of the homestead is scattered and not concentrated enough, resulting in land waste. Preliminary survey results show that there are more than 30% of the idle homestead land in Ningxia village. [1] At the same time, farmland and vegetable land are mixed around the homestead, and because most villages lack centralized breeding areas, villagers occupy the land in front of and behind the house for small-scale breeding for a long time. In addition, due to the lack of management in the construction of rural residential buildings, many villagers with improved economic conditions choose to abandon the old and build the new housing, and the new housing is mostly located on both sides of the road with convenient transportation, and concentrated in the periphery of the village, with unlimited building area, forming the land use situation of “inner and outer space extension”, resulting in the increase of the village land area. In addition, due to reasons such as young and middle-aged people migrating to work and school-age children going to school in cities, there are more and more “amphibious” population living in cities and leaving homesteaded land in rural areas, resulting in more idle and abandoned homesteaded land in villages that are dilapidated due to long-term uninhabited.

2.1.3. Technical obstacles in the process of qualification determination.

In the process of qualification determination, it is also difficult to define the membership of rural collective economic organizations and difficult to implement the policy of “one house for one household”. According to the current law, only members of the village collective economic organization can have the “qualification right” of homestead, but what is “members of the village collective economic organization” is difficult to grasp in practice. In the process of investigation, we found that the department and staff of homestead rights often encountered several situations that were difficult to grasp. For example, for those who have purchased houses in cities and obtained urban household registration but whose income still mainly comes from the homestead and contracted land in the village, it is also questionable whether many migrant agricultural people who have purchased the homestead transferred by farmers without authorization have the homestead qualification right. Another

example, the right to confirm the department and staff and ordinary people have different understandings of what is “household” of “one house for one household”. Some believe that the household registration register issued by the household registration administration department of the public security shall prevail. Some consider all family members living mainly together as one household; others believe that no matter whether they live together or not, as long as they have a legal marriage relationship, they are one household; Some think that as long as has the complete civil liability ability can become a family. Therefore, in practice, there are great differences in the understanding of “household”, which makes it difficult to carry out the confirmation work smoothly, and some villages and towns have the problems of confusion and different standards of confirmation and registration.

2.1.4. Transaction barriers in the marketization of use-right.

Different from the reform of rural homestead system in Jiangsu, Zhejiang, Chongqing and other places, there are special obstacles in the market-oriented transaction of the right to use rural homestead in Ningxia. First of all, rural collective commercial construction land in Ningxia is generally small in area and scattered in distribution, and most of them are leased to operators or other businesses by village collective at a low price, which is difficult to recover and dispose. [1] Secondly, in the suburbs of cities, due to the large number of migrant workers in the city, the rental market is very hot. Driven by such strong interests, the phenomenon of disorderly construction on rural homestead is serious, and the load capacity of garbage disposal, road, drainage, power supply and other infrastructure is limited, and there are great security risks. Some border areas have become high-risk areas for criminals to hide, infectious diseases and fires. In addition, in some homesteads located in natural scenic spots and slightly remote areas, private transactions are serious, and farmers just “show” the homesteads holder. This kind of “covert transaction” behavior is not protected by law. Once disputes occur, the interests of both parties are difficult to be guaranteed. Besides, the rural collective economic organization is not perfect, lack of party organization leadership and mobilization ability; many are held concurrently by village committee staff or temporarily by rural college students, with greater mobility; guarantee is not in place and other problems make rural homestead supervision lack of real strength. [2]

2.1.5. Standard setting of homestead exit mechanism barriers.

The empirical investigation has found that the homestead withdrawal mode in the pilot reform of homestead management system in Pingluo county of Ningxia can be summarized as the “homestead purchase and storage mode”. Specifically, local governments, through unified arrangements, guide farmers to live in a centralized manner or withdraw from the original homestead and housing, and establish rural collective construction land reserve centers. Under the government-led mode of land acquisition and storage or old-age pension, the subsidy for withdrawing the contracted management right is determined jointly by the remaining years of the second round of contract term and the local average land transfer price in the past three years, without considering the rationality of taking land rent as the price refund standard. It is obvious that taking the remaining years of the second round of contracting as the benefit period

may trigger the problem of unbalanced expected benefits with farmers. Because the term of the second round of contract will expire soon in 2027, maximizing the benefits of homestead withdrawal will become a “rational pursuit,” which will force farmers to withdraw from homestead after the expiration of the second round of contract. At the same time, although the reform pilot areas allow the homestead to be traded among members of the village collective, this restricts the opportunity for the homestead to obtain more market evaluation and affects the realization of the corresponding property value of the homestead. [3]

2.2. Legislative Support Suggestions for The Reform of Homestead Management System in Ningxia

In order to promote the reform of “separation of three powers” to take root and boost the modernization of national governance system and governance capacity, it is necessary to take many problems in the reform of Ningxia homestead management system as the guidance, learn the reform experience with firm determination, and improve the homestead management system from the basic principles, key issues and specific plans of legislation.

2.2.1 The system design should be conducive to the improvement of homestead utilization efficiency and function expansion. (1) It is a basic policy to make economical and intensive use of homestead land. It encourages the concentration of homestead land in central villages and small towns, and tries to link rural construction land with urban construction land; (2) The Circular of the Office of the Leading Group for Rural Work of the CPC Central Committee and the Ministry of Agriculture and Rural Affairs on Further Strengthening the Management of Rural Homestead points out that village collectives and farmers are encouraged to make use of idle homestead and idle houses, and develop rural tourism, homestay and rural tourism in accordance with laws and regulations through independent operation, cooperative operation and entrusted operation. With the development of economy and society, the welfare function of homestead has gradually weakened, so it is necessary to shift from a single residential function to a multi-functional use, develop its functions in living, production, leisure, financing, storage and other aspects, and promote the maximization of its property rights function; (3) Legislation and corresponding system design should reserve space for new economic growth points such as housing land to undertake urban industrial transfer, provide employment security, and innovate rural tourism, so as to ensure the diversified utilization of housing land in general.

2.2.2 The system design should be conducive to expanding the circulation channels of the right to use homestead. The reform of “separation of three powers” is a responsive and forward-looking policy put forward by the central government at a new historical starting point and entering a new stage of development. The key to activate the economic benefits of “separation of three rights” is to revitalize the right to use homestead. To activate the right to use the homestead, legislation and system design need to pay attention to the following key issues: (1) Expand the circulation space of the right to use the homestead. (2) Do a good job in the withdrawal of idle homestead. Homestead withdrawal is a political issue that imaging the big from the small, which requires both determination and sufficient prudence. Whether it is paid or free withdrawal, basic compensation work should

be done and corresponding “retraction mechanism” should be built. We will ensure that a multi-level guarantee of compensation, resettlement and employment is in place. (3) On the basis of the functional expansion of the homestead, the corresponding mechanism should be designed to ensure the multi-functional utilization of the homestead. The key to rural revitalization is industrial revitalization, and the use of homestead land should be combined with industrial development and undertaking transfer. Some villages with superior natural environment are natural recuperation institutions and leisure sanctuaries. (4) Actively introducing social capital to promote the development and transformation of homestead resources. Where conditions permit, it shall actively promote the market entry of collectively-operated construction land; It is also possible to consider idle homestead as a part of collective operational construction land and introduce social capital to develop projects with collective economic development. The value of collective construction land can also be greatly increased through market bidding and other means to promote the increase of property income of local farmers. [4]

2.2.3 The system involved should be conducive to the standardized management of homestead. Management is efficiency. How to carry out the reform of “separation of three powers” and in what form can it take root in practice, so as to boost rural revitalization and promote the construction of a great circular economy in China, is a problem that all agricultural and rural workers need to think about and practice. Whether it is to determine the qualification right, use right or income proportion of the homestead, it requires the relevant departments to actively perform their management duties in accordance with policies and regulations. If the implementation of the homestead reform leads to increasingly non-standard management, it must mean that the homestead reform has not achieved good benefits. To be specific, the standardization of homestead management needs to start from the following two aspects: (1) to clarify the reasons and uses of the qualified owner of the homestead to apply for the homestead, and at the same time to clarify the structure, uses and transaction records of the houses on the homestead, requiring the relevant departments and units to take special responsibilities, establish special standing books, and standardize the management; (2) In the case of building a house on a house site, the administrative departments of agriculture and rural economy and the rural collective economic organizations shall perform their duties of supervision well, require legal and comprehensive trial materials in the application and approval of building construction, and shall give detailed descriptions of the land area, building area, number of floors and building height, building purpose, construction period, project budget, etc., together with drawings.

References

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