

The next land revolution?

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Li Yulan, a painter living in Beijing, finds herself in a worrying situation. She lives in Songzhuang village, an artists' community located within the borders of Beijing municipality, but outside the city proper. Now, the contract she signed five years ago when purchasing her home has been declared void by the local court. The court order also demands that she leave her home within ninety days.

Li is not alone in her predicament [1]: since October 2006, twelve artists have been taken to court by the farmers from whom they bought their Song village properties. These farmers had been delighted to sell their homes for what at the time were considered excellent prices, but the recent dramatic rise in property values makes them think that they got a raw deal; today, they seek to reclaim their properties.

For the more than 1,500 artists who live in Songzhuang village [2], this news has come as a bolt from the blue. If the court's judgment is upheld, each one will be facing the same fate as Li Yulan - given no choice but to move out of the village. They had never imagined that their contracts, whose validity was guaranteed by the local government and village head, would not receive the protection of Chinese law. In the event, the root cause of all the trouble is that the houses they bought are governed by what are informally known as "lesser property rights".

Winners and losers

China's land-ownership system is hard for most people to understand. In general, all urban land is owned by the state, and in order to build on it, one must first obtain government approval and pay land-usage tax. On the sale of property built on the land, buyers are issued with a property certificate, and their ownership of the property is protected by the law. The buyer thereby has what are informally known as "greater property rights".

In contrast, the constitution [4] states that all land in rural areas is "collectively owned", which in practice means that rural residents living on a given piece of land each own a share of it. When property (including the homes of rural residents) built on "collectively owned" land is sold [5], there is no requirement to pay large sums in land-usage tax to the state, and therefore the state does not issue a property certificate. Instead, the village authority issues a "property-rights warranty", which provides "lesser property rights". It goes without saying that the latter kind of property is usually only a fraction of the price of the former.

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However, the purchaser's property rights [6] are not in this case protected by Chinese law.

There has of late been a lot of debate in the Chinese media about whether or not lesser property rights are legally [7] valid, and whether or not they should receive equal protection under the law. Just typing "lesser property rights" into Baidu, China's most popular online search engine, brings up over 2 million results - clear proof of how important this issue is to the public.

It is interesting that those who most strongly oppose lesser property rights are the government departments dealing with land administration, and the large property developers. The land-administration departments oppose the system because they are keen to "protect agricultural resources". The property developers are concerned that the system "disrupts the market". Those who support lesser property rights are the large numbers of urban residents who cannot afford to buy property within the cities. Despite government warnings, property covered by lesser property rights is still selling fast. According to reports, purchases of such properties account for over 20% of the housing market in Beijing municipality.

The main factor in deciding people's attitude to lesser property rights is whether they stand to win or lose by the system. In today's China, land is the single most valuable commodity [8], and the quickest route to wealth and power. With urban land under a state monopoly, the government can guarantee for itself a huge injection of funds overnight simply by assigning the land to property developers and levying all kinds of taxes during its subsequent sale; the developers too are able to make large profits from the land even if they make no investment in it.

The finances of most local governments are based on income from land, which often accounts for over 80% of their total. The poorer the area, the larger the proportion of income which comes from land. With usable land in the cities increasingly scarce, property developers are looking to maximise their profits, which leads to constant rises in commercial house prices. In this system, it is buyers of property who pay the incomes of the property developers and the government.

The operation of lesser property rights clearly disrupts this set-up, and the government and property developers stand to lose out. The government has no ownership rights over rural land, and therefore cannot benefit from letting it out. The property developers are losing potential customers because urban residents will buy properties covered by lesser property rights for 30% of the price of city-centre homes. The profit instead goes to the rural residents who sell their property. The public, both urban and rural, are the ones who benefit from this state of affairs.

A turning-point

The response from the Chinese media to these developments has been interesting. On the one hand, it publishes government warnings about lesser property rights; on the other hand, media commentaries support the system, which they say constitutes one of the basic rights of rural residents. The system, so the argument goes, provides rural residents with an important route to economic development, thus becoming a natural part of the process of gradual urbanisation of rural areas.

It was a group of farmers from Xiaogang village in Anhui province who in 1978 sparked the reform of rural land policies, just after the advent of China's reform era. At risk of arrest and imprisonment, they collectively broke the law [9] by secretly contracting out land in their village. Before long, this illegal activity was made legal by the Chinese Communist Party [10], and the system of contracting out land was extended across the country. The system utterly transformed

the countryside and brought prosperity where there had previously been only deprivation. The events are now seen as a "land revolution", spontaneously instigated by Chinese farmers.

History is again at a turning-point. Rural residents are trying to obtain the levels of income from selling property that they deserve, and low-income urban residents are standing alongside them. Lesser property rights may not be protected by the law [11] as yet, but things may be about to change. If many people are prepared to take the risk of breaking the law, then maybe the problem is with the law itself. Before long, the call for protection of lesser property rights may produce a second land revolution.

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[5] <http://news.bbc.co.uk/1/hi/world/asia-pacific/6429977.stm>

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