

Research on the Protection of Compensation Rights and Interests of Land-Lost Farmers

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Abstract: Farmers' rights and interests include property rights, basic life security rights, employment rights and other rights, but due to the urbanization process by different degrees of destruction. After the expropriation of farmers' land, the existing compensation standard is unreasonable, the scope is narrow, and the method is single. Therefore, the protection of the rights and interests of land-lost farmers in China urgently needs to be guaranteed through a series of measures such as raising the standard, diversifying the compensation methods, and expanding the compensation scope.

1. Introduction

In the process of urbanization, land acquisition causes a large number of farmers to lose their land, who lose their means of production. Moreover, unreasonable compensation cannot guarantee their basic livelihood, and farmers' rights and interests are harmed. Most of the farmers have no skills and it is difficult to integrate into the city, their life is not guaranteed. In the final analysis, this is mainly because China's land acquisition procedures, land property rights, compensation and farmers' social security problems and other systems exist in certain problems, in order to protect the rights and interests of farmers, the thesis mainly aimed at the compensation of land-lost farmers to conduct a comprehensive discussion.

2. Legal reasons for land-lost farmers

Land-lost farmers refer to those whose land is expropriated according to law and whose per capita farming area of agricultural registered household is less than 0.3 mu. The generation of land-lost farmers is a normal phenomenon in the process of urbanization and a part of the inevitable group in the process of urbanization in a country or region. They passively lose land, lose due rights, is not the essence of the real sense of farmers. Without land, they have no basic ability to survive, and their survival has been greatly affected. The causes are as follows:

2.1 The definition of public interest in the Property Law is not clear

Article 42 of the Property Law states: "Collectively-owned land and houses and other immovable properties of units and individuals may be expropriated in accordance with the authority and procedures prescribed by law in the public interest."

China's Constitution, Property Law and Land Management Law do not give a clear explanation of "public interest", let alone make relevant restrictions. As a result, administrative organs have too much discretion. When land-lost farmers apply for administrative reconsideration or litigation, Administrative organs often take public interests as group interests, national interests and specific project needs of economic development as objection reasons, so land-lost farmers in a vulnerable position can not get effective legal protection; Although article 8 of the newly issued Regulations on Expropriation and Compensation of Houses on State-owned Land lists the general scope of public interests, it still cannot make up for the loss of farmers after their interests are infringed.

2.2. Defects in land acquisition procedures

(1) Demolition units expropriate farmers' land in the name of government expropriation. Farmers' knowledge level is still very limited, and they cannot fully recognize the situation of land expropriation in the name of the government in reality. They cannot realize that only local governments have the right to expropriate land. This is also an important cause of equity damage.

(2) The collection process is not transparent. The collection procedure of land mainly applies for, examines, approves, announces, issues the content such as use card. In reality, due to the limited knowledge level of farmers and the violation of their right to know in the process of land acquisition, few meetings are held to solicit farmers' opinions, and farmers have little understanding of their land acquisition area, use, compensation standard, compensation scheme and a series of issues. Only to be informed of the results after the land has been expropriated.

(3) The government abused the power of land acquisition. The Constitution entrusts the government with the right to expropriate or requisition farmers' land in accordance with the law and give corresponding compensation when necessary for the public interest. Some government, however, the cover of meet the public interest, the public interests of discretion is wanton extended to every corner of the economic construction, especially the construction as public interest, although no fear of large-scale land expropriation, value-added meet the lusts after the use of land expropriation, farmers construction takes up land situation difficult to contain.

(4) The way to protect farmers' rights after their land is expropriated is not very effective. Farmers can solve the problem through consultation, administrative reconsideration or finally administrative litigation. Farmers are in a weak position in the negotiation, they can only make concessions again and again, and cannot insist on their own interests; The administrative review is only the government's own re-processing, still fully reflects the government's interests; Administrative litigation also received the government's containment, so it is difficult to effectively solve the problem of land loss rights protection.

3. China's current status of legal protection of compensation for land-lost farmers analysis

3.1 Narrow scope of compensation

According to the land management Law, the compensation scope of agricultural land acquisition in China includes land compensation, compensation for green seedlings and ground attachments, forest compensation, housing compensation, resettlement compensation, relocation and other directly related losses on the surface.

As can be seen from the above, these compensations make basic compensation to the land owners and land investors at different levels. However, the current scope of compensation in China is only limited to quantifiable economic losses directly related to land, and does not reflect the loss caused by indirect relationship [1], or extended incidental or non-economic losses that are difficult to be quantified. At the same time, quantifiable property losses of land-lost farmers who cannot provide evidence of specific losses are not included in the compensation scope, such as: Temporary rental fees, landless divided after the formation of the economic status of land, or some reason of experts hired agents and lawyers fees, or caused by the land use change is some adjacent land pollution, river diversions and blocking is bound to affect the adjacent to the output of crops, farmers in order to improve the production of new investment cost, and so on.

After land is expropriated, it is often changed to its previous use, mostly used for road construction, real estate development and so on. All these will make the expropriated land produce huge value-added, but it is not reflected in the relevant compensation costs in Our country. This is also a reflection of China's planned economy [2], which has not fully played the role of the market economy.

3.2 Unreasonable compensation standards for original uses of land

According to article 47 of the Land Management Law, China only regards land as a means of production and compensates it with a multiple of 6 to 10 of its annual output value in accordance with its original use, and does not regard the various social functions embodied by land and the huge value added after expropriation as one of the standards. This compensation standard is mainly the compensation given by the administrative compulsion, which does not reflect the price appreciation brought by the differential land rent, and seriously deviates from the market value.

The price of land expropriated is far higher than the compensation cost. Government levied farmers land give compensation in reality is extremely low , have lost their land is not more than 30 years of agricultural income, yet with extremely high price transfer to developers, etc, the two in the middle of the huge difference, become the "land Kings" in land expropriation, harvest quite abundant, the victims or the land-lost farmers. Land is the day of food and clothing for farmers, the loss of survival data and security, lost the foundation of survival. Many farmers are more dare to anger dare not speak, can not find a way to solve the problem, can only be meek.

3.3 Unfair distribution standards of land compensation fees

According to the "Land Management Law implementation Regulations" and "Land Management Law implementation rules" relevant content, compensation costs belong to rural collective organizations in principle, only involves the farmers themselves "resettlement compensation" part, can be returned to the resettlement, that is, the land crops and housing compensation can be returned to the individual farmers. As a result, only a small amount of compensation goes to individual farmers, and most of the compensation goes to the collective.

In addition, assigned to the collective compensation part should use the collective farmers on principle, can be the construction of public facilities, or other public services for everyone, but in fact, it is difficult to effectively use individual farmers such allocation standard extremely unfair, after all, the individual interests of land expropriation, the farmers of the biggest impact.

3.4 Confusion in the management of land requisition compensation

In reality, compensation for land expropriation is not directly distributed to land-lost farmers. The most general compensation for land-lost farmers goes through the township and village

governments. Compensation fees have been withheld after passing through the two levels of government, and the lost farmers have received less than the full amount, or even much less.

About on the usage and management of the land compensation fees, the government does not give guidance and advice, so after the compensation fees to the collective organization, what time distribution, how to allocate have a collective, land-lost farmers are consultation, this causes the collective organization, according to the needs of the collective organization of compensation expense allocation to issue, Sometimes the compensation is even misappropriated to pay some staff salaries, management fees, reception fees and so on, which form the government's hidden income and greatly damage the rights and interests of land-lost farmers.

3.5 Single method of compensation

About the current our country majority of compensation for farmers to take a one-time monetary compensation, not from the social employment, industrial development and the quality of life as a whole, this way of compensation for the protection of peasants' lives and social security to consider less, can only solve the problem of short-term land-lost farmers life, can not fundamentally solve the problem of farmers' long-term stable life way. One-time monetary compensation does not take into account the re-employment of land-lost farmers, leaving great responsibility and pressure to the society and land-lost farmers themselves. Nor can it replace the final social security function of land for farmers. Although few regions adopt employment compensation, it brings huge social burden to enterprises under the market economy system, and land-lost farmers will be placed into the society again due to their own skills. This relatively single way of compensation makes the land-lost farmers finally fall into a difficult situation of no land, no job, and no security. The final situation of land-lost farmers will also bring greater social hidden trouble to our society.

4. Suggestions on the protection of rights and interests of land-lost farmers in China

4.1 Expanding the scope of compensation

Fully reflect the value-added income compensation after conversion. The standard of land compensation reflects the market price, and the standard and scope of compensation should not be based on the income of the government, but should be based on the actual loss of farmers who lose their land. This standard not only includes the current loss, but also includes the development loss, namely indirect loss. Land is acquired and used for infrastructure such as roads and public Spaces, as well as for value-added projects such as real estate development. The benefits of value-added construction should reflect the compensation for the rights and interests of land-lost farmers. From the point of view of economics, the compensation range should include: farmland quality price and farmland social value quantification value. Only in this way can the fundamental interests of farmers be protected by expanding the scope of compensation.

4.2 Raise compensation standards

Consider following the fair market price compensation standard, comprehensive reference value the potential benefits, the use of land, the land to farmers for multiple functions and market demand of land can't reflect the colour of planned economy too much, should follow the principle of fair market value of the market economy, to avoid abuses carried out in accordance with the different land types of pricing to compensate farmers rights and interests, Only in this way can the compensation standard not be low. Compensation for lost land should consider users' cognition of land market price, and fair and reasonable compensation should reflect the willingness of buyers,

sellers and farmers who lost land to accept. And not just reflect the interests of one or two sides, to reflect a comprehensive.

Fully reflect east and west economic level huge difference. Due to the different levels of economic development in different regions, compensation should be divided into different administrative regions, and the same administrative region should also be divided into urban, suburban and suburban land compensation base standards. This not only highlights the regional differences in different areas, but also highlights the differences in land rent. This will better protect the interests of farmers in different areas and reduce land expropriation disputes.

Comprehensive consideration of land expropriation area factors. It includes a series of comprehensive factors such as location conditions, land quality, supply and demand factors of land resources, land transfer and use value, per capita amount of cultivated land, crop output value, local minimum living security standard and local economic development. The land for public use should refer to the sub-standard, and farmers who lost their land after land acquisition for non-public use should negotiate compensation for lost land through negotiation. Only in this way can the vital rights and interests of farmers who lost their land be effectively protected and compensation standards be improved.

4.3 Adopting diversified compensation methods

4.3.1 Compensation in the form of land bonds

At present, China's land expropriation compensation is mainly cash compensation, but in the case of limited land evaluation technology and large price changes, the land compensation for farmers who lost their land has been unable to maintain their due living standards.

When the state expropriated land for the construction of related projects, for investment returns of the project. The state can first make basic compensation to ensure the basic livelihood of the land-lost farmers, and then form certain bonds to compensate the land-lost farmers as development capital. These bonds have a certain market nature and will change with the changes of the market. They are a kind of dynamic economic compensation, which can meet the one-time compensation for the loss of land-lost farmers.

4.3.2 The way of land valuation and shareholding

For the current farmers in China, their financial awareness and skill level is still relatively low. One-off compensation payment for land expropriation is not conducive to the development of farmers, most of whom use it for living consumption and cannot develop and use it. If the money is used to develop production, the rights and interests of land-lost farmers will be effectively protected for a long time.

We will vigorously promote the pricing of land for farmers who have lost their land by taking into account both immediate and long-term interests. Have a special department of land-lost farmers at that time, local conditions of economic analysis, the need to pay the cost of living in compensation do evaluation and development of production and economic compensation, compensation ratio, the necessary compensation payment of land-lost farmers, the cost of living in the rest of the economic compensation after delimit expropriation of land income of the company, make its get a steady stream of interest.

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