

China's Land Registration: Situation, Challenges and Efforts

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1. Overview of China's Land Registration

1.1 History of China's Land Registration

China's land registration has a very long history. According to archaeological discoveries, at least in Western Zhou Dynasty (9th century B.C. when China's earliest written records were confirmed), there are some records about king granting land, including the information of land owner and neighboring land owner (Fan 2003).

China's land registration system changed with history. Current land registration system was formed mainly since late 1980s. "Land Management Law" promulgated in 1986 states: "farmer collective owned land should be registered by the county government and be issued certificates to confirm the ownership. Use rights of state-owned land should be registered by local people's governments above the county level and be issued certificates to confirm the use rights". "Land Management Law Implementation Regulations" states: "State implement land registration system according to law". In 1989, the Bureau of Land Management (MLR predecessor) introduced "Land Registration Rules", stipulating land registration procedures and requirements. After "Property Law" was enacted in 2007, MLR amended "Land Registration Rules" and promulgated "Land Registration Measures", which constitutes the legal basis and institutional framework of China's current land registration.

1.2 Progress of China's Land Registration

In urban area, especially in cities, local governments (primarily counties, municipal government and land administration department of them) has been carrying out land registration since late 1980s, and most cities have almost completed the registration of built land within the cities .

Though China has also started to carry out land registration in rural areas since late 1980s, the rural land registration has a relative smaller coverage compared to urban land registration, and some registration are not up to date, some information is missing. So, in 2010, as one measure to support the economic and social development in rural area, the State Council launched the national land registration campaign for the ownership of farmer collective owned land in rural area. By the end of 2012, the registration of rural land ownership had almost finished and the registration rate had reached 94.7 percent (MLR, 2012). For the use rights registration of farmer collective owned land in rural area, though the registration rate is about 80% according to statistics data (MLR, 2011), there are still some problems such as outdate information, low

measurement accuracy and even lack of cadaster map, so it is still our work emphasis in the following years to promote the land registration of use rights of farmer collective owned land in rural area.

2. Current Land Registration System in China

Currently, China's land registration system is primarily stipulated by "Property Law" and "Land Registration Measures".

2.1 Types of Land Registration

According to "Land Registration Measures", the types of land registration include total land registration, initial registration, change of registration, cancellation of registration and other registration. Total land registration means making effort to register land as much as possible within a certain time in a specific area. Initial land registration refers to the first registration of one parcel of land except the cases in total land registration. Change of registration refers to the registration when some information is changed, such as transfer of land, or changes of owner's name. Cancellation of registration is carried out when the land right ended. Other registration refers to the registration other than above registration types, including correction of registration, registration of objection, registration of notice and registration of warrant of seizure.

2.2 The general procedure of land registration

The basic procedure of land registration is divided into four steps: application for land registration, land tenure censorship, registration and issuance of certificates, though different types of land registration may have small difference in procedure.

2.2.1 Application for Land Registration

"Land Registration Measures" states "land registration shall be based on the application for land registration, except situations stipulated by laws and regulations". To apply land registration, the applicant have to submit proof of personal identity, proof of land rights, cadastral survey data and other materials in accordance with regulations. Under special circumstances, such as registration authorities confirm that the applicant has a fraud in land registration, and then registration authorities can carry out the cancellation of registration in accordance with prescribed procedure without application.

2.2.2 Land Tenure Censorship

After the application is accepted, land registration agency has the responsibility to censor the documents submitted by applicants to make sure whether the registration application should be admitted. Comments and advice will be given to government at or above county level. Then local government will make the decision to register or not. There are three principle

criteria for censorship: legal right, clear boundary and accurate area. Only staff with a license can conduct land tenure censorship in land registration.

2.2.3 Registration

After land registration is approved, the step of registration will be conducted to record the information in register. Upon registration, land rights take legal effects. Land registration agency and the responsible person shall take responsibility for the mistake. Recent years there are some cases that land registration staff was prosecuted against breach of duty for their mistake in land registration.

2.2.4 Issuance of Certificate

After the land was registered, Land administrative department who act as land registration agency will issue land certificate to applicant in accordance with the registration result on behalf of the government. Currently there are four types of land rights certificates: "certificate for use right of state-owned land", "certificate for ownership of farmers collective owned land", "certificate for use right of farmers collective owned land", "certificate for other land rights".

2.3 Features of China's Land Registration System

2.3.1 Legal Effect of Land Registration

"Property Law" states "the establishment, change, transfer and elimination of real property take effect after registration; without registration, no effectiveness, except the situations stipulated by laws. Ownership of natural resources belong to the state don't need to be registered".

2.3.2 Principal of Application

Land registration only can be conducted on the basis of the application on applicant's own accord except situations stipulated by laws and regulations. It is not compulsory to apply for registration.

2.3.3 Territory Registration.

The applicant should launch land registration application to local land administrative department of governments at or above county level. And theoretically local government will register land rights and issue right certificate, but in reality, land administrative department of government carry out the tasks of land registration on behalf of local government.

2.3.4 Land Register Is the Legal Basis for Land Rights.

Land register has the highest legal authoritative. Information documented in land certificates shall be consistent with the land register except there is affirmative evidence that the land register does have errors.

2.3.5 Land Registration Information Is Available for Query

According to "land registration information public query measures" issued by MLR in 2002, the results of land registration, including land register and cadaster survey map are open to query, but it cannot be implemented in reality. It is possible for some public agency like police, court and revenue department to query the registration information.

2.3.6 Land Registration Agents

China has set up a system of land registration agents who could help applicants to apply for registration. In some places there already have some land registration agents and companies, and some provinces have established provincial association of land registration agents. Currently the state association of land registration agents is in the phase of preparation.

2.3.7 Buildings Are Not Included in Land Registration.

Land registration is limited to the narrow scope, which means only land, not including housing and other buildings on the land, as well as attachments are registered in land registration.

3. Challenges of China's Land Registration

3.1 Dispersed Land Registration

In accordance with the dispersed land administrative system, land was registered by several departments (He, 2013) and has different land register and procedure. Ownership of farmer collective owned land, use rights for construction, use rights for villager's housing, land mortgage, easements and etc. were registered by the land administrative department; rural land contracted management right, prairie ownership, use rights of water and coastal mud flat for breeding aquatics were registered by the agriculture administrative department; ownership and use rights of forestry and woodlands were registered by the forestry administrative department; housing ownership were registered by the housing and construction administrative department.

Dispersed land registration brings a lot of problems. For land were registered by different departments according to different criteria and without information share, there will inevitably occur conflict or inconsistency. For instance, one parcel of land registered by forestry administrative department may overlap with other parcel of land registered by agriculture administrative department. Land registration was scattered in different administrative department and registration information were not shared with each other are not conducive to

protect land rights and to secure land transactions. Also, overlapping registration administrative institution increased fiscal spending, and reduced administrative efficiency.

3.2 Relatively Lagging Land Registration in Rural Area

In urban area, almost all land has been registered, though some are still in papers without digital records. While in vast rural area, some land are not registered yet, and even for the registered ones, most have the widespread problem of information incompleteness and outdated. There are some cases that right holder has the land certificate while registration agency doesn't have any documents and information about the land registration. Also there are some cases that what recorded in register is inconsistent with the reality for there is no updating, and we also can find some mistakes in rural land registration. The reasons of relatively lagging rural land registration could be the poorer working conditions of land registration in 1980s and 1990s, and less attention were paid to land registration at that time because rural land were strictly restricted in terms of rights.

4. Efforts Made to Improve China's Land Registration

4.1 Implementation of Unified Land Registration System

Though "Property Law" enacted in 2007 have already proposed "national unified registration system for real estate", there is very few progress on the way of implementation. Until in early 2013, in the "institutional reform of the State Council and the functional transformation plan", the State Council pledged to "reduce overlapping responsibilities of departments, to maximize integration of the same or similar functions which were dispersed in different departments of the State Council. The duties of housing registration, woodlands registration, prairie registration and land registration should be integrated in one department." In December 2013, the State Council clearly stipulated that Ministry of Land and Resources should be responsible for the guidance and supervision of real estate registration, including houses, grasslands, woodlands, waters, etc. The unified system could be demonstrated in "four unity", which are unity of registration agency, unity of register, unity of registration regulation and unity of registration information platform. Therefore, currently unified land registration system is exactly in the early stage of implementation.

Unified land registration, though will be carried out by land administrative department, will need close cooperation of various administrative departments and a step by step transition is anticipated. The first task is to build the working mechanism for the close cooperation of various departments. Land registration has the very close relationship with land administration, so in accordance with the still dispersed land administration system, unified land registration need close cooperation within various departments, especially in the terms of information sharing. The second task is to gradually collate and integrate original land registration information recorded by various departments, and at the same time, it is very important to make sure that all certificates have been issued should remain valid. The third task is to gradually integrate registration agency. At the level of central government, the Cadaster Department in the Ministry of Land and Resources will have another institution

name of Bureau of Real Estate Registration and have the function of guiding and supervising unified land registration. At the level of local government, it is also need to integrate the registration agency, particularly at the level of county or municipal government for they are the concrete agencies to register accordance to the principle of territoriality registration.

4.2 Efforts for Rural Land Registration

Since 2010, as one important measure of the national strategy for rural development, rural land ownership registration has been the focus task of government, especially for local government and their land administration departments. The registration of farmer collective owned land have been basically completed by the end of 2012, and government have shift their focus to the land use rights registration in rural area, mainly including use rights of land for construction and use rights for villager's housing.

Currently a lot of local governments are under the way to boost rural land registration. They try their best to register what haven't been registered before and to supplement or update what have been registered before. In the new round of rural land registration, new survey methods are widely used to improve the measurement accuracy. Another main task of new round of rural land registration is to promote the land registration information system construction. Land registration information management and inquiry system is proposed to facilitate the standardization of land registration, land registration information sharing and applications.

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