

Land Expropriation in China – A simple introduction

LIAO Junping, China

1. THE STATUTORY FRAMEWORK OF LAND EXPROPRIATION AND LAND TENURE REGIME IN CHINA

The basic law for land expropriation in China is “Land Administration Law of the People’s Republic of China” (the following text uses the abbreviation “Land Administration Law”) and “Implementing Regulations of Land Administration Law of the People’s Republic of China”. There are also other relative laws, regulations and Ministry issued rules.

The Constitution and the Land Administration Law provide the basic tenure regime in China: The People's Republic of China practices socialist public ownership of land, namely, ownership by the whole people and collective ownership by the working people.

Ownership by the whole people means that the right of ownership in State-owned land is exercised by State Council on behalf of the State.

Here “owned by whole people” means owned by the state. Whereas “the working people” means peasants on rural suburban land. Almost all the urban land is owned by the state, and the rural suburban land is owned by peasant collectives.

2. EXPROPRIATION FROM THE PEASANT COLLECTIVES

As there only two types of land tenure and the peasant collectives have no power to expropriate land from the state, there is only one possibility: the state expropriates land from the peasant collectives.

In China, no units or individuals can purchase or vend the ownership of land. In fact, there is no land ownership can be vended except the land owned by the peasant collectives. And the peasant collectives can not transfer the land ownership on their own initiative, the only way of transfer of the land ownership is expropriation by the state.

The Land Administration Law provides that the State may, in the interest of the public, lawfully expropriate land and give compensation accordingly.

3. THE COMPENSATION FOR THE LAND EXPROPRIATION

The compensation for land expropriated follows the basic principle of ensuring not reducing living standards of peasants whose land is expropriated. So that the compensation of the land expropriation is paid on the basis of its ORIGINAL PURPOSE OF USE.

According to this principle, compensation for expropriated cultivated land shall include compensation for land, resettlement subsidies and compensation for attachments and unripe crops on the expropriated land.

Compensation for expropriated of cultivated land shall be SIX TO TEN TIMES THE AVERAGE ANNUAL OUTPUT VALUE of the expropriated land, calculated on the basis of three years preceding such expropriation.

Resettlement subsidies for expropriated cultivated land shall be calculated according to the agricultural population needing to be resettled. The agricultural population needing to be resettled shall be calculated by dividing the area of expropriated cultivated land by the average area of the original cultivated land per person of the unit the land of which is expropriated. The standard resettlement subsidies to be divided among members of the agricultural population needing resettlement shall be FOUR TO SIX TIMES the average annual output value of the expropriated cultivated land calculated on the basis of three years preceding such expropriation. However, the maximum resettlement subsidies for each hectare of the expropriated cultivated land shall not exceed FIFTEEN TIMES its average annual output calculated on the basis of three years preceding such expropriation.

Rates of land compensation and resettlement subsidies for expropriation of other types of land shall be prescribed by local provincial governments with reference to the rates of compensation and resettlement subsidies for expropriation of cultivated land.

Rates of compensation for attachments and unripe crops on expropriated land shall be prescribed by local provincial governments.

4. SIMPLE SUMMARIZED CONCLUSIONS

The characteristics of land expropriation in China are:

Single origin of land – peasant collectives

Mandatory

Non-market-value compensation

CONTACT

By LIAO Junping

Director, Institute of Real Estate Studies, Lingnan College, Sun Yat-Sen University

Vice President, China Institute of Real Estate Appraisers and Agents