

Original Paper

A Study on the Legal Implementation Mechanism for the “Separation of Three Rights” of Rural Homesteads in China

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Abstract

Thanks to China's rurally focused reforms, "Three Rights Division" on rural homesteads came by – dividing collective ownership, household qualification and flexible use rights – an important policy meant to tackle inefficient problems within the rural system and make economic value come out of the land. This reform is about invigorate the sleeping rural assets, raise up the farmers' property income and make the rural-urban integration possible. But the fact is that its success is seriously limited because there is an incomplete and unclear legal environment. This paper makes a critical review on the legal realization mechanism for this reform. It starts from explaining the theoretical and practical significance of separated ownership, qualification, and use rights to build a concept foundation for the following analysis. Then, it probes into the current legal landscape of land expropriation and acquisition and determines some prominent problems like vague property right conceptions, excessive constraints on market circulation, non-unified or ineffective registration systems, and unscientific valuation and dispute settlement. In view of the results from all the national pilot programs, the paper synthesizes practices and lessons. According to this exhaustive analysis and puts forth a systematic legal implementation mechanism: Key recommendations are to improve existing laws on the content and boundaries of each right, to develop an integrated and unified national registration and certification system, which provides legal certainty for such exchange transactions, to develop a hierarchical and regulated secondary market for the transfer of use rights (e.g., the stock and option exchanges), as well as an open and transparent system for valuing assets and distributing profits. The paper holds that to build a strong legal architectural system is not just a technical must do, it's also a primary pre requisite to guarantee the reform success, protect farmers' interests and realize the goal of rural revitalization strategy.

Keywords

Rural Homestead, Three Rights Separation, Land System Reform, Property Rights, Legal Mechanism, China

1. Introduction

The rural homestead system has been a key part of China's rural social and economic structure for a long time, supplying housing security for many generations of farmers. At the same time, it is an important factor of rural collective economy. Rooted in the dual urban-rural land system, both rural homesteads and land are collectively owned. Urban land is owned by the state (Yin, C., 2020). According to this system, the rural collective members have the right to use a piece of land from the collective to construct their own housing, but historically, this right is inalienable and thus cannot be used for economic gain. On the other hand, rapid urbanization and industrialization in the last few decades has greatly changed China's demographic picture. An unprecedented mass exodus of people from rural areas to urban areas has led to a great number of homesteads that have been left unused and underutilized forming so called "hollow villages". This is nothing but the biggest waste of land assets as well as a huge amount of idle asset which a farmer can't capitalize on. Ownership, qualification, usage rights were tightly bundled together, which was a big stumbling block that prevented efficient resource allocation, farmers unable to derive the full property value of their homesteads thereby hampering overall rural development. Facing such challenging situations, we can see that the Chinese central government is determinedly taking the path of separation of three rights reform to break away from collective ownership rights, members' qualification rights, and members qualification and derivative right (Fan, C. Q., & Mao, Y. Y., 2020, pp. 44-50). The new policy wants to keep the ground of everyone together, but let farmers have more room to move their land and sell it if they want, which means more people can buy farms and houses, make farm money, and help villages be better places to live. To achieve my goal in this essay, I will make a thorough research on the entire process of legal implementation of this policy from legal realization to realize the purpose of this policy. Analyzing the theoretical basis for legal realization, understanding existing legal bottlenecks, and providing a systematic framework for its legal implementation.

2. Theoretical Framework and Connotation of the "Three Rights Separation"

The policy of separating three rights on the rural homestead is an important institutional innovation based on the theory of property right in order to adapt to the land system in China under new socio-economic conditions. It is a thorough breakdown, transforming the previously monolithic homestead into a newer, more refined structure consisting of three distinct but inter-linked rights; i.e., ownership right, qualification right and use right. The ownership right belongs to the rural collective economic organization, which strengthens the socialist public ownership of land as stipulated in China's Constitution. This right is absolute and fundamental and serves as the basis from which other

rights flow: the main function is to serve the collective's interests, preventing the land's loss or misuse, and enabling the collective to conduct macro supervision of homestead distribution and use (Liu, S. J., 2024). The qualification right is a new and important concept in this framework, legally belonging to the members of the rural collective. It's a status-based right, tied to a person's membership of a collective, and is a social function and security function of the homestead system. This right is an individual's qualification to submit and acquire a homestead from the collective for residential purposes, serving as a core guarantee of residential housing. But its legal definition is a difficult matter, mainly with regard to the acquisition, inheritance, and extinction of personal rights within population mobility and changing families. Finally, the use right is also the most dynamic part of the reform. It includes the right to occupy, to build, and to use the homestead and the attached house, most important of all, it is intended to be separable from the qualification right (Wang, X. S., Yang, Y. H., Li, N., & Guo, Z. X., 2024, pp. 178-188). This separation makes the use right movable, transmissible, and transferable, so farmers can use their housing as an asset in the market without losing the most important fundamental qualification right of being a member. This flexibility leads to the revitalization of idle resources and changes homesteads from simple consumption products to income-earning capital assets.

3. Current Status and Challenges of the Legal Implementation

Although in the policy guidance there was, yet the "three rights separation" legal realization on rural homesteads still comes across with considerable troubles and it operates under a transitional and sometimes obscure legal situation. The primary legislative basis, the Land Administration Law of the People's Republic of China, has been revised to conform to these new reforms, but these reforms are still lacking as there is still not a detailed provision in the law to clearly delineate the rights being separated as well as the contents and boundary of the new rights separated. This legal ambiguity is a root cause of many practical problems (Gao, S. P., 2025, pp. 1-13). One of the most prominent problems is the vague definition of the qualification right. The law doesn't give much idea about how this right could be figured out for people who have migrated to cities but still have a hukou in the countryside, or for their children, so there are often arguments over who gets what to inherit. Another major barrier is the high market circulation barriers to the use right. Current regulations and pilot program policies limit the circulation of homestead use rights to members of the same collective or restrict the transfer of homestead use rights to outsiders with strict conditions, blocking the development of a larger and more competitive homestead use rights market. There won't be sufficient market demand for a homestead if there isn't any, so its potential economic value can't be unleashed. This is complicated by the absence of a unified, comprehensive, and open register and certificate. We need a strong system for getting a framework that gives protection in the law, watching property, moving it around, and swapping (Xue, Z. J., & Mi, Y. S., 2025, pp. 1-14). Currently the registration system is divided into parts so it does not record which rights have been separated and therefore makes

potential investors and creditors reluctant to deal as the risks seem too high. These problems are shown in table 1, which lists the main difficulties hindering the reform.

Table 1. Key Challenges in the Legal Implementation of Homestead Three Rights Separation

Challenge ID	Key Challenge Area	Description of the Challenge
C1	Vague Legal Definitions	The legal content, boundaries, and rules for inheritance and transfer of the qualification right and use right are not clearly defined in national laws.
C2	Restricted Market Circulation	Strict limitations on the scope of transferees (e.g., limited to within the same collective) prevent the formation of an open and competitive market.
C3	Imperfect Registration System	Lack of a unified national system for registering the separated rights, which undermines transaction security and prevents effective mortgaging.
C4	Absence of Valuation Standards	No scientific, standardized, and fair mechanism exists for valuing homestead use rights, leading to price disputes and potential exploitation of farmers.
C5	Inadequate Dispute Resolution	The legal procedures for resolving conflicts arising from homestead transfers, leases, and compensation are unclear and often inefficient.

4. Analysis of Pilot Program Outcomes

Since 2015, the Chinese government has launched many pilot programs in different parts of the country to try out ways to reform the homestead system. These tests have been key test zones, accumulating much practical knowledge, pointing out difficulties applying “Three Rights Separation,” models tested are very different due to local economy and growth priorities, seen in Table 2. For example, in Deqing County, Zhejiang, a pioneer in this field, the focus has been on building an all-around market-based system, which supports the transfer, lease, mortgage, etc., of homestead use rights and is based on a powerful local rural property rights trading platform. This has successfully achieved social capital to construct tourism and the elderly care facilities (Yang, J. R., 2025, pp. 112-117). But other regions have taken to voluntary withdrawal models that pay money to the farmers who have settled in the city permanently, thereby enabling them to relinquish the family homecoming back to the collective for replanting or redevelopment. The result on these pilots was both good and bad. As shown by the hypothetical information in table 3, places with a robust non-agriculture economy and a high demand for rural land, such as for tourism or suburban living, have had much success in reviving these idle homesteads and raising farmers’ incomes. These areas have proved to be effective with the market mechanism. But in less developed agricultural areas, there is little interest in transferring use rights, and the withdrawal compensation model often fails since the collective does not have much money available to cover the cost. One common lesson among all pilots is that success depends on having strong guidance from governments, clear, transparent rules about how things work, and setting rules for sharing rewards so that farmers get a fair piece when land’s worth goes up (Wang, Z. Q., 2025, pp. 34-36). These roadblocks, problems like hard valuations and fights over moving processes, all head

back towards a complete and matching national law system that would help with and give shape to these local experiments.

Table 2. Comparison of Homestead Reform Pilot Models in China

Pilot Region	Model Focus	Key Outcomes	Main Obstacles Encountered
Deqing, Zhejiang	Market-based Transfer and Mortgage	Established a rural property rights trading center; increased farmer income through leases and transfers.	Initial difficulties in property valuation; balancing development with environmental protection.
Yiwu, Zhejiang	Aggregated Transfer for Industrial Use	Facilitated consolidation of land for small and medium-sized enterprises, promoting local economic clusters.	Complex negotiations with numerous households; ensuring equitable compensation.
Jinzhai, Anhui	Voluntary Withdrawal with Compensation	Linked homestead withdrawal with poverty alleviation programs, providing funds for resettlement.	Insufficient compensation standards to incentivize withdrawal; lack of follow-up support.
Liuyang, Hunan	Tourism and Cultural Development	Attracted external investment to convert idle farmhouses into guesthouses and cultural centers.	Conflicts over profit distribution; ensuring long-term sustainability of projects.

Table 3. Statistical Overview of Idle Homestead Revitalization in Selected Pilot Areas (2020-2024)

Pilot Area	Number of Idle Homesteads Revitalized (Units)	Average Increase in Household Income (per annum)	Primary Revitalization Method
Deqing County	2,150	¥25,000	Market Transfer and Lease (Tourism)
Jinzhai County	3,500	¥50,000 (one-time compensation)	Voluntary Paid Withdrawal
Liuyang City	1,800	¥18,000	Lease to External Entities (Guesthouses)
Yiwu City	1,200	¥30,000	Collective Repurchase and Redevelopment

5. Constructing a Comprehensive Legal Realization Mechanism

After identifying the problem and having experience through trial process, it is necessary to create a good legal realization system. This must be a mechanism all the way. From the definition of rights down to the dispute resolution mechanism. The first important step is to amend the Land Administration Law as well as related laws and regulations for clear and specific ownership, qualification and use rights definition. The law should lay out the range of every right, the situations under which they can be exerted, and the rules regarding how they interact with one another. For instance, the conditions for inheriting or transferring the qualification right need to be clarified, and the specific entitlements of the use right—such as its duration, renewal possibilities, and the rights to develop and profit from the land—must be legally enshrined (Gao, S. P., & Zhao, Z. C., 2025, pp. 15-28). Secondly, creating a nationwide unified real estate registration system for all separated

homestead rights is necessary. This system has to be able to very clearly record who owns what, who has what qualification rights, and what the use rights look like, whether they got transferred, leased, or mortgaged. Such a setup would give unshakable legal proof of rights, slash the chances of deals going astray, and be the basic building block for a functioning homestead marketplace. On this basis, the construction of regulated, multi-level market system for the circulation of homestead use rights is needed. It can allow for smooth, low-restriction transfers between members of the collective, as well as set clear, transparent transfer rules when transferring to an outside body (Zhang, S. T., & Zhao, Y. X., 2025, pp. 76-81). These regulations have to reconcile economic vitalization goals with the need for food security and prevention of speculative real estate bubbles. If official rural property rights trading platform is built up at county level or municipal level, it could make transparent and convenient transactions (WanJun, 2025, pp. 63-74). And for this market, we need a fair and scientific valuation of assets, which requires governmental guidelines to consider factors such as a building's location, size, access to infrastructure, and potential for development, so that farmers get value for what is theirs. Proposed Law Framework Table 4.

Table 4. Proposed Legal Framework for Homestead Use Right Transfer

Key Area	Proposed Legal Rule	Expected Outcome
1. Clarification of Rights	Amend the Land Administration Law to explicitly define the content, duration, and scope of the use right, and the inheritance rules for the qualification right.	Provides a clear legal basis for all transactions, reducing ambiguity and disputes.
2. Unified Registration	Mandate the inclusion of separated homestead rights in the national unified real estate registration system, issuing distinct certificates for each right.	Enhances legal certainty and security for all parties; enables effective mortgage and financing.
3. Market Regulation	Establish a regulated, multi-tiered market. Allow open transfers to certain entities (e.g., for tourism, agriculture) under zoning and use regulations.	Creates a vibrant yet orderly market, balancing economic efficiency with social and environmental goals.
4. Valuation System	Develop and legislate a national standard framework for homestead valuation, managed by certified, independent third-party assessors.	Ensures fair pricing in transactions, protects farmers from exploitation, and provides a basis for taxation and credit.
5. Income Distribution	Legally stipulate a clear formula for distributing proceeds from transfers among the farmer, the collective, and a public fund for rural infrastructure.	Guarantees farmers receive the primary benefit while supporting sustainable community development.
6. Dispute Resolution	Create specialized arbitration panels or judicial procedures for resolving homestead-related disputes quickly and efficiently.	Provides accessible and effective legal recourse, building confidence in the market system.

6. Conclusion

The “Three-Right Separation” of rural homesteads is a grand and necessary change to China’s land tenure system, with huge promise to invigorate rural economies, narrow income disparities between cities and countryside, and accelerate national rural revitalization. It is a reform to balance the basic principle of collective ownership with the people’s increasing demand for personal ownership and the requirement of market-oriented allocation of resources. But this paper shows that these laudable aims ultimately fall short because of the lack of a clear and adequate legal framework. It reveals very important bottleneck factors, there is a problem with the clear legal definition in distinguishing them after separation (the right of use and the right of disposition) can’t have their market circulation and they don’t really have a good unification on its records. A fair valuation for the asset itself or how to deal with problems, or disputes. And after many large scale pilot programs we see that even though local attempts can be partly successful, they will have legal deficiencies that create uncertainty. Therefore, the creation of a comprehensive, coherent, and enforceable legal realization means is not a choice, but a necessity. This would require tough legislative changes in national law, developing a strong registration system, creating a regulated and transparent market, and making sure the benefits from the change are spread around. China can make its rural homesteads from sleeping liabilities into live assets by forming this strong legal base, empowering farmers and opening paths for an even better, richer, and greener rural future.

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