

## Original Paper

# Study on the Reform of Rural Residential Base Use Right Transfer in the Context of Comprehensive Rural Revitalization

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### Abstract

*Homestead resources are important resources in rural areas, with the rapid development of urbanization, more and more agricultural population is transferred to cities and towns, and the situation of idle rural homesteads is becoming more and more serious. Promoting the transfer of the right to use the residence base, revitalizing idle land resources, is conducive to promoting the economic and social development of rural areas, and contributes to the realization of the goal of rural revitalization. Since the reform of the “three rights of the residence base” proposed by the central document No. 1 of 2018, various regions have explored the transfer of the residence base. At present, the reform of the transfer system of the right to use the residence base is still in the groping stage, and there are still many problems in the reform process, such as incomplete legislation on the residence base and chaotic management, etc. In this context, the analysis of the problems faced in the process of the transfer of the residence base will help to alleviate the contradiction of the residence base and help rural revitalization.*

### Keywords

*Rural revitalization strategy, Rural homestead, Circulation of use rights*

## 1. Introduction

Land as an important resource in rural areas, the reform of rural land system has an important role in achieving rural revitalization. As an important part of the collective ownership of rural land, deepening the reform system of rural residential base has a positive effect on the activation of rural land resources. With the development of economy and society, a large number of agricultural population moves outward, and the phenomenon of idle residence base is serious. Subject to legal restrictions, for a long time, farmers have the right to use the residence base is restricted, the rural residence base has long been in an

embarrassing position, the farmers are eager to turn it into property income through the transfer of the residence base. 2018 Central Document No. 1 put forward the “three rights of separation”, to promote the pilot reform of the residence base, the “three rights of separation”, to promote the pilot reform of the residence base, the “three rights of separation”, to promote the pilot reform of the residence base. The concept of “three rights of separation” is put forward in the hope of guaranteeing the function of farmers’ survival while pushing the use right of idle residence base to the open market, revitalizing the resources of idle residence bases, and improving the income of farmers. As an important land resource, the rational use and development of residential land is the key to achieving comprehensive rural revitalization in China. The key to the reform of the transfer system of the right to use the residential base is to protect the rights and interests of farmers, for farmers, the residential base has the function of security and economic value of two attributes, the transfer of the right to use the residential base in the process of the contradiction between the function of security and the economic value of the reform of the reform of the problem of the obstacles. Under the background of “three rights of separation” policy, the transfer of the right to use the residential base is an important issue in China’s rural economy.

## **2. Overview of the System for the Transfer of the Right to Use Residential Land**

### *2.1 The Right to Use the Residential Base*

Residential land has the dual attributes of security function and property function, and its security function is in the primary position. 2018 “Central Document No. 1” puts forward the “three rights of residential land”, which clearly divides the rights of residential land into ownership, qualification right and right of use. Among them, the acquisition of the right to use the residential base is limited to the collective, and the transfer of the right to use is also subject to strict restrictions. The transfer of the right to use the residential base refers to the transfer of the eligible right to use the residential base to other people or economic organizations in accordance with the principle of the integration of housing and land, and the transfer of the right to use the residential base to other people or economic organizations in accordance with the law through a certain way.

The right to use the residential land can only be granted to members of the collective economic organization, and members of the collective can obtain the residential land without compensation. Homesteads are subject to strict approval procedures, with the applicant submitting the application and the township government being responsible for approving it, and only one homestead can be owned by a farming household. At present, most areas for the transfer of the right to use the residential land is limited to the collective internal composition of the members, outward transfer must be through the collective economic organization’s consent. China’s housing transfer process adhere to the principle of one house, due to more restrictions on the right to use the residential base, the rights of the farm house is also more restrictive, such as agricultural mortgage is limited.

## *2.2 The Transfer of the Right to Use the Residential Base System Change*

The development process of China's residential base can be roughly divided into three stages. 1950 "Land Reform Law" put forward the farmers have land ownership, this stage, our country for the residential base of the law is less, the farmers for the residential base to enjoy the complete right of property, can be free to buy and sell turnover (Dong, 2019, pp. 2-27). 1962, for the first time, put forward the concept of the residential base, and the division of residential base of the right to ownership and right of use, the ownership of collective ownership, mandatory restriction of the right of use of residential base, and the right of use of residential base. In 2013, the Resolution on Several Major Issues of Comprehensively Deepening Reform began to focus on the property attributes of the residential base, and since then, the state has begun to implement the reform of the pilot work, and in 2018, the "Central Document No. 1" for the first time from the level of national policy In 2018, the "Central Document No. 1" for the first time from the national policy level formally put forward the reform of the "three rights of the residence base", the rights of the residence base will be divided into ownership, eligibility rights and the right to use the residence base, to promote the effective use of the residence base resources.

As the problem of unused residential bases has become more and more prominent, government departments have also introduced many corresponding policies to regulate the management of residential bases. 2019 saw the third amendment to the Land Management Law of the People's Republic of China, which stipulates that, with the approval of the township (township) government, farmers may voluntarily and in accordance with the law put up their residential bases at a price, encouraging the revitalization of the use of unused residential bases and unused residential houses, and that the corresponding department of the State Council is responsible for the reform of residential bases across the country. In 2023, the Central Government's Document No. 1 continued to emphasize the need to "steadily and prudently push forward" the pilot work of reforming homesteads. Since 2020, the Central Document No. 1 has emphasized the "prudent advancement" of rural residence reform pilot work for four consecutive years. Residential base reform policies cannot be separated from two key words, "stable and prudent promotion" and "moderate relaxation". Homestead reform cannot deviate from the fundamental system of collective ownership of homesteads, but also needs to protect the rights and interests of farmers from the ground up.

## **3. The Necessity of the Transfer of the Right to Use the Residential Base**

### *3.1 To Promote the Transfer of the Right to Use Residential Land, Is Conducive to the Rational Allocation of Land Resources*

As China's urbanization rate is gradually increasing, a large number of people in rural areas are moving out of the countryside to the towns, and the rural population is gradually decreasing, there are a large number of idle residential land, which can't be reasonably developed and utilized, and the phenomenon of idle residential land in rural areas is more serious. According to the survey data of the Ministry of

Agriculture and Rural Development, the idle rate of rural residential land is more than 18 per cent, and a large number of idle residential land has caused a waste of land resources. On the one hand, a large number of rural residential land idle, on the other hand, urban construction land shortage, urban and rural elements do not circulate is one of the obstacles to urban-rural integration and development, and actively explore the transfer system of residential land is conducive to promoting urban and rural elements flow, is to achieve the optimal allocation of land resources.

### *3.2 Promoting the Transfer of the Right to Use the Residence Base Is Conducive to Safeguarding the Rights and Interests of Farmers*

Homestead that has the function of security and property function, “separation of rights” system, pay more attention to the security function of the homestead, with the economic and social development, the traditional fixed land thinking gradually changed, farmers hope that the transfer of homestead can bring more economic benefits. In this context, the property value function of the residential base is gradually highlighted, promote the transfer of the right to use the residential base, can increase the farmers' income sources, improve the welfare level of farmers (Liu & Zhang, 2023, pp. 63-67, p. 117). With the development of urbanization, it is an inevitable trend to promote the transfer of the right to use the rural residential base. Due to the current stage of China's regulations, only members within the collective organization can enjoy the right to residential base, and follow the principle of housing and land integration, the transfer of the right to use residential base is strictly limited. Farmers with the right to use the residential land is difficult to play the property rights and interests of the residential land, for some of the farmers to settle in the city, it is difficult to convert the idle residential land in their hands into property income. Explore the effective way of transferring the right to use the residential base, in order to let the farmers really enjoy the property function of the residential base.

### *3.3 Promote the Transfer of the Right to Use the Residential Base, Is Conducive to Promoting Rural Revitalization*

Land is the most important resource for rural development, residential base is an important part of rural land resources, and actively explore the transfer of residential base right of use system is conducive to the full use of residential base resources. China's current legal system strictly idle residential base transfer, idle residential base resources in the hands of farmers can not reflect the property attributes of rural revitalization is the main body of farmers, to promote the transfer of the right to use the residential base can help farmers to increase property income. Promote the transfer of the right to use residential land can attract urban capital to the countryside, improve the level of rural infrastructure, the development of leisure tourism, etc., to promote the upgrading of the agricultural industry, and promote the revitalization of rural industry. Reform of the right to use residential land is an important impetus to achieve comprehensive rural revitalization.

#### **4. The Current Situation of the Reform of the Transfer of the Right to Use the Rural Residential Base and Dilemma**

##### *4.1 The Current Situation of the Transfer of Residential Base in Qingdao*

In 2017, the Shandong Provincial Government selected 17 counties and cities to carry out the pilot reform of rural residential base “three-rights distribution”, and Pingdu City, as the only district and city in Qingdao City, was included in the pilot reform of the whole province. In 2019, Pingdu City issued the “Interim Measures for the Transmission of the Right of Use of Rural Residential Base”, which stipulates that the right of use of residential base can be transferred within the members of the collective economic organization. The right of use can be transferred within the members of the collective economic organization, through transfer, swap, gift, inheritance, lease, shareholding, etc.; the right of use of the residence base can also be transferred to non-members of the collective economic organization, through inheritance, transfer of a limited period of time, leasing, shareholding and other ways of transfer. In 2020, Pingdu was included in the new round of national rural residence system reform pilot. Pingdu in the process of residence base reform, actively explore a variety of residence base circulation methods, 2022 July 6, “Pingdu City, rural residence base right of use and house ownership mortgage management interim measures”, innovative residence base right of use mortgage circulation methods, and successfully handle the first residence base mortgage registration business.

Laixi City, Qingdao, is also actively exploring rural residential base reform, encouraging villagers to lease, self-employment, shareholding, withdrawal and other ways to revitalize idle residential base resources. Renting out idle rural residential base and exchanging it for rent is one of the simplest and most common ways of transferring the right to use the residential base. Such as Jiangshan Town, Laixi City, a village, the village of multi-family residential base in the long-term idle state, in order to revitalize the idle residential base resources, the villagers will be unused housing packages rented to automobile manufacturing plant as staff quarters, increasing the income of farmers. Laixi City, the production of Zhi Village, the use of “rental guaranteed income + profit sharing” approach, the village unified responsible for the establishment of a co-operative to repair a number of sets of unused houses, combined with the local Jiaodong characteristics of folk art, the development of tourist attractions, revitalization of idle home base resources. Laixi City, Xiagezhuang Town encourages villagers to voluntarily withdraw from the residential base, for the withdrawal of the residential base, according to the specific characteristics of the plot, to determine the reclamation of farming or construction land redevelopment, will be marketed to maximize the protection of the rights and interests of farmers.

Qingdao West Coast New Area, Baoshan Town, wind river new village of large steep cliff grid village, make full use of the local tourism resources around the advantages of the many, give farmers the corresponding compensation, acquisition of more than 20 acres of unused home base, unused home base unified planning to create a bed and breakfast. The village collective to take with the enterprise “rental guaranteed income + profit sharing” mode of cooperation, after the expiry of the agreement

housing and all fixed assets owned by the village collective. The way to revitalize the idle residential base resources to improve the appearance of the village at the same time, but also led to the sale of local agricultural products, increasing the property income of farmers.

In order to regulate the orderly transfer of the right to use residential land, 2022 Qingdao City in the province took the lead in the introduction of the “Qingdao City, rural residence right to use the transfer of management measures”, the “measures” for the transfer of residential land, the preconditions for the transfer of procedures to make a clear provision, and further regulate the transfer of the right to use the residential land, gift, swap and rental and other acts.

#### *4.2 Difficulties in the Transfer of the Right to Use Residential Land*

From the reform pilot situation, the reform process for the transfer of the right to use also faces more problems.

Restrictions on the transfer of the right to use the residential land. “Separation of the two rights” system, in order to strengthen the security function of the residence base, safeguard the basic rights and interests of farmers, prohibit the transfer of residence base. For a long time, the law focuses on the protection of the rights and interests of farmers, but in recent years, with the acceleration of urbanization, more and more people go to the towns and cities to work and settle down, more and more unused residential land in rural areas, under these conditions, continue to strictly restrict the transfer of residential land is not conducive to the rational use of land resources. At present, the law for the transfer of residential land is more strict restrictions. In some of the non-state-determined pilot areas for reform of the homestead system, the transfer of the right to use homesteads outside of the village collective will be considered to have an impact on the collective land ownership of the collective organization, and therefore the law stipulates that the right to use homesteads is not permitted to be transferred to people outside of the farmers’ collective. In addition, the transfer of rural housing property rights is also strictly limited due to the fact that rural residential land adheres to the principle of unity of premises and land.

The legislative system is not sound. At present, there is less legislation on the right to use residential land in China. Among the provisions on the right to use homesteads, Article 362 of the Civil Code stipulates that the owner of the right to use homesteads enjoys the right to possess and use the collective land. The law does not give farmers the right to gain and dispose of the homestead (Ding, 2021, pp. 101-106). Although the transfer and mortgage of the right to use the homestead are being actively explored around the world, there are fewer relevant laws. The inadequacy of the legislative system on the one hand leads to the seriousness of the phenomenon of the private transfer of residential land, and on the other hand, the rights and interests of the object of transfer of the right to use residential land can not be guaranteed by the law. The current legal provisions are vague, it is difficult to adapt to the adjustment of policy changes, China for the transfer of the right to use the residence of the legislation there are certain gaps.

The management of residential land is chaotic. The phenomenon of “one household with multiple residences” is also one of the problems faced in the process of reforming the residence base. More restrictions on the transfer of residential land, “one household with multiple residences” has become a common phenomenon, a large number of idle residential land cannot be effectively utilized, and farmers are forced to idle their excess residential land. At the same time, for farmers can use the idle residential base in exchange for benefits, although the current legal system, residential base transferee subject is limited, but farmers expect to achieve property income through the transfer of residential base, triggering a large number of invisible transfers, farmers have the phenomenon of private transactions. The transfer of residential land transaction system has not formed a unified standardized process, resulting in confusion in the process of transfer of management, unable to make effective and reasonable use of resources.

The value-added efficiency of the residence base is not high. The purpose of the reform of the residence base is to protect the interests of farmers, the compensation mechanism is not sound, the land appreciation benefit is unreasonable etc. will affect the transfer of the residence base. As the transfer of homesteads is strictly limited, the government is in a dominant position in the transfer process (Wang & Yang, 2020, pp. 44-47). The unified planning of the government is conducive to the rational use of land resources, but it is easy to cause the phenomenon of unreasonable distribution of homestead expropriation proceeds, the current reform of homestead is still in the groping stage, farmers are in a disadvantaged position on the distribution of homestead value-added income, and the rights and interests of the farmers cannot be reasonably safeguarded. In addition to the government’s unified planning method, affected by the relevant regulations and policies, the transfer of residential land such as rental income is also low, and the asset attributes of residential land cannot be effectively demonstrated.

## **5. Suggestions for Improving the Transfer of the Right to Use Rural Residential Base**

### *5.1 Improve the Residence Base “Three Rights” System Legislation*

The transfer of the right to use the residential base needs to be done in accordance with the law, the current legal policy strictly limits the transfer of the right to use the residential base, the reform of the residential base needs to change the current legal policy, allowing the transfer of the right to use the residential base in an orderly manner, improve the transfer of the right to use the residential base. Relevant laws, such as the Civil Code, Land Management Law, etc., should clarify the attributes of residential base usufruct rights. The improvement of residential base legislation needs a process, the relevant departments should do a good job of research, understand the needs of farmers, protect the legitimate rights and interests of farmers, make full use of idle residential base resources, and help rural revitalization. Improve the transfer of the right to use the residence of the relevant legal policy, on the one hand, to ensure that the farmers occupy a dominant position, to protect the interests of farmers, but

also focus on the protection of the transfer of the right to use the residence of the legitimate rights and interests of the object, the right to use the residence of the disputes that should be done to have a law to rely on; on the other hand, we must adhere to the nature of the land of the public system remains unchanged, a clear property rights of the residence of the ownership of the problem.

### *5.2 Improve the Mechanism of Guaranteeing the Interests of Farmers*

Homestead with property and security dual function, the transfer of homestead reform process, not only to revitalize idle homestead resources, increase the income of farmers, but also pay attention to improve the transfer of the social security system of farmers. In the process of transfer of residential land, to do fully respect the views of farmers, strictly prohibit the phenomenon of forcing farmers to go up. In the government-led transfer of the right to use the residence in the process, the implementation of the village collective planning, the villagers into the way, the specific implementation process should pay attention to the protection of the interests of farmers, the transfer of the right to use the residence in the proceeds of a fair and reasonable distribution. Such as Jiangshan city, Zhejiang province for the rural residence base income distribution put forward democratic determination of income distribution program, to ensure that the farmers' right to know, the right to participate in and supervise the establishment of democratic management mechanism, strictly supervise the residence base value-added income.

### *5.3 Appropriately Expanding the Scope of the Transfer of Residential Land*

The main body of the transfer of the residence base is restricted to the collective internal, limited demand, idle residence base cannot be reasonably utilized. From the home base reform practice, some areas to try to release the home base transfer range of restrictions, "three rights", the purpose of the reform is to better revitalize the idle home base, the appropriate expansion of the home base transfer range is conducive to the effective use of idle home base resources. Such as Hunan Liuyang to explore the expansion of the scope of the transfer of residential land, from the actual needs of the villagers, the transfer of residential land will be limited to the city's farmers, some village collectives can also be used in the way of the auction of residential land, revitalization of unused residential land, increasing the economic value of residential land. Expanding the restrictions on the transfer of residential land does not mean that the right to use residential land can be transferred at will, the appropriate expansion of the transfer of residential land should be established on the basis of the protection of the right of abode of farmers, so that farmers in the process of the transfer of the dominant position, and actively explore the transfer of the right of use of residential land in a way that is beneficial to the farmers to increase the property income of the farmers.

### *5.4 Sound Residential Base Regulatory System*

Firstly, the property right system of residential base should be improved, and the ownership of the right to use residential base should be clarified. Secondly, combined with the digital countryside strategy, the establishment of the transfer platform of the right to use the residential base, the digital management of



the residential base (Chen, 2023, pp. 52-56). The establishment of residential base right to use the flow of information release, flow of formalities, flow of legal advice and other aspects of the integration of the information platform, orderly specification of residential base right to use the flow of procedures, and the flow of information on the residential base to be published, the public can actively play a supervisory and management role, strictly regulate the phenomenon of invisible flow of residential base. Such as Jiangsu Province Dianshan Lake Town ride the use of Jiangsu Province rural property rights trading circulation platform flow restrictions on residential base resources, through the online application, approval, trading and other ways of rural residential base management, while the introduction of bidding mechanism, is conducive to improve the value of the residential base, increase the income of farmers.

#### *5.5 Improve the Residence Base Paid Withdrawal Mechanism*

At present, there are pilot projects to explore the permanent withdrawal, temporary withdrawal, property right replacement, monetary compensation and other ways for the paid withdrawal of residential land. Homestead compensation withdrawal implementation process, must follow the principle of voluntary compensation, part of the region there is a mandatory transfer of homesteads forced farmers to “upstairs” phenomenon, the rights and interests of farmers cannot be effectively protected. Homestead compensation amount of compensation standards need to be scientifically assessed and reasonably measured, and effectively protect the rights and interests of farmers. When formulating policies related to the compensated withdrawal of homesteads, local governments should broaden the mechanism for withdrawing from homesteads by adopting a variety of methods on the basis of ensuring the protection of farmers’ rights and interests. For example, Luoping County in Ningxia has adopted the “land for old age” model, in which the elderly within the village collective can withdraw from the homestead, and exchange the land contract management right and house property right for old age services, and the withdrawn homestead will be transferred and operated by the village collective, and the village collective will unify the planning of old age facilities, which protects the rights and interests of the peasants and enables the idle homestead to be reasonably and effectively used voluntarily. Voluntarily get a reasonable and effective use.

#### *5.6 Innovative Residential Base Sharing Mode of Construction*

In the process of transferring the right to use the residential base, can actively introduce social capital to join. Residential base sharing, considering the residential base right to use the residence of the demand and social capital demand, fully respect the wishes of farmers under the premise of allowing members of the village collective internal shares, joint social capital co-development, social capital contributors can enjoy the right to use the residential base for a certain number of years. For example, in Sichuan Lu County, the “building and sharing” model introduces social capital to invest in the construction of houses, retaining the right to live in the farmers’ houses, and the social capital and the farmers enjoy the right to use the houses together. Innovative residential base “building and sharing” model can not

only attract social capital to the countryside, to solve the problem of insufficient funds for rural transformation, but also to protect the rights and interests of farmers, increase farmers' income.

## 6. Summary

The purpose of the reform of the transfer of the right to use the residential base is to revitalize the idle residential base resources, increase the property income of farmers, and help revitalize the countryside. At present, the reform of residential base is in the groping stage, and the research on the problems in the reform process can help promote the reform of residential base system. Residential reform should adhere to the rights and interests of farmers in the first place, and actively explore the transfer of residential base, innovative residential base management mechanism, so that idle residential base can be effectively used to lay a solid foundation for rural revitalization.

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