

Rural Collective Construction Land Transfer and Intergovernmental Power Allocation under the Background of Provincial Management at County Level

Xiaoqian Liu, Peng Liu

School of Economics and Management, Chengdu Technological University, Chengdu, China

Email: ganjin888@163.com

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Abstract

This paper uses the materials obtained from theoretical analysis and field visit and research on the circulation of rural collective construction land and the allocation of inter-governmental power under the background of provincial management at county level. Research and analysis found that the current power structure of China's rural collective construction land transfer is distributed like a sword hilt, which is actually a manifestation of weakening the county-level government's ability to allocate land resources. In the practice of county administrated by province reform, in order to ensure the most effective way for the new urbanization and industrialization led by the county-level government to interact and comprehensively advance, it is necessary to reconstruct the domestic collective construction land transfer power allocation system, so as to realize the combination of collective construction land transfer and provincial management at county level.

Keywords

Collective Construction Land Transfer, Power Allocation, Provincial Management at County Level, Resource Allocation

1. Introduction

With regard to the transfer of rural collective construction land in China, the existing research has been described, focusing on exploring the root causes of rural collective construction land transfer, or theoretical analysis of the mechanism of the transfer process, and then combining laws and policies to propose solutions. This paper holds that the existing researches still lack sufficient attention to the

following issues: First, as the leading role in promoting new urbanization and industrialization, the county-level government plays an indispensable role in the rural collective construction land transfer system. However, the existing researches lack in-depth analysis on the role and mechanism of county-level governments in it; Second, in the process of land resource allocation, the central government's macro-control role and the allocation of responsibilities between local government at all levels is an unavoidable topic (Fu, 2018). However, the existing researches pay more attention to the absence of the role of grass-roots government, and do not deeply explore the phenomena of the mismatch of rights and responsibilities of county and township governments caused by the vertical inter-governmental relationship.

Compared with the existing research, this research focuses on the rural collective construction land circulation and the allocation of inter-governmental power. China's social and economic development space has been further transferred to counties. On the other hand, the deepening reform of county administrated by province and the responsibilities of county-level governments in the interaction between informatization and industrialization are very disproportionate to the resources they can mobilize and the current financial situation (Li, 1993). Therefore, through the transfer of rural collective construction land led by the county-level government and its high-efficiency role in the allocation of land resources, it is bound to become the most important driving force for the social and economic development of China's counties. The significance of this paper lies in enriching the theoretical research on the provincial management at county level and rural collective construction land, and providing practical guidance for reconstructing the power allocation system of collective construction land transfer and realizing the combination of collective construction land transfer and provincial management at county level. The data in this article mainly obtained from the field survey of the grass-roots government, and the data mainly from China's County Economic Yearbook.

2. Current Situation of Collective Construction Land Transfer Power Allocation System

From a macro perspective, the land resource allocation power involved in the transfer of rural collective construction land in China can be divided into: Legislative Power, Policy Allocation Power based on pilot projects, Policy Guidance Power, Transfer Approval Management Power, Transfer Pricing Guidance Power, Illegal Supervision and Punishment Power, Distribution Of Transfer Income Power, etc.

Obviously, the Central Committee of the Communist Party of China takes the lead in the legislation and amendment of the collective construction land transfer, which can peep its vein change rule from the evolution process of the relevant laws and regulations of the Central Committee on the collective construction land transfer (Huang & Du, 2014). With the advancement of China's eco-

conomic and social transformation, “the transfer of collective construction land has gone through four stages: prohibiting transfer, restricting transfer, loosening policies and seemingly possible (Qian & Mou, 2013)”. By means of administrative authority, the central government has made a general provision of guiding framework on the transfer conditions, transfer principles, transfer ways, power subdivision, income distribution and so on of collective construction land transfer at the level of law (Dou, 2013). The current Land Administration Law in China stipulates that the use right of collective construction land shall not be illegally transferred for non-agricultural construction; collective economic organizations themselves can use the collective construction land for setting up township enterprises and villagers to build houses, or the land for the construction of public facilities and public welfare undertakings in the village (town), but it must be approved according to law and conform to the overall planning of land utilization; the use right of collective construction land can be transferred according to law due to enterprise bankruptcy, merger and other reasons. It can be seen that the central government allows rural collective construction land to transfer conditionally in the form of law, while the scope is narrow and the conditions are harsh.

At the same time, the current laws and regulations in China have not yet clearly stipulated the approval and management power of collective construction land transfer, let alone the statutory power allocation mode. Due to the lack of national unified guidance documents, various places have carried out beneficial explorations, forming a diversified collective construction land transfer approval management power allocation mode with different characteristics. Many provinces and pilot cities in China have formulated local collective construction land transfer policies according to the actual situation. They have issued the corresponding collective construction land transfer management measures in the form of Notice, Work Opinions, Trial (Temporary) Measures, Implementation Plan and so on and the detailed regulations are made on the transfer subject, transfer scope, transfer conditions, transfer ways, transfer procedure, transfer restrictions, income distribution, violation handling and so on of collective construction land transfer (Richard, 2014). Summing up the practice situation in different places, the collective construction land transfer approval management power is mostly concentrated at the provincial and municipal levels, but the specific division of power between provinces and cities varies according to the region, there is no fixed number. However, one thing is clear, that is, the prefecture-level cities that have obtained the pilot rights generally have more substantive approval management authority, and the provincial government where the pilot places are located is supplemented by appropriate policy guidance authority.

It is worth noting that the ownership of collective construction land transfer pricing right involves the way of price determination. In practice, the method of price determination varies from place to place, and through the comparative analysis of each pilot areas, the model can be roughly concluded as transfer price

= base price + floating price (Ye & Zheng, 2012). The power to determine the base price and the power to examine the final price of transfer generally belongs to the prefecture-level city government, and the local municipal land administration department takes the lead in determining the minimum protection price, the base land price, the standard land price and the appraised price of the parcel land and so on, and then fully consider the location factors to determine the floating price. “The ownership of floating price determination right is unclear, and there are great differences among different regions, including the ways of following: determination of local land departments, the determination of local governments, the determination of local governments and land owners through consultation, and the determination by appraisal agencies (Wang, Hong, & Peng, 2012).”

“Collective construction land forms transfer income due to the regional advantages and the improvement of comparative value which are brought by the long-term national investment in the construction, and as the subject status of macro resource allocation, local government’s participation in transfer income distribution will inevitably involve the issue of inter-governmental allocation of income powers” (Wang, Hong, & Peng, 2012). From the pilots in the different regions, the levels of local government participating in the distribution of transfer income as the subject status of transfer income distribution involve the three levels: city, county (district), and township, the forms of participation vary greatly in different regions, or direct income stratification, or adjust by the way of tax. The distribution ratio of inter-government transfer income varies from place to place, among which are focused on the rights and interests of farmers and villages and towns in the transfer of collective construction land are fully guaranteed, and the county-level government gains less due to its low participation degree.

In addition, the transfer of collective construction land also involves the power of illegal supervision and punishment, according to the current legal and practical situation, the supervision and punishment power of illegal transfer of collective construction land mostly belongs to the county government (Ye & Zheng, 2012). The current Land Management Law stipulates: “If the power of using the land collectively owned by farmers is sold, transferred or leased for non-agricultural construction without authorization, the land administration department of the people’s government at or above the county level to make corrections within a time limit and, confiscate his illegal gains and impose a fine”. It is not difficult to see from the legal provisions that the illegal cost of illegal transfer of collective construction land is relatively low, in addition, the distribution of collective construction land is scattered and the hidden transfer ways are various, county-level governments often choose non-supervision or formal supervision rationally based on the considerations of the county-level economic development, increasing farmers’ income, supervising the income and cost comparisons, etc.

Through the above-mentioned analysis of the current situation of the inter-governmental power allocation with the collective construction land transfer as the index, it is not difficult to find out: in terms of power content, combined with laws and regulations, policy documents and practical conditions the Central Power is authoritative and specific, and the power of provincial government is abstract and general, the power of municipal government is substantive and operational, the power of county-level government is authorisation and the responsibilities are unequal; From the perspective of power structure, the power allocation structure of inter-government collective construction land transfer distribution shows as a “sword hilt” (see **Figure 1**), the central and municipal governments have greater power, which can be regarded as “sword head” and “sword guard” and play a leading role, while the power of county-level government is relatively little, which can be regarded as “sword body”, being responsible for execution and swinging with the sword handle, lacking autonomy.

From the current inter-governmental power allocation structure with the collective construction land transfer as the index, the current collective construction land transfer power allocation has not got rid of the thinking and behavior inertia of “city administrates county”, thus it is difficult to meet the internal demand of the collective construction land transfer for the goal of rapid development of urbanization and industrialization and economically strong counties (E & Pang, 2013). The county-level government’s collective construction land transfer power is insufficient and its autonomy is low, so that it cannot maintain the county interests in the game with municipal power and interests. Meanwhile, municipal governments often rely on their political advantages to absorb resources, rights and interests which are originally belonging to the counties, using

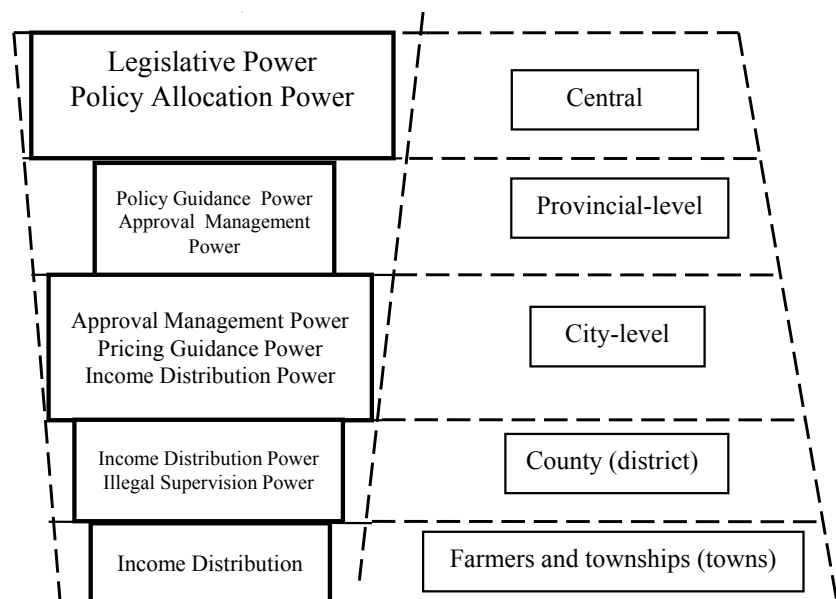


Figure 1. Inter-Government collective construction land transfer power allocation structure diagram.

their collective construction land transfer approval management powers to serve the development of central cities.

3. Reconstruction of Collective Construction Land Transfer Power Allocation System from the Perspective of Province Governing County

With the transition of China's economy and society, it is the general trend to expand power and delegate power, strengthen the county to stabilize the basic. It is very necessary to reconstruct the power allocation system of inter-governmental collective construction land transfer, and government at all levels needs to redefine their roles on the basis of the adjustment of interest relations. To be specific, it is to change the traditional power distribution structure of "sword hilt", and to devolve the transfer approval power and departmental income distribution power originally belonging to the municipal-level government to the county-level government, giving it sufficient autonomy to achieve the purpose of optimizing the local governance structure and enhancing the county-level resource allocation ability. As shown in **Figure 2**, the conception distribution of the new power allocation system shows as a "dumbbell", which is a relatively stable governance structure.

3.1. Central: Designer

To reconstruct the power distribution system of collective construction land transfer, the central government should be the leading designer of power expansion reform. First of all, the central governments should take the principles of macro vision, overall consideration, systematic thinking and overall grasp in order to have a forward-looking understanding of the complex problems, reform timing, strategy selection and strength control faced by the collective construction land transfer and power allocation; Secondly, focus on the interests of the whole society or the country, play the authority of "wise minority", and seize the

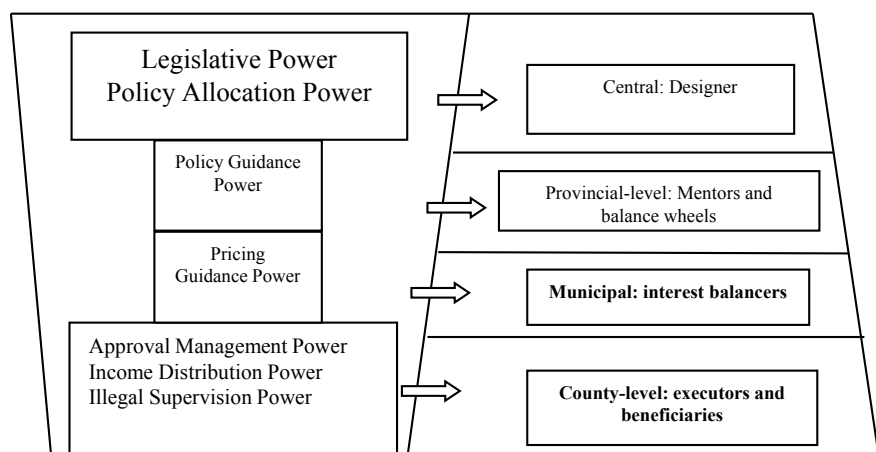


Figure 2. Reconstruction conception of collective construction land transfer power allocation system.

opportunity to interpret and predict the social economy environment of urbanization, industrialization and collective construction land transfer, amend or issue transfer laws, regulations and policies which are new and meet the requirements of social and economic development. Build the collective construction land transfer platform from the level of law and system, endow the transfer with a new legal position to clarify and standardize the principle and scope of collective construction land transfer and the power distribution of local government which takes the Province Governing County as the starting point, forming a complete legal chain; Finally, fully respect the special status of county-level governments in the national governance system, and the central governments should directly give more counties the pilot powers and preferential policies of collective construction land transfer, clearing the approval management power of the county governments on the collective construction land transfer and the main position of the transfer income distribution, preventing the superior governments from intercepting the power of decentralization, thus forming the situation of malicious interests competition between cities and counties.

3.2. Provincial-Level: Mentors and Balance Wheels

In order to reconstruct the power allocation system of collective construction land transfer which is marked by the strong county and solid foundation, the provincial government should determine the role of guidance and balance wheel. As the extension of the central power, the provincial governments must play a role in the transmission, diffusion and digestion of the collective construction land transfer policy between the central and grassroots. And the provincial governments can actively innovate specific operational approaches that are compatible with the actual situation of local social and economic development within the scope of the central government' laws, policies and power distribution framework on collective construction land transfer. It's including the transfer subject, transfer scope, transfer conditions, transfer ways, transfer procedures, transfer restrictions, income distribution, violation treatments and other detailed provisions. And in the form of local policy documents to ensure the county-level government' control subject status in the collective construction land transfer, give full play to its policy guidance role, in order to improve the compatibility between the top-down mandatory institutional change of the central governments and the bottom-up induced institutional change of the grassroots.

Based on the implementation policy of the collective construction land transfer power expansion reform, the provincial governments should also play the role of "balance wheel" interest game between cities and counties. At the same time of delegating the management power of transfer approval, explore the most reliable proportion of power allocation, which can be delegated, which should be partially delegated, and how to offset the friction cost of reform. These are all issues worth discussing. After all, expanding the management authority of collective construction land transfer of county-level governments will damage the

short-term interests of the municipal level and dampen the development enthusiasm of prefecture-level cities. And the provincial governments should comprehensively balance the administrative power relations among the three levels of province, city and county, and control the reform range within the scope that economic development affordable.

3.3. County-Level: Executors and Beneficiaries

There is no doubt that the decentralization of collective construction land transfer approval and management power will break through the previous hierarchical control of county-level governments power allocation, which is conducive to enhancing the resource allocation ability of the county-level government, so that the county-level governments have more independent choice space of resources allocation and flexibility of coordination and operation. According to the requirements of new urbanization, industrialization and county economic development,” the county-level governments should consciously assume the role of promoter of county economic development and provider of public goods, and fully implement the central governments and provincial policies on the collective construction land transfer. Then should use enough and make full use of all the powers delegated and endowed by the superior governments to adapt to the new situation, new work and new challenges under the background of provinces governing counties”, and do not “absence”, “offside” or “displacement”. The transfer management power undertaken by the county-level government is expanded, and the corresponding income power should also be increased. Therefore, according to the principle of “determining the financial power by administrative power”, the distribution power of transfer income should be re-divided. On the basis of clarifying the scope of administrative power at the county-level, the income power of the county government should be fully guaranteed.

3.4. Municipal: Interest Balancers

For prefecture-level cities, expanding the management authority of collective construction land transfer of county-level government is a process of weakening their own interests. There is no doubt that the transfer approval management power and the decentralization of income distribution power will weaken the function of regional central cities. In the new power allocation pattern of collective construction land transfer, it is worth thinking about how the prefecture-level cities should be located by itself. The author believes that the decentralization of collective construction land transfer dominant power is bound to bring strong investment impulse of the county-level government, and may also lead to homogeneous competition among counties. In this regard, the municipal government needs to play the role of the interest balance. Specifically, the municipal governments must first bring the “informatization and industrialization” development of the county into the city region development plan, and try to avoid homogeneous competition among the counties in the city; In other hand,

the supervision power of the municipal governments to the county-level governments in the process of collective construction land transfer should also be reserved, so as to prevent the moral adverse selection in the process of collective construction land transfer such as the collusion between governments and business that damages the collective interests of farmers.

4. Conclusion

According to the third part of the study, the main measures to achieve the above objectives include: First of all, to reconstruct the power distribution system of collective construction land transfer, the central government should be the leading designer of power expansion reform; Second, in order to reconstruct the power allocation system of collective construction land transfer which is marked by the strong county and solid foundation, the provincial government should determine the role of guidance and balance wheel; Last but not least, in the process of devolution of administrative power to lower levels, the county-level governments should have more independent choice space of resources allocation and flexibility of coordination and operation.

China's allocation of land elements, its allocation way and efficiency are related to the healthy operation of the entire economic system. The collective construction land transfer can be regarded as an important economic support for China to realize the "interaction between informatization and industrialization"; the special status of the county government determines that it should assume the responsibility of realizing the optimal allocation of county land elements. Therefore, it takes the reform of "provincial management at county level" as an opportunity to reallocate inter-governmental power, and on the basis of adjusting the interests relationship of government at all levels to reconstruct and position the role of the new collective land transfer power allocation system, and then change the power structure of "sword hilt" to the "dumbbell" power distribution, so that the county government becomes the most appropriate role in the optimal allocation of county land elements, in order to adapt to the domestic new urbanization, industrialization to the county governments' expectations.

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Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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