

Research on Limiting Factors and Their Countermeasures and Suggestions of Rural Property Mortgage Financing

Jiangtao Fang

*School of Economics and Social Studies,
Chongqing University of Science & Technology
Chongqing, China*

Abstract—It is a problem to speed up the mortgage financing of rural property rights, meet the financing needs of rural households and other agriculture-related subjects, and solve the shortage of rural funds. This paper summarizes the practical experience of rural property right mortgage financing in Wuhan, Chengdu, Chongqing, and other areas. Then analyzes the restrictive factors in rural property right mortgage financing, such as imperfect laws and regulations, high financing cost, banks, and other financial institutions are not active, and so on. Based on this, this paper analyzes the limiting factors in this financing, and puts forward some countermeasures and suggestions to accelerate it, to deepen the reform of rural property mortgage financing and promote the finance plan named “Finance to Countryside.”

Keywords—*rural property rights, mortgage financing, Restrictive factors, countermeasures, and suggestions*

I. INTRODUCTION

Since the reform and opening up, all of the people in China have begun to discuss the necessity, feasibility, and obstacles to establish rural finance, and carried out the pilot work of rural land finance in Meitan County, Guizhou Province, China in 1988. Meng Liping (2001), Wu Wenjie (2007), believed that the market mechanism could better allocate land resources and suggested the establishment of land banks to carry out land finance business with firm policy and complicated business. Li Aixi (2005) held that rural credit cooperatives are the feasible and optimal solution to undertake the financial industry of rural land. Luo Jianchao (2005) claimed that the most crucial issue in rural land finance is not the specific operation or capital, but the system design.

It is indispensable to deepen the reform of rural property rights system and improve rural financial service system to promote the mortgage financing of rural land and other property rights. Nevertheless, under the current legal system in China, these mortgage rights are restricted, the “last kilometer” of “Finance to Countryside” is hard to take, and the financing needs of rural households and other agriculture-related subjects cannot be met. In light of analyzing the practice of rural property mortgage financing in some areas, this paper works out the limiting factors in this financing and proposes some countermeasures and

suggestions to accelerate it, to provide some references to deepen the reform of rural property mortgage financing.

II. PRACTICE AND EFFECT OF RURAL PROPERTY MORTGAGE FINANCING

Since 2009, Wuhan, Chengdu, Chongqing, and other places have successively carried out rural property mortgage financing services, which have achieved excellent results, accelerated agricultural modernization and urban-rural integration, and realized sincere capital appreciation.

A. Local Practice of Rural Property Mortgage Financing

Wuhan practice. In April 2009, Wuhan Rural Comprehensive Property Exchange Co., Ltd. was formally established, mainly trading ten categories of farmland contracting management rights, carrying out rural property mortgage financing services, and regulating the operation process of rural property mortgage financing services for other provinces. The city provides a reference for carrying out work. The operation process of Wuhan rural property rights mortgage financing service is as follows: ① the exchange issued a certificate of transaction; ② the loan applicant submitted a mortgage financing application to the bank; ③ the loan applicant commissioned the evaluation agency to evaluate the collateral and issue a report; ④ the bank applied for mortgage The loan information is reviewed; ⑤ the loan applicant signs the contract with the bank, submits the mortgage registration application to the exchange; ⑥ the mortgage registration and the issuance certificate; ⑦ the bank issues the loan to the loan applicant; ⑧ the exchange issues the mortgage announcement.

Chengdu practice. In July 2010, the Chengdu Rural Property Exchange was established to provide services for rural property rights transactions and mortgage financing. In the process of work development, Chengdu has set the benchmark price and minimum protection price of relevant property rights such as farmhouses, which provides a basis for conducting value assessment; established a risk guarantee fund to provide guarantee services for property rights transfer and mortgage financing, and clarified Disposal criteria for the loss of collateral for rural property rights.

Chongqing practice. In December 2008, Chongqing established a rural land exchange to carry out the land ticket and rural property rights trading services. In November 2010, the Chongqing Municipal People's Government issued the Opinions on Accelerating the Reform and Innovation of Rural Financial Services and launched the rural property mortgage financing work, and the land ticket price became an essential reference for the evaluation of rural housing mortgage prices. At present, in addition to the "three rights" mortgage of agricultural land, farmhouses and forest land, Chongqing Municipality will use rural roads and other infrastructure, the contractual management rights of ponds, reservoirs, and dikes, the income rights of rural construction land reclamation projects, and rural land management income rights. And so on into the scope of the mortgage. The particular risk compensation fund for rural property rights mortgage will be set up, and the loan principal and interest losses will be compensated according to the ratio of 35%. At present, 80 million Yuan has been put in place.

B. Rural Property Rights Mortgage Financing Effectiveness

First, promote the coordinated development of urban and rural areas. Carrying out rural property mortgage financing, through institutional innovation, clarifying the quantitative rural property rights, and incorporating the scope of financing collateral under the premise of safeguarding farmers' rights and interests, is conducive to giving full play to the rural asset financing function, creating a new pattern for the coordinated development of urban and rural finance. Condition. By the end of 2018, Chongqing had realized a total of 133.318 billion Yuan of rural property mortgage financing, including 37.943 billion Yuan of agricultural land loans, 26.573 billion Yuan of rural housing loans, 26.995 billion Yuan of forestry loans, 18.051 billion Yuan of small loans for farmers, and 23.305 billion Yuan of other investments. Yuan. Most of these loans were directly or indirectly used in agriculture and related industries, which promoted rural economic and social development and accelerated the pace of urban and rural development.

Second, accelerated the process of agricultural modernization. Through rural property mortgage financing, it has attracted the return of production factors to the countryside, promoted the development of agricultural modernization, and promoted rural economic growth. In November 2016, the author participated in the research group composed of the Chongqing Municipal People's Congress Standing Committee, the Agricultural and Rural Committee, and the National Land Department, and researched the financing of households, agricultural enterprises, and other entities. Two hundred thirty-two traditional agricultural family farms surveyed, 159 have been mortgaged; 87 agricultural cooperatives (agricultural enterprises) have been investigated, 79 have been mortgaged, and the financing purposes are mainly investment management, expansion of breeding scale, etc. Agricultural modernization development.

Third, achieved natural capital appreciation. The development of rural property mortgage financing will promote the establishment and improvement of relevant supporting policies and systems for rural property rights registration, value assessment, and collateral disposal, so that the "sleeping" rural natural resources will become assets and capital. For example, Chongqing has organized rural property rights. The turnover transaction was 490,000 mu and 3.057 billion Yuan, realizing the value-added of natural capital circulation. At the same time, agricultural modernization is inseparable from the development of rural tourism. For example, in 2017, leisure agriculture and rural tourism in Chongqing received 170 million tourists, with a comprehensive income of 51 billion Yuan, driving 1 million jobs. Rural tourism not only promoted the integration of urban and rural areas, but also improved the prosperity of rural industries, supported the increase of farmers' income, and realized the industrial value-added of natural capital.

III. LIMITING FACTORS OF RURAL PROPERTY MORTGAGE FINANCING

Transfer of rural property rights, agricultural modernization, and new-type urbanization have put forward requirements for rural financial innovation, and various regions have also carried out the rural property rights mortgage financing work, boosting "Finance to Countryside." There are, nonetheless, still many limiting factors in this particular financing, which leads to the reluctance of banks and other financial institutions to get involved in agricultural project loans too much. Thus, problems such as "difficult financing" "expensive financing" in rural property mortgage are also rather serious.

A. Imperfections in Laws and Regulations

First, there is a lack of laws and regulations at the national level. In August 2015, the State Council issued the "Guiding Opinions on Piloting the Management Rights of Rural Contracted Land and Farmers' Housing Property Mortgage Loan" (Guo Fa [2015] No. 45), piloting the promotion of rural farmland contracting management rights and farmers' housing property rights nationwide. (collectively referred to as "two rights") Mortgage loan work, pointing out that "the pilot involves breaking through the 184th article of the "Property Law of the People's Republic of China" and Article 37 of the "Guarantee Law of the People's Republic of China" and other relevant legal provisions. The procedure is submitted to the Standing Committee of the National People's Congress for authorization to allow the pilot areas to suspend the implementation of relevant legal provisions during the pilot period. [Article 184 of the Property Law of the People's Republic of China and Article 37 of the Guarantee Law of the People's Republic of China, arable land Collectively owned land use rights such as homesteads, self-retained land, and self-retained mountains cannot be mortgaged.] This has accelerated the mortgage work of rural land contractual management rights and farmers' housing property rights. However, due to the pilot progress, all parties have doubts about the continuity of the national pilot policy, and there is

no perfect supporting system to support it. The rural property mortgage financing work is progressing slowly.

Second, the disposal methods for rural property rights collateral are not perfect. The rights of rural property rights include the main body of ownership (the agricultural collective economic organization) and the subject of the right to use (such as the farmer is the main body of the cultivated land contractual management right). Take the management right of cultivated land as an example. After the arable land is transferred, the rural collective economic organization as the main body of ownership has certain disposal rights. At this time, the farmer's arable land contracting right has not been lost, and the agricultural enterprises that have transferred to the land have only land management rights. When land management powers mortgage agrarian enterprises, they cannot repay loans on time, and they need to dispose of collateral, the rights, and obligations of farmers and rural collective economic organizations, related disposal procedures, etc., as well as financial services such as agriculture-related banks as mortgage holders. Whether the organization can dispose of land contractual management rights, the pilot areas are exploring and advancing, and there is no regulation. At the national level, there are no laws and regulations to clarify.

Third, rural property rights flow is limited. Article 10 of the Constitution stipulates that "the provisions of the law may transfer the right to use the land." The "Guarantee Law" and the "Land Management Law" restrict or prohibit the transfer of rural collective construction land. In October 2004, the "Decision of the State Council on Deepening Reform and Strict Land Management" (Guo Fa [2004] No. 28) proposed that "under the premise of planning, farmers in villages, towns, and towns should collectively use construction land. It can be transferred according to law, providing a policy basis for the transfer of rural collective construction land. Subsequently, the rural land system reform continued to deepen and innovate, and rural collectively-operated construction land entered the market with significant progress. However, the control and flow of rural land use are limited; for example, rural housing and stock rights of collective economic organizations only flow in the village and its internal members. In light of low valuation and difficulty in mortgage, banks and other financial institutions cannot guarantee the recovery of funds, posing the phenomenon of cautious lending and reluctance to lend.

B. High-Interest Rate of Rural Property Mortgage Financing

Banks require collaterals when offering a loan which consists in housing rights, the right to land contractual management, forest property, growing but not yet harvested crops, livestock, poultry, and so forth offered by peasant households and agricultural enterprises. These items have low value and weak liquidity, and it is hard to assess the value of crops, livestock, and poultry, as the system risk is high, and thus they are demanding to be recognized by banking institutions. Even if banks accept these mortgages

for loans, they may choose to carry out relatively high-interest rates to guard against risks. For instance, the interest rate of rural property right loan executed by Chongqing financial institutions is 30-50% higher than the benchmark interest rate (about 4.75%), about 6.18-7.13%, which is 0.6-1.55% higher than the average loan rate (including personal housing loan rate) of 5.58%.

To increase the support of banks and other financial institutions for "agriculture, rural areas, and farmers," some regions have introduced guarantee mechanisms to increase the cost of loans. At present, there are more than 53 financing guarantee institutions for agriculture-related businesses in Chongqing, of which the rural property mortgage guarantee standard implemented by Chongqing Xingnong Guarantee Company is 2% of the total loan amount. To guide the guarantee company to reduce the fees, Chongqing Municipality stipulates that the guarantee for the rural property mortgage loan shall be 1% subsidy if the guarantee fee is not higher than 1%, and 0.5% for the guarantee institution if the guarantee fee is charged below 2%. But the results are minimal.

C. Banks and Other Financial Institutions are not Very Motivated.

On the one hand, difficulties in Assessment Rural Property Mortgage Financing. At present, assessment rules of China's rural property right are not unified, banks and other financial institution could not recognize lack of professional appraisers for the specific financing, non-standardization of the assessment business, and the appraisal price given by the appraisal institutions. As known from the survey of Agricultural Bank of China, Chongqing Branch, in October 2018, it usually does not provide loans based on the rural property price assessment report issued by the appraisal agency. Setting mortgage financing of forest property as an example, the bank will reassess by considering factors like trees and woodland as well as tree cutting procedures and labor costs to determine whether to accept mortgage and give financing or not.

On the other hand, the term rural property mortgage loans are short. According to the Law of the Real Right Law and the Land Administration Law, the term of land contractual management rights is 30 years; the contracting period of cultivated land, grassland and forest land is 30 years, 30 to 50 years, and 70 years respectively. The Law on Property Law and other laws only stipulate that the contractor can continue to contract according to relevant regulations after the expiration of the contract period, but there are no clear implementation rules, which leads to doubts about the continuity of the mortgage of rural property rights.

IV. COUNTERMEASURES AND SUGGESTIONS FOR IMPROVING RURAL PROPERTY MORTGAGE FINANCING

China initiated the reform of "Three Lands" (namely construction land of rural collective economy into market,

homestead and land expropriation) by the end of 2015¹. For the legal provisions mainly restricting the rural property mortgage rights, they are suspended in the pilot areas. Jointly issued by five departments including People's Bank of China, *Guidance on the Revitalization of Rural Financial Services* states rural finance should meet the diversified and multi-level financial needs of rural revitalization and promote the integrated development of urban and rural areas. It is still a long way to go to how to get through the "last kilometer" of rural property right financing, meet the financing needs of peasant households and other agriculture-related subjects, accelerate the unique funding, and implement rural revitalization. On account of the practice and problems of China's rural property mortgage financing, this research puts forward some countermeasures and suggestions as follows.

A. To Perfect Laws and Regulations

It is of high requirement to amend *Land Management Law, Property Law, Rural Land Contract Law and Guarantee Law* and clarify the right of rural contracted land management, the transfer and mortgage of right of use homestead as well as its transfer of mortgage creditor's rights, ensure the legitimacy of rural collective land transfer transaction. It is supposed to revise *Organic Law of the Villagers Committees of the People's Republic of China* or to formulate *Regulations on Management of Collective Assets*, to clarify the concept and connotation of collective economy organizations, the corresponding rights and obligations, management norms and order, etc., and allow equities of collective economic organization to transfer among different communities under certain conditions. The government shall work out *Measures for Administration of Rural Housing Transactions* and will enable them to be traded across collective units and could be bought by urban residents with rigid demand. For example, if an urban person has worked for more than one year in a rural area, he or she could buy rural houses where he or she works. The government should also carry out the "*Regulations of Rural Property Mortgage Loan*," qualify the conditions of banks, guarantee companies and other financial institutions engaged in this financing, and regulate the rights and obligations among peasants, land cooperatives, mortgage guarantee companies, and trading platforms. Also, we shall tighten control over the use of rural land, stabilize the right to operate it and clarify the fundamental rights and interests of those who have the right to enforce it after it is mortgaged. At the same time, the National People's Congress and its standing committee authorized legislation to ensure that

¹ If rural property mortgage pilots breakthrough article 184 of the *Property Law of People's Republic of China* and article 37 of the *Guaranty Law of the People's Republic of China* and other relevant legal provisions, they could be allowed to suspend the implementation of applicable statutory provisions during the pilot period, which shall be submitted by the State Council to the standing committee of the National People's Congress for authorization in accordance with the relevant procedures.

rural financial services are reformed and innovated within the framework of the constitution and the essential spirit of the law.

B. To Implement Policies of Supporting Rural Finance

The policies of agricultural loan discounting and guarantee subsidy should be actively implemented. Besides, it is of necessity to guide financial institutions to support financially the rural property projects which are transacting in the open market, and encourage all sorts of institutions like agricultural banks and involved in financing guarantee as well as assets appraisal to participate in related supporting service in rural property right transaction, such as to offer preferential interest rates for some agricultural land mortgage. Policies, also, shall be favorable to reduce procedures of bank loan auditing. An excellent example of this is set by the method of Ali loan network auditing, which is of lower operating and financing costs. Through the government fund subsidy, the rural property rights mortgage can be effectively replaced. For example, increase the proportion of finance to the financial institution's loan interest rate, and control the government's mortgage financing guarantee subsidy to a reasonable level, and establish a multi-level agricultural loan supply subject. Achieve a win-win situation for all three parties, financial institutions, and finance.

The implementation of *Guidance on the Revitalization of Rural Financial Services*, in the meantime, is required, which includes expanding the scope of agricultural and rural mortgages, researching and completing credit businesses like live mortgages of livestock and poultry, promoting the formation of an all-round and diversified rural asset mortgage financing model in accordance with the law and regulations, and helping the building of a rural credit system, the expansion of agricultural credit varieties and the scale of agricultural credit. When necessary, we would also seek legal support and make use of its oriented function to provide a relaxed environment for reform. To be specific, the Supreme People's Court is requested to issue judicial interpretation on disputes over loan interest rates and mortgage varieties, allowing local courts to make accurate judgments on these disputes based on the actual situation. The rural property right mortgage behavior that the two parties sign the mortgage contract and carry out the mortgage registration out of real will shall be deemed as valid.

C. To Standardize the Operation of Rural Property Rights Mortgage Financing

Summarize the experience of Wuhan, Chongqing, and other places, establish a system of rural property rights trading platform, and provide chain-type services such as "transaction assurance—assessment guarantee – mortgage financing forensic – risk compensation – collateral asset disposal" for rural property rights transactions. Summarize the experience of Chongqing and other places, set up special compensation funds for rural property mortgage financing, and compensate for the loss of principal and interest of bank loans. Drawing on the experience of Chongqing, rural land

management income rights are included in the scope of mortgage financing. Drawing on the expertise of Chengdu, formulate and publish the benchmark prices and minimum protection prices for rural collective construction land use rights, cultivated land contractual management rights, and farmers' housing property rights in the region to ensure that rural property rights valuation has rules to prevent, due to information asymmetry and other reasons The interests of the agricultural sector are impaired. Establish a unified national land transaction price dynamic monitoring system and improve the land price assessment mechanism.

Give full play to the service function of the trading platform, gather the land property price evaluation agencies, guide them to serve the rural property rights assessment, and cultivate professionals who serve the pastoral property price assessment. Develop agricultural property value evaluation intermediary organizations, promote the establishment of third-party evaluation agencies, improve the scientific and normative evaluation of rural property rights value, and reduce the differences between banks and other mortgagee judgments on the value of the collateral.

Strengthen land use control and clarify the fundamental rights and interests of the owner of the transfer of land. Standardize the object and management nature of rural land transfer, and specify the scope of use of agricultural land transfer, mortgage, and the conditions for use change. We can learn from the experience of the United States, separate

the ownership and disposal rights of rural land, give the owners and contractors the right to dispose of protection, stabilize the right to operate and eliminate the doubts of banks and other financial institutions on the maturity of collateral. Specifically, it is as follows: After the expiration of the contractual land contract, the owner and the contractor shall not reclaim the contracted land without authorization, and the right management holder has the right to transfer the property according to the new contract period. Where the contractual management right holder has transferred the farmland to the mortgage, the owner shall pay or retain the compensation when it is recovered or required according to law, and provide a guarantee for the mortgage financing of the transferred land.

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