



Redefining property rights over collective land in the urban redevelopment of Shenzhen, China



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ABSTRACT

Urban development in China is based on two types of land ownership, namely, state land owned by states and collective land owned by village collectives. Legally speaking, urban development must be based on state land. In practice, informal development based on collective land has played important roles in the rapid urbanization process over the past decades. Nonetheless, the vague property rights over collective land have led to inferior and suboptimal development outcomes in expansive urban areas. The redevelopment of collective land has become an important means to sustain urban development in an ongoing urbanization process. By adopting theoretical perspectives from New Institutional Economics, this study presents an integrated conceptual framework on the institutional arrangements of land property rights and transaction costs to understand the changes in land policies and their institutional implications for the redevelopment of collective land in Shenzhen, China. The findings reveal that the new policies have redefined the relationship among the government, village collectives, and real estate developers as well as their property rights over collective land. The change of institutional arrangements in land property rights has significantly reduced the transaction costs in the redevelopment process and effectively promoted land redevelopment activities.

1. Introduction

The importance of institutions in economic development has been recognized by institutional economists for a long time. Institutional arrangements on property rights critically affect economic behavior and performance (Libecap, 1989). Clearly defined property rights are believed to be the precondition for economic development and efficiency (Barzel, 1997). By contrast, vague property rights will lead to a chaotic competition for and dissipation of rent (Lai et al., 2014). In China, rapid urbanization and land conversion from agricultural use to urban use are based on two types of land ownership, namely, state land owned by states and collective land owned by village collectives (Lin and Ho, 2005; Wu et al., 2017). Legally speaking, urban development must be based on state land. Collective land is restricted for agricultural use in rural areas. According to the Chinese land law, village collectives are not allowed to transfer their land for urban use. State-led land expropriation is the only way to transform land from collective ownership to state ownership. In practice, informal development based on collective land has played important roles in the rapid urbanization process over the past decades (Wang et al., 2009; Liu et al., 2012; Lai et al., 2017). Nonetheless, the vague property rights over collective land have

led to inferior and suboptimal development outcomes in expansive urban areas (Choy et al., 2013).

The academia has extensively accepted and consistently suggested that property rights over collective land should be clarified and redefined for a considerably efficient and equitable land development process. Many studies have explored the effects of land property rights by referring to the land titling programs in other developing countries. Land titling improves the security of land rights, enhances investment incentives, and increases agricultural productivity (Alston and Libecap, 1996; Besley, 1995; Brasselle et al., 2002; Deininger and Jin, 2006; Do and Iyer, 2008; Goldstein & Udry, 2008). Do and Iyer (2008) found that improved land rights significantly increased the land area of multi-year crops and the investments in irrigation after the land reform in Vietnam. Deininger and Jin (2006) suggested that government actions geared toward improving the tenure security and transferability of land rights can significantly improve rural investment and land productivity. Well-defined property rights over land can facilitate land transactions by reducing transaction costs in land markets. For example, Griffith-Charles (2004) found a substantial nationwide increase in land sales after the land property rights in St. Lucia were specified in a land titling program. Galiani and Schargrodsy (2010) found that house rentals are

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facilitated by land titling in the urban slums of Argentina. How does the change of land property rights affect land development in China? This study attempts to answer this question by conducting an explorative analysis of the evolving land policies and their institutional implications for the recent urban redevelopment in Shenzhen.

Although the state-led institutional arrangements for land development are still at work in most regions in China, Shenzhen has essentially reformed such land policies since the establishment and implementation of an urban renewal unit institution in 2010. In Shenzhen, most vacant lands available for construction have been developed and transformed into urban built-up areas after three decades of rapid urbanization. Urban redevelopment is a significant means for the city government to attract new investments, sustain economic growth, and generate new fiscal revenue sources. Collectively owned lands are in considerably urgent need of redevelopment in the economic restructuring process compared with urban state lands. Since 2004, policies have been formulated to promote the redevelopment of urban villages based on land with collective ownership in Shenzhen. From 2004 to 2009, institutional arrangements that govern the redevelopment of urban villages are generally state-led and emphasize government control and top-down land use planning, which are similar to that governing the greenfield development process. Such institutional arrangements functioned well in the land conversion process but are hardly implemented in the redevelopment process, thereby resulting in a low level of redevelopment activities during this period (Lai and Tang, 2016).

To facilitate land redevelopment and support future urban growth, a series of new policies were introduced at the end of 2009 and implemented at the beginning of 2010. The new government policy stipulates the following changes. (1) The de facto landowners/property owners and potential market actors have the right to develop the land parcels with state ownership or collective ownership provided that these parties reach an agreement and organize a single project to be officially called “urban renewal unit.” (2) These parties have the right to apply for urban renewal unit planning. The documents present their preferred land use for redevelopment. They also have the right to transfer land based on an agreement between the transacted parties for the redevelopment project. (3) Collective land and real estate without formal titles within the project area can be registered as state lands with formal titles provided that the land registration fee was paid prior to the redevelopment project implementation. The formalized land and real estate in the redeveloped urban villages have the same level of rights as those of the state land in terms of land security, access to formal financial sources, and right to be covered under the state regulations, such as land use planning and development control. (4) The city government has the right to acquire a certain parcel of the land or property of the successfully redeveloped urban renewal units without any costs.

Based on an integrated framework on the institutional arrangements from the perspective of property rights and transaction costs, this study analyzes how the changing land policies have redefined property rights over collective land and reduced transaction costs in the redevelopment process. The empirical analysis is conducted through a comprehensive review of the policies and official documents on urban redevelopment in Shenzhen. The relevant policies are collected to identify and analyze the evolving institutions that govern land development in Shenzhen. Data of several redevelopment projects from official reports, planning documents, and fieldworks are analyzed to learn how the policies and the redevelopment process function. Data on government land use policies and planning documents were obtained from the Urban Planning and Land Resources Commission of Shenzhen. Shenzhen is an experimental ground of the “socialist’s market economy” of China and is a pioneer of this country’s reform and “opening up” policies. The reform trajectories of China have been shaped by regional decentralization. Regional experimentation is essential in the central decision-making process in China. Since 1978, nearly every major step in the path of reform had been tested in a few regions prior to their nationwide launch

(Xu, 2011). Many reform-related phenomena first emerged in Shenzhen before they spread to other Chinese cities. Moreover, many reforms in China’s transition, such as the separation of urban land ownership and land use rights, had been conducted in Shenzhen before they were launched in other parts of the country. In this sense, the study of property rights change in Shenzhen may shed light on broader questions of institutional change in China.

The remainder of this paper is organized as follows. Section 2 develops a conceptual framework for analyzing the institutions and institutional changes in land development based on the key concepts from the New Institutional Economics (NIE). Section 3 provides a historical review of the evolving land redevelopment policies and practices in the process of urbanization and urban renewal in Shenzhen over the past decades. Section 4 applies the conceptual framework to analyze how the changing land policies have redefined the property rights of local states and villages over collective land, transaction cost implications for the redevelopment process, and the broad implications for the entire land development system of the city. Section 5 concludes this study.

2. Institutional perspective on the land development process in urban China

The current study adopts the analytical perspectives of New Institutional Economics (NIE) to guide the analysis of institutional arrangements and institutional change in the land development process in Shenzhen. Institutional economists for a long time have recognized the importance of institutions in governing market exchange. North (1990) considered institutions as “the rules of the game in a society or, more formally...the humanly devised constraints that shape human interaction...[and] define and limit the set of choices of individuals.” Institutions are dynamic and evolve over time based on the interactions of individual parties (North, 1990). NIE studies institutions, institutional change, and economic behavior based on two key concepts, namely, property rights and transaction costs. Standard neoclassical economics assumes that people trade physical commodities; however, Coase (1959) argued in “The Federal Communications Commission” that people actually trade (property) rights, that is, the rights to perform certain actions; the accompanying duties and privileges of these actions are established by the legal system. Property rights are a set of rights associated with ownership, and comprise the right to use an asset, derive income from it, change its form and substance, and transfer the aforementioned rights to another party at a price that is mutually agreed upon (Pejovich, 1990). Institutional arrangements on property rights critically affect decision-making related to resource use, thereby affecting economic behavior and performance (Libecap, 1989). Property rights play an important role in land development processes, outcomes, and land values (Alston and Libecap, 1996; Choy et al., 2013).

Transaction cost is the cost incurred in making an economic exchange (Cheung, 1987). Although the term has been defined differently to serve various purposes, its meaning generally refers to the costs other than those of physical production (Wallis and North, 1986; Lai, 1994). Barzel (1997) explained that transaction costs are the costs associated with the transfer, capture, and protection of rights. Transaction costs can be divided into three broad categories: (1) search and information, (2) bargaining, and (3) policy and enforcement costs. An exchange will not occur if the cost is higher than the ensuing gains. The involvement of parties that invest considerable effort and time to reach an agreement to complete the transactions and ensure that the land development process proceeds indicates high transaction costs. Evidently, transaction costs have significant implications on the efficiency of the economic process; thus, such cost should be minimized (?). In the case of land development, the main types of transactions of land property rights in the land development process include (1) land use planning, (2) land purchase/assembly, and (3) land transfer. Clearly defined land property rights can facilitate land transactions in land markets, and potential gains can be gained from the trade (Besley, 1995; Griffith-Charles,

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