

PROOF

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Empowerment or Marginalization: Land, Housing and Property Rights in Poor Neighbourhoods

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Introduction

In 2004, the Constitution of the People's Republic of China was amended to include non-violation of lawful private properties and people's right to compensation when their private properties are taken away by the state for the public interests (Article 13). Three years later, in March 2007, having taken five years after the first appearance of its draft, China's Property Rights Law was officially adopted by the National People's Congress, and went into effect on 1 October 2007. By implementing these two legislative measures, individual owners of legally acquired private properties including land use rights are given the highest degree of lawful protection. These legislative measures, however, are not the starting point of China's property rights reform. In fact, the country has been treading the path of property rights reform to clarify *who owns what and to what extent* since the 1980s, and the Property Rights Law in 2007 can be regarded as a mere endorsement of what China has achieved. The implementation of property rights reform and the emergence of individual private ownership have produced a very different context within which individuals in China consume and invest in family assets.

Examining the property rights in transition in post-socialist countries, Peter Marcuse once concluded that 'Property rights reform is unmistakably an issue involving the transfer of power and wealth. It involves the distribution of basic rights and privileges in the society' (Marcuse, 1996, p. 183). How this translates into individual residents' opportunities and constraints in contemporary China has not been well documented. In the real estate market, the 2004 amendment to the Constitution and the enactment of 2007 Property Rights Law could be regarded as aiming at the removal of the ambiguity in the operation of housing and land markets. In urban China, the last two decades have witnessed the advancement of privatization and the expansion of homeownership in much of urban built-up areas through new estate development and housing redevelopment. There are, however, urban poverty-stricken neighbourhoods, which refer to the urban space lagged behind in the process of urban

transformation (Liu and Wu, 2006; Wu, 2007). Such urban space includes traditional inner city dilapidated neighbourhoods and peri-urban settlements with a high concentration of migrant tenants. They accommodate mostly dilapidated public rental flats, representing the legacy of the planned economy, and self-built housing to accommodate migrants in particular. The implementation of market-oriented reform and resulting residential differentiation has meant that better-off residents fled from these dilapidated neighbourhoods, leaving behind a high concentration of poor and marginalized residents (He and Wu, 2007). These neighbourhoods are increasingly under pressure of profit-led urban redevelopment that involves residents' displacement and relocation, which in turn leads to the radical redistribution of the bundle of property rights.

What implications does the property rights reform have for urban residents living in dilapidated neighbourhoods as the loci of urban poverty? Does the reform lead to the aggravation of life chances and tenure security for the poor in cities and peri-urban areas? In this respect, this chapter examines the life of urban poor residents in relation to their housing and land tenure, and reports their experience of 'owning and disowning' some elements of a bundle of property rights in the planned economy and in the process of urban housing reform. By doing so, the chapter tries to argue that current practices of property rights reform and homeownership promotion in the housing sector produce differential impacts upon residents, and hardly contribute to the empowerment of poor residents in neighbourhoods subject to redevelopment. Discussions in this chapter are largely based on the reflection of author's previous research projects that consisted of field visits to Beijing on several occasions between 2003 and 2009. These research projects were to examine the process of urban redevelopment in various dilapidated neighbourhoods: two inner city neighbourhoods in Dongcheng district and two former rural villages in Haidian district. Each project involved semi-structured interviews with local residents.

The rest of this chapter is divided into four sections. First, it will briefly review the progress of property rights reform in China, and how it relates to poverty-stricken neighbourhoods. Second, the implication of property rights reform is discussed by examining the formation of extra-legal tenure¹ and fragmented property rights in poverty-stricken neighbourhoods. The third section will address the question of what it means to clarify property rights for residents in these neighbourhoods. The final section will summarize the discussions and re-visit the key questions.

From socialist ownership to reinstatement of private ownership

Socialist ownership in the pre-reform era and the abolition of private ownership

It is noted that in the former Soviet Union, there was a definite set of property rights, which included 'rights of occupancy and use for themselves and

their families' (Marcuse, 1996, p. 133). In Eastern Europe, property rights differed considerably from the private ownership-based forms of property rights in the capitalist economic system. In the former Soviet Union, two legal ownership of property existed: socialist ownership and personal ownership (Marcuse 1996, pp. 129–33). Land was in state ownership, not subject to sales or security for mortgage, and decisions regarding its usage were delegated to municipalities. To prohibit non-labour income, land users were not in possession of right to sell or lease to others. Individual house ownership was protected as personal ownership, but private renting was under strong rent control. Private house building was not prohibited as long as it was pursued for personal consumption. This was particularly encouraged in rural areas. Commercial construction was discouraged or prohibited. The economic transition in Eastern Europe in the 1990s involved a shock therapy of reinstating private property rights that granted legal entities rights to benefit from the use and sale of privately owned properties. In contrast, the rights of occupancy and use were considerably negated in the privatization process, making the transition very difficult (Marcuse 1996).

The establishment of the People's Republic of China by the Communist Party in 1949 did not lead to the immediate nationalization of private property. Various rights co-existed during the early period of socialization, which included the right to privately own dwellings and right to secure rents from private renting. In 1955, more than 50 per cent of the total housing stock in Beijing, Shanghai and Tianjin were still privately owned, and a large share of private housing remained in private hands until the mid-1960s (Wang and Murie 1999, p. 73). The social transformation of private rental stock in the 1950s maintained the retention of private tenancy, allowing landlords to retain a portion of rent income. Such an approach by the central government contributed to the survival of private rental tenure and owner occupation, albeit small in number, under the socialist planned economy for some time. This, however, faced heavy criticisms during the Cultural Revolution. In September 1966, the Central Committee of China Communist Party abolished all forms of joint state–private ownership of enterprises in industry, prohibiting any further payment to those who had a share in these enterprises (*ibid.*, p. 86). In line with this measure, the State Housing and Property Management Department also formally abolished landlord ownership in 1967, and landlords' rental housing stock became public assets. Even owner-occupied housing units were confiscated, especially those belonging to professionals, government officials at high levels and those who had overseas relatives classified as anti-revolutionists by the Red Guards (*ibid.*, pp. 86–9). As for rural lands, the rural collectives such as people's communes, production brigades and production teams retained land rights to own, use (including changes in land use) and benefit from the land use but the right to dispose of it was not granted (Tang and Chung,

2002, pp. 47–8). The right to expropriate was only with the state, under which circumstances the rural collectives were compensated for the loss of land and housing (Zhu and Hu, 2009, p. 1632).

Reinstatement of private ownership

The reform policies from the 1980s brought radical changes to the land ownership structure in China. The private ownership of lands, which ceased to exist in the mid-1960s, remained absent during the planned economy period, but the 1982 Constitution officially promulgated the state appropriation of land ownership, and by doing so, laid the foundation of granting the possession and transaction of land use rights. The amendment to the Constitution in 1988, the enactment of the 1986 Land Administration Law and subsequent amendments enabled the transfer of land use rights and their private ownership. These legislative measures also restricted the property rights held by rural collectives substantially, as they were no longer in possession of rights to grant land use change as well as benefit from land lease. These rights were to be exercised by local authorities, thus effectively subordinating land use planning to the urban state.

The reform measures in the 1980s to allow land use right transfer created the development of a land use right market, providing urban authorities with lucrative opportunities to gain windfall land lease premiums. This process largely led to the expropriation of rural farmland for non-agricultural use, which from time to time raised an alarm to the central government that was anxious to prevent a rapid loss of cultivating land. The property rights reform from the 1980s also made it clear that land and buildings were separate entities. This meant that while lands were ultimately owned only by the state or rural collectives, buildings and any improvements on land were permitted for individual private ownership. Residents were to retain only the use right of the land they occupy.

The State Council approved the first comprehensive proposal for housing reform in February 1988. This aimed at the termination of welfare housing provision by employers, the promotion of homebuyers' financial contribution, the development of housing construction and related industry, and finally the promotion of homeownership (World Bank 1992, p. 27). The proposed reform, however, went through various modifications when put into practice. Employers still continued to provide housing for employees: instead of the direct allocation of welfare housing, state-owned enterprises and administrative institutions resorted to market approaches, developing and purchasing commercial flats for sale to their employees with price discounts (Wu, 1996). After a few years' setback incurred by the political turmoil in 1989, the State Council called for even more comprehensive reform practices in 1994, identifying five main housing reform policies as follows (Lee, 2000, pp. 65–6): (a) establishment of a three-pillar (state–employers–individuals) system;

(b) establishment of housing provident funds as a cornerstone of housing finance reform; (c) socialization and professionalization of housing management; (d) privatization of public rental dwellings; (e) provision of affordable housing for middle- and low-income homebuyers. The emphasis was, once again, on the establishment of individual private ownership of housing as the main tenure form.

In Beijing, the concentration of government institutions stymied the rise of homeownership in the 1980s and 1990s. Municipal surveys indicated that the proportion of public rental tenants was nearly 77 per cent in 1998, and that of homeowners just over 20 per cent in 1999 (Beijing Municipal Bureau of Statistics, 2000). About one-third of these homeowners were in possession of only partial property rights, which meant that their rights to dispose of their properties were restricted. The proportion of public sector tenants decreased steadily since the termination of welfare housing allocation at the end of 1998. It reached 32.8 per cent in 2002 and just over 15 per cent in 2007. In contrast, the share of homeowners accounted for about two-thirds in 2002, and about four-fifths in 2007. The majority of these homeowners consisted of the ownership right holders of privatized public housing, but the growth of commodity housing owners was also noticeable. Throughout the period, the proportion of private tenant households remained marginal, occupying less than one per cent in 2007 in the formal rental sector (Beijing Municipal Bureau of Statistics, 2003, 2008).

Poverty-stricken neighbourhoods and privatization

As explained earlier, the operation of the planned socialist economy from the 1950s meant that the postwar private housing sector went through the process of socialization, and public rental tenure became the dominant form of tenure in urban China in the pre-reform period. The majority of residential units found in Beijing's dilapidated inner city neighbourhoods were public rental units owned and managed by either work-units or municipal housing bureaus. By 1990, a wide scale of run-down low-rise (*pingfang*) dwellings remained in Beijing, and the majority were concentrated in inner city districts (Lü, 1997; Wu, 1999). While the whole municipality was swept with the national fever of housing production in the early to mid-1990s, these dilapidated dwellings remained largely unaffected. Part of the reason for this is attributed to the fact that these dwellings were in general owned by financially weak work-units or the municipal housing bureau, which could not initiate housing redevelopment on its own due to budget constraints, let alone introduce a scheme of timely maintenance for the upkeep of their housing stocks. Dilapidated dwellings were also exempted from the sale to sitting tenants when the city-wide privatization process took place. In Beijing, for instance, any dilapidated dwellings that were classified by the municipal property management bureau as the categories of Grade 3 or higher were not permitted to be sold to the sitting tenants because of their

poor conditions (Wu, 1999). The Ministry of Construction also made it clear in its announcement on the 'Advancement of the Public Housing Reform' in October 1999 that in order to facilitate the reform of the public housing sector, public rental dwellings could be sold except the following ones: (1) Public rental dwellings are located within neighbourhoods where changes in household registration are not permitted and which are subject to demolition; (2) Dilapidated dwellings, makeshift houses, seriously damaged and illegally constructed; (3) Historically significant dwellings; (4) Dwellings that are located within party and government complexes, research institution sites, university campuses and hospitals, and office buildings that cannot be separated.

As for rural peasants, they held the right to use individual allocated land plots for own farming and housing, and as members of rural collectives, the right to benefit from the use of land held by rural collective units (Zhu and Hu 2009, p. 1632). When rural collective units make decision to transfer (often illegally) land use rights in return for land use premium, 'peasants as individuals would lose their land use rights completely' (Tang and Chung, 2002, p. 49). If displaced, they are entitled to resettlement housing or cash compensation, which often becomes the source of dispute and popular protests in recent years. Those peasants who were cornered into their residential space without land for cultivation, investment in housing for illegal renting (largely to rural-urban migrants) has become a widely spread phenomenon (Tang and Chung, 2002; Tian, 2008; He et al., 2009).

Extra-legal tenure and fragmented property rights in poverty-stricken neighbourhoods

Nearly two decades ago, China's land reform was already implemented so as to detach land use rights from the bundle of rights. This was prompted by the 1988 Amendment to the Constitution, followed by the revision to the Land Administration Law to translate the constitutional amendment into concrete legal requirements. These measures also acknowledge the superiority of communal land ownership in rural collectives, thus endorsing the dichotomy embedded in the property rights reform applied to urban and rural areas. As the following section explains, this transition has not been without problems. Ambiguity and fragmentation of property rights exist in both urban and rural areas, which were reinforced by entrepreneurial competition among institutional players to benefit from the use and transfer of property rights. A more detailed examination into residents' housing tenure experiences also illustrates that over the years of establishing individual private ownership, residents in poverty-stricken neighbourhoods have adopted various tenure strategies to overcome their housing constraints and build on existing family assets, leading to the formation of diverse extra-legal tenure structure.

Prevalence of self-built informal space in dilapidated inner city neighbourhoods

One of the most evident forms of extra-legality that partly reflects the legacy of the planned economy is the prevalence of informal self-built residential space in dilapidated neighbourhoods and peri-urban areas. Most dwellings in Beijing's dilapidated inner city neighbourhoods built in the pre-reform period were not self-contained, unequipped with private kitchen or toilets. Over time, residents made use of empty spaces in front of their house or in alleyways to meet housing needs, building makeshift kitchen or providing an additional room(s) for growing families. These extended spaces were known as *zijianfang* (lit. 'self-built room') and came to constitute an important part of one's right of occupancy and use, but was not formally acknowledged and hence not subject to compensation at the time of demolition and redevelopment. Although they were illegal in nature, for residents in overcrowded living conditions, these spaces were supplementing the incapacity of local authorities or work-units to provide adequate housing to meet family needs. In inner city districts, the incidence of informal extension to existing formal dwelling space was more commonly found in *pingfang* dwellings rather than in walk-up blocks. Unlike *pingfang* dwellings, the structural rigidity of walk-up blocks did not allow informal extension, and their original design feature appeared to have remained largely untouched.

Table 7.1 summarizes the extent to which the housing space of residents interviewed in 2003 depended on the self-built portion of their residence. About one-third of residents' total floor space was accounted by the self-built informal space, clearly indicating the important role that the informal extension had played for the residents. When the number of co-habiting household members was considered, the per capita floor space for those nine households, subject to displacement in future, turned out to be only 6.8 square metres even after including the self-built space. If the self-built portion of their housing space were excluded, their per capita floor space would turn out to be merely 4.9 square metres. This meant that these households fell into the category of official housing poor in accordance with the municipal statute, experiencing overcrowded living conditions.

Table 7.1 Informal self-built extension in *pingfang* dwellings

(unit: m ²)	Formal space	Self-built extension	Total
Total	20.2	9.0	29.2
Households subject to displacement (9 households)	19.4	7.7	27.1
Households displaced and relocated (6 households)	21.5	11.0	32.5

Source: Data from interviews conducted by the author in 2003.

To some extent, the self-built extensions to existing formal dwellings received support from the municipal housing bureau, thus creating a false conviction by residents that self-built space was not informal. A 43-year-old female interviewee lived in a *pingfang* unit that consisted of 20 square metres of formal space and 20 square metres of self-built extension. She recollected that her family built the self-built extension to add one bedroom and a lounge and received support from the housing bureau for the construction. She had been paying housing rents for the self-built bedroom for nearly 20 years, because the housing bureau agreed to acknowledge the self-built bedroom as belonging to the housing bureau property. The housing bureau, however, changed its position in the late 1990s, arguing that there was no contract regarding the self-built bedroom. This meant that her right to the occupancy of the self-built bedroom and its acknowledgement upon future displacement were denied.

The major problem associated with the informal space is its ineligibility for redevelopment compensation upon demolition and redevelopment. Since the termination of welfare housing allocation in 1998 by the State Council, the redevelopment compensation has been largely geared towards cash-based compensation. In the case of Beijing, the major municipal regulations in this regard would include the 1998 Measure for the Management of Urban Housing Demolition and Relocation and the 2001 Measure for the Management of Urban Housing Demolition and Relocation (see Shin, 2007, for more details). While the 1998 Compensation Measure took into account both household composition and dwelling space, the 2001 Compensation Measure dictated that only the market appraisal of formal dwelling space would be considered in the estimation of compensation. The cash-based compensation measure and subsequent revisions based on formal dwelling space have led displaced residents from redevelopment neighbourhoods to experience a differing degree of property ownership upon displacement and relocation based on their economic capacity.

Self-built housing in peri-urban areas

In peri-urban areas (or areas of rural–urban transition) extra-legality thrives in the form of self-built housing that lies outside existing planning regulations. China's urbanization process in peri-urban areas has resulted in land use patterns that are deemed 'illegal' by governing planning regulations. Often known as 'urban villages' or 'migrants' enclaves' in the literature, these peri-urban settlements are developed on rural lands that were under the communal ownership of rural collectives (Zhang et al, 2003). It was explained earlier that the legislative reform measures in the 1980s restricted the landownership held by rural collectives. This, however, has not deterred them from engaging in entrepreneurial endeavour to benefit from the sale and lease of land use rights. The prevalence of illegal land use in peri-urban areas is closely linked to the entrepreneurial activities pursued

by rural collectives, many of which evaded governing regulations to benefit from illegal transfer of land use rights.

Since the 1990s, with the rapid urbanization process and high level of demand for housing, rural villagers have invested in self-built housing not only for their own consumption but to a great extent for renting out to migrant families and workers. Experiences elsewhere in the developing world with the experience of communal land rights privatization suggest that formal property rights are not a precondition for farmers' investment and innovation, and that land titling had no significant impact on farmers' access to formal credit institutions (Hunt, 2004). In Vietnam, another country in a process of transition from a socialist to market economy, its weakly developed legal property rights in land and housing has resulted in the majority of the population lacking official title deeds, but there is a thriving private real estate market (Kim, 2004). The same applies to peri-urban settlements or urban villages in China where private renting in illegal dwellings has substantially evolved.

The practice of self-built housing appears to have stemmed largely from the perception of tenure security. Gilbert (2002, p. 6) notes, in his study of Latin American informal settlements, that the sense of security is enhanced with 'the backing of powerful political patrons' – no perceivable threat of eviction, thus 'illegality is rarely the principal problem for low-income households'. In urban villages, the sense of security seems to derive from the fact that their activities are within the tolerance of local authorities. There is an unspoken agreement that, as long as building heights do not exceed official guidelines, illegality is to a large extent beyond official oversight. Hence, the 'urban villagers' in one of my field-study neighbourhoods in Beijing continue to invest in illegal housing construction, making sure that their self-built housing for private renting do not exceed three storeys, and that this rule was the most strictly adhered to on the peripheral areas of these villages so that passers-by do not notice this immediately.

Informal private renting

As in socialist Eastern Europe where the notion of absentee landlord ownership was abolished (Marcuse, 1996), private owners in socialist China during the pre-reform period were strictly prohibited from exercising their right to gain profits from private renting. Throughout the 1990s and 2000s, with the increasing number of incoming migrants, public rental dwellings became the source of private rentals, if existing tenants purchased a commodity housing unit and vacated their dwellings without handing them over to their work-units or municipal housing bureau. An interview with a 48-year-old university professor reveals that she and her husband both retained their work-unit rental flats even after purchasing a flat in the commodity housing market, which became the family's main residence. She regards these work-unit flats as being some kind of compensation to their period of

serving in their work-units. It was claimed that while others in power or in higher positions abused the system to acquire many flats, they do not think it is fair to them to give up their work-unit flats just because they bought their own commercial unit. The couple receive informal pressure from their work-units to give up their flats, but are determined to keep them. While the interviewee does not hint on any private lease of their vacant flats, it has been recognised in other literature that such flats were frequently used for informal private renting (Liu and Wu, 2006). Temporary migrants would often be the main clients, as their housing options were severely restricted due to high rents in the formal private rental sector and inability to legally access the public rental sector imposed upon by the decades-long household registration system. The regulatory state denies the claims over urban space by migrants, driving them towards the informal private rental sector (Zhang, 2002).

This practice of informal private renting was, however, against regulation. According to an interview with a manager at a public-rental housing management company in 2003, private renting in public rental dwellings could only be permitted after these dwellings were privatized. Private renting in villagers' self-built housing was also illegal, as they were to make use of their housing for personal consumption only. To villagers with the possession of land use right over their residential space, the illegality stems from the fact that they are absent of the rights to benefit from the commercial use of their residential space (Zhu and Hu, 2009, p. 1640). The illegality of their land-lordism, however, hardly deters them from making up-front investment in housing for commercial gain, as they regard it as legitimate exercise of what they own, that is, land use rights of their residential space.

Another form of extra-legal tenure would include the rent-free occupation of self-built space without access to formal housing. One example involves those returnee households who were sent to rural areas during the Cultural Revolution period (known as *chadui* in Chinese) and came back hometown in the early 1990s. Upon their return, they faced difficulties in obtaining a secure rental dwelling due to public housing shortage and housing reform measures that increasingly discouraged welfare-housing allocation. A 54-year-old female interviewee told the author about her brother-in-law's family, who had been living in a self-built dwelling with a use floor space of 15 square metres. Her brother-in-law returned to Beijing in 1994 after having lived outside the city with his father who had been sent to countryside in 1966. When he returned home, there was no longer any housing allocation, and his family had to live in a self-built dwelling next to the interviewee's house. In the absence of any formal agreement with the municipal housing bureau, the family was in informal rent-free tenure, and their right of occupancy and use would not be protected upon displacement. Such families were entitled to redevelopment compensation only under very limited circumstances, which includes that they maintain separated, independent

household registration records; they do not own other dwellings within and outside the redevelopment neighbourhood.

Fragmented property rights in inner city dilapidated neighbourhoods

In Chinese cities, the de jure ownership of urban lands lies with the state. The reform measures in the late 1980s include land reform, permitting the transaction of land use rights. Subsequent measures in the early 1990s involve the devolution of the power to dispose of land use rights to local district governments, leading to the establishment of local authorities as de facto landlords (Shin, 2009). The local authorities, however, are not the only claimant to the land. There are multiple claimants to the bundle of property rights vested in urban lands and improvements to the lands including dwellings and offices. According to He (2007), such situation leads to the fragmentation of property rights, which provides urban players such as real estate developers with a substantial degree of difficulties in 'sorting out the fragmented property rights for all the houses' (p. 191).

When a redevelopment project takes place in dilapidated neighbourhoods, the fragmentation of property rights would occur in two dimensions. First, there are multiple claimants to the land use rights within the boundary of a redevelopment neighbourhood. These claimants would include various work-units and government institutions that have kept their offices and residential compounds to accommodate employees and/or retirees. The distribution of urban land during the period of planned economy made them legitimate holders of urban land use rights, bestowing the power to enter into negotiation with local authorities and/or developers when it comes to land assembly for redevelopment. Public sector tenants and private owner-occupiers also have their share to lay claim on the land use rights and corresponding compensation.

The second dimension involves the presence of multiple claimants on the property rights of residential dwellings. One particular case that reflects the legacy of the planned economy is the multiple occupants in courtyard houses in Beijing. Most courtyard houses, especially those located in inner city districts of Beijing, were confiscated after the 1949 Liberation to be used as rental dwellings or offices. Even though their restitution to original owners began to take place in the mid-1980s, the process has been a painstakingly long one and often, original owners failed to reclaim their properties due to the lack of official certificates to prove their ownership.

Property rights reform and its meaning to the urban poor

As mentioned earlier in this chapter, the main purpose of the Property Rights Law is to clarify the extent of ownership and protect individual property rights in compliance with the 2004 amendment to the Constitution.

The underlying basis is to endorse the already proliferating private ownership. This leads to two discussion points worth considering: (1) the issue of ambiguous property rights in urban redevelopment; (2) the implication of protecting individual property rights.

Redefinition of ambiguous property rights in urban redevelopment

Urban redevelopment during the planned economy period and up until the early 1990s focused largely on guaranteeing permanent residents' existing right of occupancy and right to urban space, which meant that re-housing on site or relocation to a resettlement housing was the norm. The monetarization of redevelopment compensation since 1998 was to follow the government policy that terminated any direct allocation of welfare housing by employers. The shifting emphasis on cash compensation coincided with the domination of property-based and profit-led redevelopment since the 1990s.

The property rights school claims that clear and well-defined property rights relations are what propel economic success. In former socialist countries, this was equated with the privatization of collective ownership of land and housing in order to standardize and institutionalize property rights for trading in the market. In China, the gradualist approach to any reform measures has meant that property rights reform has also been taking place on a piecemeal basis. The transition from socialist collective ownership to private ownership inevitably accompanied a high degree of ambiguity in the way in which property rights were distributed and administered (Ho, 2001, 2005; Oi and Walder, 1999).

Ambiguity, however, can be interpreted in different ways – from the viewpoint of the growth coalition consisted of land-based interests, and from the viewpoint of local residents who face permanent displacement upon redevelopment. Ambiguity results from the failure of the state to clearly delineate the extent of ownership of land use rights among stakeholders, which in turn facilitates the establishment of informal growth coalition to capitalize on financial gains (Zhu, 2002). In peri-urban areas, ambiguous property rights are the driving force of unco-ordinated land conversion of agricultural lands into non-agricultural use (Zhu and Hu, 2009). Here, the issue of ambiguity is largely 'between the central state and the local governments and *danwei*, when agents are actively pursuing their own interests' (Zhu, 2002, p. 44).

What would ambiguity mean to local residents and rural villagers? For homeowners with title deeds in their hands, ambiguity is no longer an issue, unless the legality of their title deeds is questioned. For residents in extra-legal tenure, among the bundle of property rights, what matters the most would be the right to use and inherit, that is to keep the use right ownership within

families. Because of the different histories of property rights distribution and redistribution in urban and rural areas, the formalization or clarification of property rights would also have differing impacts on local residents. For residential land users, this is less problematic. It is far more problematic for those in charge of land assembly (e.g. the central and local states or any other companies that are commissioned to carry out such tasks) who would have to negotiate with numerous individual rights holders. Redevelopment projects in Hong Kong are illustrative: the redevelopment of high-rise residential blocks is an arduous task because of the fact that numerous owners are entitled to claiming legitimate rights on their properties, thus 'fragmented property rights' becoming a huge obstacle to any neighbourhood renewal project (La Grange, 2004, p. 346). In management science, the issue of fragmented property rights is thought to have become a significant barrier to technical advancement and market innovation, as multiple complementary patents on a particular product leads to the fragmentation of property rights in connection with the said product, thus limiting firms' incentives for research and development (Clark and Konrad, 2008).

This is what has been argued by critics such as He (2007). Public rental stocks, for instance, which are owned and managed by either work-units or municipal housing bureaus, only allow tenants to hold on to use rights. Owners of privatized public rental stocks also command limited ownership rights as legal title deeds are often missing in the transaction. These act as a barrier to property development, which is removed by the intervention of entrepreneurial local states in Chinese cities (He, 2007). The aforementioned changes in compensation measures in 1998 and subsequent revisions are one example. The elimination of household factors in estimating redevelopment compensation and the simplification of cash compensation on the basis of formal dwelling space write off any pre-reform property rights relations. This makes it easier for developers to negotiate and push forward with urban restructuring and gain planning permission relatively easily, thus speeding up the process of land assembly. It drives, however, displaced residents towards financial uncertainties in their post-displacement life and much less security of tenure (Shin, 2007). On the other hand, if the process of urban redevelopment is driven less by entrepreneurial local states, fragmented property rights are sustaining local communities. There may be many rights claimants including work-units (as owners and managers of dwellings for their former/current employees), municipal housing bureau, registered tenants, actual users who may have sublet from registered tenants, etc. The multiplicity of rights claimants may possibly keep poverty neighbourhoods intact, less threatened by externally driven physical transformation, and more resistant to market forces.

Upon demolition and re-construction, the municipal district government on behalf of the state allocates and administers the redistribution of land use rights, and any commercial premises or houses built on cleared sites would

have formal property rights and simplified ownership structure. Zhu and Hu (2009) argues in their study on China's peri-urbanization that ambiguous property rights system in China's peri-urban lands leads to 'disordered land-rent competition' to capture land-rent differentials, which leads to a situation in which 'lands are often not used for the "highest and best" purpose' (Zhu and Hu, 2009, p. 1642). This suggests that clarifying property rights and erasing ambiguity would improve the land use efficiency and increase the value of land and housing, which accords with what Hernando de Soto has been advocating for many years (de Soto, 2000). The problem is that most local residents are hardly beneficiaries of any land and housing development that aims to achieve the 'highest and best' purpose. The experiences of urban redevelopment and gentrification in Chinese cities provide ample evidence for this (He, 2007; He and Wu, 2005; Shin, 2009).

Finally, one of the essences of the property rights reform in urban China accomplished by the 2004 amendment to the Constitution and 2007 Property Rights Law is the lawful protection of private property and requires non-violation of the state. This receives positive responses, especially from the homeownership sector. These measures undoubtedly provide enhanced security measures for the greater protection of homeowners from the 'entrepreneurial' state and the capital, which often work in coalition to proceed with arbitrary expropriation of private properties in the name of public interests (Shin, 2009; Fang and Zhang, 2003). The increased awareness of self-interest on the basis of property ownership may give rise to the emergence of what Lee (2008) refers to as 'property rights activism'. The recent phenomenon of 'nail households' (that is, households that refuse to vacate dwellings upon neighbourhood redevelopment and demolition) would indicate an incipient form of this activism.

Consolidation of unequal distribution of property rights

It is now widely recognised that urban housing in China had been unequally distributed among residents under the planned economy. Occupational differences, ranks and the degree of relationship with gatekeepers and higher-ranking officers were identified as being the main causes of this unequal housing distribution (Logan et al, 1999; Gu and Colwell, 1997; Huang and Clark, 2002). Housing inequality problems in urban China were exacerbated by the occupational welfare system whereby housing-in-kind benefits varied according to the status of employers: employees were largely better off in the order of the following: (1) government workers, especially in central government; and (2) state enterprises better off than the collectives. Those living in dwellings owned and managed by local housing bureaus enjoyed the least space standard and quality (Lee, 2000). Since the enhancement of reform measures in the late 1990s, in-kind distribution of housing by work-units was ceased in principle, and urban residents were to be provided with a new set of choices (e.g. subsidized sales of public houses in the 1990s or

the housing provident fund for employees). However, these choices were often in favour of those urban residents who were already privileged in the previous pre-reform redistributive system (Li, 2007). This process excluded those who were affected by the economic reform measures (evident examples being those laid off or unemployed) as well as those temporary urban in-migrants (Wang, 2000).

The monetarization of redevelopment compensation since 1998 has made it official that the extent of the existing formal dwelling space would be considered when it came to cash compensation. This presents problems especially to those residents who failed to benefit from the earlier welfare housing allocation by their work-units. During the period of urban housing reform in the late 1980s and early 1990s, urban residents affiliated with state sector employers received various subsidies to make them homeowners. The most common method was to buy work-unit houses, either existing or new, with cash subsidies (or price discounts) that took working years and household registration factors into account. Civil servants, party cadres and managerial/professional staff of state-owned enterprises tended to be 'offered the best deals (in terms of price and quality of housing)', and their transition to homeownership accompanied 'huge redistribution of wealth in society' (Li, 2007, p. 158). For instance, a couple interviewed by the author bought a 90-square-metre two-bedroom flat in a high-rise estate in 1996. Both husband and wife had been working for research institutions in Beijing, and their combined working years were given consideration when calculating price discounts. The final price they had to pay was about 40,000 Yuan, and they spent 20,000 Yuan in addition for furnishing and interior decoration. This was in contrast with another interviewed couple: the husband used to work for a state-owned enterprise, which was not able to provide housing subsidies. The couple was living in a 40-square-metre non-self-contained flat in a medium-rise estate built in the mid-1950s. Given the husband's seniority at the time of retirement, he was entitled to a 90-square-metre flat, but his work-unit was too poor to provide cash subsidies for this under-entitlement part (that is, 50 square metres). Under the current compensation system, this neglect would be equated with the loss of a substantial share of family property assets. The interviewee feared that once the house was demolished, there would be no other way to correct the ill-doing that deprived him of his legitimate claim according to the reform policies. This was indeed very likely to happen. As demonstrated by Shin (2007), the total amount of cash compensation under the 1998 and 2001 compensation policy was clearly proportionate to the formal dwelling size, suggesting that the winners of pre-reform period welfare housing allocation would continue to enjoy greater benefits upon displacement and redevelopment of dilapidated neighbourhoods. In short, property rights reform over the last two decades has acknowledged the status quo of property rights ownership regardless of their origin of acquisition.

Conclusion

People who were in better-off positions during the planned economy era have a greater chance of securing private ownership at favourable terms (in terms of both price and housing quality) in the process of urban housing reform. Unlike those working in better-off state sectors (with cash or in-kind incentives) or joint ventures (with higher salary), residents in dilapidated neighbourhoods were 'trapped' in poverty-stricken neighbourhoods, as they no longer had protection from either work-units or local authorities. Various forms of legal and extra-legal tenure have come to coexist in these neighbourhoods, as residents adapt to the changing structure of property rights in times of implementing land and housing reform. In this regard, neighbourhood redevelopment represents the process of simplifying property rights and regularizing extra-legal tenure. As a result, homeownership and private property rights become dominant in redeveloped neighbourhoods.

In the pre-reform planned economy, property ownership was in principle based on one's needs, even though the actual distribution of property rights was skewed and unequal. The property rights reform and housing privatization, however, 'created the conditions for a new logic of entitlement defined by rules of individual property and private ownership' (Davis and Lu, 2003, p. 96). In the process of post-socialist transition in Eastern Europe, the development of private property rights was often recommended as part of reform policies, but in practice, this accompanied 'the reallocation of already existing rights that have been lodged elsewhere' (Marcuse 1996, p. 143). This chapter has shown that property rights reform in China has contributed to the consolidation of existing inequalities in housing consumption and asset accumulation, and subordinates various types of extra-legal tenure to the logic of private ownership.

As Gilbert (2002) notes, for the poor people, 'illegality is rarely the principal problem' and that the proliferation of informal settlements in Latin American cities owes to the reality that demolition has never been the norm (p. 6). Illegality or as discussed in this chapter, extra-legality has not been a problem in China, at least from the perspective of poor residents' access to use rights in poverty-stricken neighbourhoods, and rural villagers' investment in housing for profitable gains. However, unlike the practices of Latin American cities, Chinese cities experience demolition as a norm, which significantly threatens poor families' tenure security. Without the presence of electoral democracy to win popular support from the electorates, urban poor residents in China's poverty neighbourhoods face a difficult fight to preserve their tenure security and their right to the city. Gilbert's argument that self-help housing nurtures the idea of private ownership and fosters conservative values among the poor (ibid, p. 6) may also apply to post-reform capitalist China. The homeownership as an ideological basis in times of rapid economic growth and societal transition in the East Asian

region (Ronald, 2008) has also sprung up in urban China, and the protection of individual private ownership of real properties may have become the basis for maintaining social stability. This, however, favours the winners of the reform period, and leaves 20 per cent of the people who have failed to enter the homeownership tenure. Those in extra-legal tenure would be the most vulnerable, as their control of use value is substantially outweighed by their deprivation of exchange value in the process of profit-led urban redevelopment.

This does not necessarily suggest that property rights reform to enhance the protection of individual private property is not significant for the poor in extra-legal tenure in poverty-stricken neighbourhoods. As explained briefly earlier, the implementation of the Property Rights Law and the 2004 amendment to the Constitution may possibly lead to 'property rights activism', especially among homeowners. The growing emphasis among critics on the governance of homeowners' associations also reflects this expectation (Tomba, 2005; Read, 2003). In poverty neighbourhoods, however, the challenge would be collecting a sufficient number of homeowners to make sure some degree of influence can be exercised. For rural villagers in peri-urban areas with homeownership, this may be less insurmountable than the residents in dilapidated inner city neighbourhoods where public rental tenure is dominating. Then, as far as safeguarding the tenure security and resisting demolition and/or forced eviction from taking place are concerned, perhaps the way forward is to resort to the fragmentation of property rights, supported by the coalition of residents on the basis of rights-based awareness.

Note

1. Here, 'extra-legal' tenure is used instead of 'illegal' tenure, as the former refers to tenure outside legal domain without necessarily criminalizing residents (Varley, 2002, p. 450).

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