

Property legal studies

Politics



Compare and contrast the compulsory acquisition property laws that exist in China with those in that are currently in place in Australia. Describe how international pressure could be brought to bear on Chinese authorities to properly enforce the property rights that should be available to Chinese citizens. Introduction China has achieved remarkable economic growth in the last decade; compulsory land acquisition was inevitable during the process of development.

According to the Chinese constitution, compulsory acquisition is an activity dominated by the overspent transferring the use right of land from personal to state and the land will use for construction purpose (International real estate review, 2003). Chinese government expropriates the land use right from individual and then sells the land to property developers and gets the land grand fee at the same time. The government requires acquiring authority to pay compensation and to reach a compensation agreement with the dispossessed people.

However, only a small amount of money will pay to the individual as compensation. In contrast, the compulsory acquisition is under section 51 of Australia constitution and can be carry UT by federal and state government. It is normally happens for the public infrastructure such as road work, subway or some other circumstance which may have affect the public safety. Differently, in Australia the owners can get a fair market value for their property under the federal Jurisdiction (Compulsory acquisition, the basics, 2013).

Issue As China is developing in all aspects, there has great demand for land for infrastructure and accommodations development. Developing itself is a good thing; it can bring many benefits both to the country and people. However, the compensation is not determined on the basis of the market price of land in China result in a lot of conflict. One of the famous cases that became headlines of media over worldwide happened in Shanghai China. A New Zealand nationalistic couple came back to Shanghai after they finishing studies.

They have built a four-level house in Min Hang state; which is the biggest state in Shanghai. In 2008, they received a notice letter that told them their house would be compulsory acquired and they need to move out within 15 days because of the exploitation of Honoring Airport transportation hub. Panging couple would get 2,241 ARM per square meter of the land as compensation; which was total 670,000 ARM for the whole 480 square meters' house. At that time, the average market price for a house in that region was 12,000 ARM per square meter.

Panging couple thought the compensation was inadequate so they refused to sign the relocation agreement. After 15 days the government delivered the demolition administrative judgments, they started compulsory acquisition. One day, in the early morning, bulldozers came and directly pushed over the first-level door of Pangs house. Panging stood on her roof said to the construction team that engaged in polices, firemen, the director of transportation construction committee and some other people that if they do not have a writ from court, it is illegal to compulsorily acquire their house.

However the construction team did not hear Panging, they kept chiseling the wall of Pangs house and throwing stones to her and her husband. In desperation, Panging left the homemade gasoline bottles. Pangs behavior offended the public security administration law and consequently panging couple were arrested and their house have compulsorily acquired (Compulsory acquisition, the basics, 2013). The issue here is according to the newest property law that law protects the personal legitimate properties, as same as the state and collective properties.

People may think that I have my estate licenses and my house was legitimate property. Law should protect my rights not they have a demolition permit letter then you can do whatever you want to my house. (SOHO News 2009) Law apply Nevertheless, the People Republic of China Property Law 2007 section 42 set an exception that authority prescribed by law can impose collective ownership of land ND unit, individual housing and other real estate.

There has a lime light that the world using in the law is impose; which means the compensation fee uses for changing the ownership of the rights to use the land not for relocation. In other words, government buys the rights of use the land from individuals then they can develop it. Not like the case before, the transportation construction committee delivered the notice and offered only one fifths of the market price and started to move the house. According to the state council No. 90 2011, the regulation on the expropriation of buildings on state-owned land and compensation, section 3, article 19:' the compensation for the value of houses to be expropriated shall not be less than the market price of the real estate comparable to the houses to be

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expropriated on the date of the public notice of the house expropriation decisions. The value of the houses to be expropriated shall be assessed and determined by real estate appraisal agencies with appropriate qualifications in accordance with the procedures for evaluating houses to be expropriated.

Anyone who has objection to the value of the houses to be expropriated that has been assessed and determined may apply to the real estate appraisal agency for reassessment. Anyone who disagrees with the results of the review may apply to the real estate appraisal expert committee for appraisal. ' In the case, Panging couples tried to negotiate with the committee. But the consequences were all the same that the committee would not change the price at all. Without the permission or without the owner signing the document, any departments have no rights to compulsorily acquire the land. The action happened on Phonons case was illegal.

No solutions are coming out from the government and that is not the only case happened in China. There are hundreds of the similar cases occurred every day. In contrast, compulsory acquisition in Australia can obtain the land by negotiated agreement. Acquisition by negotiated agreement involves the owner and the commonwealth agreeing to the terms of the agreement and the amount of compensation. In addition, if the owner not satisfied with the amount of compensation that government offers, they can find any two estimates accompany and get the average price as the compensation (The commonwealth and you:

Compulsory Acquisition of Land 2011) Land Acquisition Reform: Law enforcement department need to carry out their obligation make sure all of the compulsory acquisitions happen legally and the compensation is adequately for dispossessed people. In addition, with the accession of China into the World Trade Organization, China has to upgrade the welfare of her citizens to international standards. Apparently, the acquire authorities did not fulfill their responsibilities and that led to many people become homeless or even do not have enough food supply.

Chinese government did not take any timely measures to solve this issue. Therefore I think that Amnesty International should urge Chinese government introduce new legislation to meet the international standards and stop the compulsory acquisition without getting an agreement with individuals and make ensure that victims of compulsory acquisition can get a fair trial and compensation. Conclusion: It's difficult to avoid compulsory acquire as there has a great demand for land for infrastructure development. However, home is the most important resources that humans rely on.

Panging couple's actions offended the law and they received the enmeshment, but in other ways, their behavior also explained their frustration. The legislation should protect the property rights of citizens and once the people have a stable industry and income, the country could have a sustainable development.