

# Research on the Distribution of Benefits of Rural Collective Economic Organizations

Yanping Sun

School of Law, Anhui University of Finance and Economics, Bengbu Anhui, 233000, China

## Abstract

Under the background of the continuous promotion of the reform of the rural collective property right system and the rapid growth of the total assets of the collective economy, there are nearly 600000 village level collective economic organizations in China. The contradiction of income distribution within the organization is prominent, and the number of disputes is increasing year by year. However, there is a lack of unified rule guidance, the treatment method of judicial practice is chaotic, and it is difficult for members to get relief for the share usufruct of collective assets. Therefore, it should be clear that such disputes belong to the scope of cases accepted by the court, and give the court certain judicial review power, clarify the criteria for determining membership and the effectiveness of income distribution scheme, and standardize the exercise of members' collective autonomy, so as to unblock the channels of right relief, so as to ensure the realization of members' collective assets and stock usufruct.

## Keywords

Collective Assets; Shares; Income Distribution; Judicial Review.

## 1. Introduction

As of January 23, 2020, all the poverty-stricken counties in China have removed their hats, marking the completion of China's poverty alleviation work as scheduled. At the same time, the reform of the rural property rights system has also achieved remarkable results, and the work of rural property rights system verification has been basically completed at the end of 2019, and the reform of the rural property rights system has been basically completed by the end of 2021. In this context, China's rural collective economic organizations continue to grow, and their incomes continue to grow. In the face of the huge scale and complicated rural collective assets, how to standardize the distribution of rural collective income to protect the vital interests of the vast number of peasants is a major issue that we must face and solve.

## 2. Judicial Overview Analysis on the Distribution of Rural Collective Income

Under the background of the continuous advancement of rural property rights reform, the speed and scale of reform have reached a new height, and disputes arising from the distribution of benefits of rural collective economic organizations are also increasing. The author searched 1,641 such cases from 2018 to the present through the China Judgment Documents Network, and selected some of them to analyze the judicial practice of collective collection and distribution disputes in China from the two aspects of acceptance and trial. Organization of the Text

### 2.1. Analysis of Case Acceptance

In China's judicial practice, disputes over infringement of the right to the proceeds of collective assets and shares are basically covered in disputes over infringement of the rights and interests

of members of collective economic organizations, and in the context of the reform of rural property rights and the substantial increase in the volume of rural collective economy, most of the provincial high courts in China have established the basic spirit of fully protecting the rights and interests of farmers, and the courts have basically accepted such cases. About 5 per cent of cases were dismissed, and the acceptance rate of such cases has increased significantly compared to previous years. The main reasons for the people's court's inadmissibility are as follows: first, it believes that the plans and methods involving membership confirmation and income distribution belong to the internal villagers' autonomy matters; second, they believe that the plaintiffs in such cases must be directly interested parties in the income distribution plan; third, they believe that such cases do not belong to disputes between equal civil subjects and do not fall within the scope of civil litigation, but should be resolved through administrative litigation; fourth, they believe that the determination of membership and whether they enjoy the right to collective income distribution should be resolved through administrative procedures.

After a search of the judgment document network, it was found that most of the cases that were not accepted were based on villagers' autonomy matters and the need for administrative procedures to be concluded. For example, Zhongshan City Zeng sued The Second Economic Cooperative of Guyu for a dispute over the confirmation of membership of a rural collective economic organization, which was ostensibly involving a dispute over the infringement of the rights and interests of members of a collective economic organization, but in essence a dispute over the confirmation of membership of a rural collective economic organization. According to the Organic Law of the People's Republic of China on Villagers' Committees, it is a matter of villagers' autonomy and is therefore not accepted. In some cases involving "compensation fees for land requisition", some courts have held that the amount of land compensation and distribution is not within the scope of the court's acceptance and should be determined in accordance with the rural democratic agreement procedures prescribed by law. In some cases involving the "collective income distribution plan" and "membership confirmation", some courts held that this was an autonomous matter of the villagers and was not within the scope of the court's acceptance. In cases involving the right to land contractual management, some courts held that the court should inform the plaintiff to report such cases to the relevant administrative departments for handling such cases according to the Interpretation of the Supreme People's Court on Issues Concerning the Application of Law in the Trial of Cases Involving Rural Land Contracting Disputes. There are also some courts that believe that the national legislature should be clarified and explained in cases of confirming membership, so if the issue is filed with the court, the people's court will not accept it.

In China's judicial practice, some cases of disputes over the distribution of collective income with clear facts and sufficient evidence are still accepted, and the legitimate rights and interests of farmers are fully protected. However, due to the above types of reasons, the court made a judgment rejecting the plaintiff's lawsuit, and lacked sufficient reasoning for the judgment result in its production documents, which also made it difficult for villagers or collectives and individuals whose rights and interests were infringed to be properly resolved. Simply classifying "confirmation of membership" and "determination of the distribution plan" as matters of villagers' autonomy, without examining villagers' autonomy or erroneous and illegal acts in the process of resolution, directly dismisses the prosecution, which is obviously inconsistent with the current spirit of China's laws. The collective income distribution dispute was resolved in accordance with the Interpretation of the Supreme People's Court on Issues Concerning the Application of Law in the Trial of Cases Involving Rural Land Contracting Disputes, without realizing that it could not adapt to all the circumstances of the relevant income distribution cases, and that the collective income distribution dispute was a title dispute, and there was a certain difference between it and the land contract management right dispute.

The confusion in judicial practice of such cases also proves that the standard of acceptance of such cases is indeed lacking in China's legislation, which also shows that the legislative work of clarifying the standards for the acceptance of such cases is very urgent.

## **2.2. Analysis of the Trial of the Case**

With the comprehensive development of rural property rights reform, rural collective assets are quantified, and rural collective income distribution rights exist in the form of collective asset share income rights, with the introduction of new policies, villagers participate in the distribution of income based on shares, which does avoid some disputes, but in judicial practice, disputes about the distribution of collective income still exist. The disputes in such cases mainly include the following types: first, the scope of the court's acceptance of cases involving disputes over the distribution of collective benefits, which has been analyzed in the previous admissibility and will not be repeated here; second, the issue of the confirmation of the qualifications to participate in the distribution, especially the membership of special groups such as foreign-married women, newborn children, military service, going out to school, and migrant workers; and the third, the issue of the effectiveness of the distribution plan for collective income. In the current judicial practice, disputes arising from the distribution of collective benefits do not set up independent causes of action, but are scattered among the causes of action such as disputes over the right to land contractual management, disputes over compensation for the expropriation of contracted land, and disputes over infringement of the rights and interests of members of collective economic organizations, of which nearly 80% of the cases are included in disputes over infringement of the rights and interests of members of collective economic organizations. It is decided to distribute relevant funds within the collective economic organization, but the matters decided must not conflict with laws and regulations and national policies, and must not infringe on the legitimate rights of villagers. Villagers' autonomy should be carried out within the framework of the Constitution and laws, and the use of democratic procedures to deprive villagers of their legitimate rights and interests will inevitably not be supported by law, but the phenomenon of infringing on the legitimate rights and interests of special groups of people in distribution still exists. This case was a dispute arising from the distribution of land compensation, and of course it was a dispute over the distribution of collective income. In some cases, the plaintiffs in the court "converted their hukou from agriculture to non-agriculture" before enlisting in the army, and naturally no longer enjoyed the right to distribute the proceeds of collective assets.

In addition, when it comes to the confirmation of membership, China's legislation on this issue is not perfect, which also leads to inconsistent standards in the trial of various courts. At the same time, there is no reason why the courts have the right to review the income distribution schemes made by rural collective economic organizations, and the gaps in these legislations have led to the dilemma that courts often fall into undependable difficulties when hearing such disputes.

## **3. Legal Issues of the Right to the Proceeds of Shares in Collective Assets**

In China's current legal system, there are no systematic and detailed provisions on the right to the proceeds of collective assets and shares, most of which appear in some administrative normative documents, even if they involve the provisions on the distribution of rural collective income, they are mostly declarations of the protection of farmers' rights and interests, and do not involve the specific exercise of the right, safeguard measures and other detailed issues. As a guarantee of the peasants' basic right to life, but the lack of clear and detailed legal provisions, this will inevitably lead to a chaotic situation in the exercise of rights and remedies.

### **3.1. The Criteria for Membership are not Uniform**

The lack of unified standards for determining qualifications leads to disputes between villagers and collective economic organizations over the determination of the holder of the right to the proceeds of collective assets and shares, and after the dispute is brought to the people's court, the court can only try the case in accordance with the principle of reasonableness in the absence of unified standards, and it is the principle of reasonableness that is combined with the actual trial, resulting in the lack of sufficient legal basis for the judgment results, and the situation of different judgments in the same case also occurs from time to time, and the appeal rate of the collective income distribution dispute cases involving the determination of membership is extremely high.

It can be seen that in specific practice, due to the lack of criteria for determining membership qualifications, grass-roots village collective economic organizations often have disputes over whether individual villagers have the right to participate in the distribution of benefits, and the standards on which the courts accept such disputes are inconsistent and vague and general, resulting in cases not being completely resolved in the first instance, and most of the cases are concluded in the second-instance trial procedure. The rules involving the qualification of special groups need to be clarified.

### **3.2. The Rules for Determining the Effectiveness of Collective Distribution Plans are Vague**

Since the collective income distribution plan and distribution method belong to the category of villagers' autonomy, the people's courts are generally more restrained in disputes involving the determination of the validity of the income distribution plan of collective economic organizations, and if the judicial power is excessively involved, it will inevitably infringe on the villagers' autonomy to a certain extent, and if it is too conservative, unfair, and unreasonable, the distribution plan will infringe on the legitimate rights and interests of collective members. Therefore, when hearing such disputes, the courts generally have four ways of dealing with them. First, for the distribution plan that does not violate laws and regulations, the court believes that it is the embodiment of the villagers' autonomy, respects the results of the villagers' resolutions, and finds them valid. Second, if the distribution plan truly infringes upon the legitimate rights and interests of individual collective members, the village collective is ordered to pay a corresponding amount of distribution benefits to the members whose rights and interests have been infringed. Third, the court held that the formulation of a collective income distribution plan was a matter of villagers' autonomy and did not fall within the scope of the court's trial, and pushed it to the relevant administrative organs.

It can be seen that in disputes involving distribution plans, many courts choose to recuse themselves from the effectiveness of the distribution plan, but only review the formation of resolutions, and do not involve the effectiveness of the distribution plan that infringes on the rights and interests of members, but only order the village collective to pay compensation to the prosecutor. The reason for this situation is the vagueness of the rules for determining the validity of the distribution plan, and it is difficult for the court to find a corresponding direct legal provision when hearing such disputes. Therefore, in order to effectively correct the existence of unreasonable and unfair distribution schemes, it is necessary to have corresponding legal provisions to provide legal basis for them.

### **3.3. The Scope of Authority for Judicial Review Intervention is Unclear, and a Large Number of Disputes Cannot be Resolved**

Due to the lack of corresponding provisions, the scope of the court's acceptance of cases of infringement of members' participation in the distribution of collective benefits is not clear, and a large number of disputes have been dismissed by the courts on the grounds that villagers'

autonomy matters should be sought, administrative organs should be sought, or that there is no corresponding legal basis and is a legislative issue. The specific analysis has been described in the previous part, so it will not be repeated here. A large number of disputes cannot be resolved, it is difficult for collective members to implement the right to the proceeds of collective assets and shares, and the property rights of villagers cannot be guaranteed, which is contrary to the meticulous revitalization of the countryside. Therefore, it is imperative to step up the construction and improvement of the rural collective income distribution system.

#### **4. The System of the Right to the Proceeds of Collective Assets and Shares is Perfect**

##### **4.1. Determine the Criteria for Determining Collective Membership Qualifications and Establish a Membership Recognition System**

The provisions of Our laws on the criteria for determining membership are still blank. At present, judicial organs mostly follow the judicial interpretations of the Supreme People's Court and the provincial high courts or some local guiding opinions on issues involving the determination of membership, and the criteria for determining individual cases are very universal in practice. Therefore, China's legislature should clarify the criteria for determining membership through legislation. Membership is the basis for villagers to enjoy the rights of membership, and there is no qualification to talk about rights. The principles of fairness and justice, survival guarantee and comprehensive identification shall be followed for the determination of qualifications, with the closeness of relations, basic living security and household registration as the core standards. Among them, the closeness of the relationship mainly refers to whether a long-term and stable production and living relationship has been formed between members and rural collective economic organizations. The basic subsistence security standard refers to whether collective land is used as the source of subsistence security. The household registration standard depends on whether the member's household registration is an agricultural household registration registered in the place where the collective economic organization is located. In turn, on the basis of the principles to be observed in determining membership, the three core criteria are comprehensively considered, so as to protect the rights and interests of farmers.

##### **4.2. Clarify the Rules for Determining the Validity of Distribution Rules**

The results of the effectiveness of the income distribution plan of the collective economic organization are directly related to the realization of the right to the income of the members' assets. The main way for members who enjoy the right to proceeds to exercise their rights is to participate in the resolution of the distribution plan and method of income, so as to manage collective assets. Just as the management of a company is achieved through a general meeting of shareholders, the villagers' decision-making behavior is the embodiment of their exercise of rights. However, in actual practice, there are a large number of disputes arising from unfair distribution schemes, precisely because the law lacks clear provisions on the matters of the resolution on the distribution of collective benefits. As a result, in practice, many resolutions and matters have been violated by other laws and even the Constitution. Therefore, the effectiveness of the clear income distribution plan should be started from two aspects: First, the matters that can be resolved in the autonomy of villagers should be clarified. The proportion of income distribution, the time of distribution of proceeds, etc., but the actual infringement in the name of democratic resolutions should be resolutely prohibited. Second, improve the procedural rules formulated by the distribution plan, in order to avoid the emergence of "tyranny of the majority", administrative and judicial organs are allowed to intervene in order to avoid the emergence of "tyranny of the majority", in order to avoid the existing number of

participants must reach more than two-thirds of the number of participants in the village, and the majority of the votes approved can pass. Administrative organs review and file for the record, and judicial organs have the right to review the legality of their distribution plans when hearing disputes, and at the same time have the right to revoke according to law.

### **4.3. Multi-departmental Linkage to Protect the Rights and Interests of Members in All Aspects**

Disputes over the distribution of collective benefits involve a very large number of issues, and it is not feasible to rely on a single department to deal with them. If we want to completely resolve such disputes, we can try to establish a multi-departmental joint handling mechanism, refine the division of labor with the judicial department as the core, and coordinate and cooperate with the government administrative and agricultural departments, legal aid institutions and rural grass-roots autonomous organizations. Specifically, a permanent office can be set up at the grass-roots level or in the relevant government departments of rural issues to deal with the dispute over the distribution of collective benefits at a primary level, and to support the parties to the dispute to seek judicial relief from the court when the dispute involves complex circumstances or difficult to coordinate. After entering the judicial procedure, the parties may apply to the relevant administrative departments for various types of materials to improve the efficiency of the court in determining relevant facts. The multi-sectoral joint processing mechanism should pay attention to the division of labor, the docking with grass-roots collective economic organizations, and the issue of convenience for the people. The direction of multi-departmental joint efforts is to improve the efficiency of dispute resolution and broaden the path of villagers' relief, rather than adding more thresholds and more conditions to rights relief.

### **4.4. Clarify the Scope of Judicial Review of Collective Income Disputes**

The issue of judicial review of such disputes is directly related to the issue of relief for the rights and interests of collective members. First of all, for the issue of membership determination, whether the judicial organ has the right to confirm collective membership is still controversial in academic circles. In this regard, the author believes that the judicial organs should have a certain limit of the right to review the disputes involving the proceeds of membership, and the membership cannot be resolved, and the disputes over the proceeds cannot be started. Therefore, when trying a specific case, the people's court shall confirm the membership of the people's court in accordance with law for membership that has sufficient evidence and meets the standards prescribed by the state. Disputes over proceeds fall within the scope of civil disputes, and judges enjoy a certain degree of discretion in the trial of cases in accordance with law. This saves the relief costs of the parties, improves the efficiency of dispute resolution, and meets the needs of handling rural collective income disputes at this stage. Second, the court's review limits for determining the effectiveness of the distribution plan. The formulation of a collective income distribution plan is a matter of villagers' autonomy clearly stipulated by law. However, in specific dispute cases, the phenomenon of "tyranny of the majority" often occurs, so the collective income distribution plan should be included in the scope of judicial review. Only in this way can villagers' resolutions that are illegal in procedure and contrary to the Constitution and laws be discovered and corrected. When the income distribution plan infringes on the rights and interests of members, the collective members may file a lawsuit with the people's court, and the people's court shall accept it.

## **5. Conclusion**

With the deepening of the reform of the rural property rights system, the protection of farmers' rights and interests is the top priority of rural work. At present, in reality, various types of

disputes over the distribution of rural collective income have emerged, which is mainly due to the shortcomings of China's rural collective economic system and the vagueness of relevant rules. Judging from such dispute cases in the past three years, the lack of clarity of the rules has led to the unsmooth channels of judicial remedies, and the internal supervision and guarantee mechanism of various collective economic organizations has not been perfect, which has inevitably caused the rights and interests of some collective members to be infringed, villagers' autonomy and judicial review have played with each other, and the road to safeguarding rights is very difficult. The distribution of the income of collective economic organizations is directly related to the income of peasants, so it is necessary to speed up the relevant legislative work, improve the guarantee mechanism, and clarify the channels of judicial remedies to protect the legitimate rights and interests of members.

## Acknowledgments

Anhui University of Finance and Economics Graduate Research Innovation Fund "Judicial Empirical Research on Income Distribution Disputes in Rural Collective Economic Organizations" (ACY2021101).

## References

- [1] Z. H. Song: On the Relationship between Peasant Collectives and Rural Collective Economic Organizations, *Chinese Jurisprudence*, (2021) No.3, p.164-185.
- [2] S.K.Fang and Y.D.Ren: On Collective Stocks in the Reform of Rural Collective Property Rights System: The Dispute over Existence and Abolition and the Realistic Path, *Journal of Soochow University (Philosophy and Social Sciences Edition)*, Vol.42(2021) No.2, p.60-72
- [3] A.Y.Zhang: Path Selection of Dispute Resolution of Income Distribution of Rural Collective Economic Organizations, *Theoretical Guide*, (2016) No.12, p.85-88.
- [4] A.Y.Zhang: Research on the Transformation of Farmers' Collective Ownership and Income Distribution Right System under the Background of Household Registration Reform, *Journal of Jiangxi University of Finance and Economics*, Vol.32(2015) No.2, p.28-34.
- [5] H.Y.Guan: Quantitative scope and equity setting of assets in rural collective property rights reform, *People's Rule of Law*, (2019) No.14, p.44-47.
- [6] W.Wei: Research on the Legal Basis and Application of Farmers' Economic Distribution Rights, *Economic Research Herald*, (2017) No.20, p.185-188.
- [7] S. Han: On the shareholding rights of peasant collective members over collective land assets, *Legal and Commercial Research*, Vol.31(2014), No.2, p.17-21.
- [8] X.R.Cao: Research on the Legal Mechanism of Income Distribution of Rural Collective Economic Organizations [D] (Ph.D., Southwest University of Political Science and Law, China 2017), p.17.
- [9] T.Y.Zhao: *The Politics of Everyone* (Social Sciences Academic Press, China 2010).