

“Deed owner, land owner?” Land Property Rights and Litigation Culture in Qing Taiwan

Wen-kai Lin

ABSTRACT

This article discusses the land property rights system in Qing Taiwan and analyzes how lawsuits related to land property rights were adjudicated. First, this article traces the development of the ‘government/official’ land property rights system with reference to fish-scale registers, title registers, land tax certificates, stamped deeds, official licenses and land documents. In addition, the ‘non-government/unofficial’ land property rights system widely practiced among the general population is examined in the light of land documents concerning use, reclamation, sale and purchase, mortgage, allotment among family members and joint ownership. The operation of these two systems and their drawbacks are also discussed. Second, this article analyzes 40 lawsuits in the Dan-Xing Archives to illustrate how commoners maintained their property rights through the litigation system and how legal officials handled such cases. As pointed out earlier, both the government/official and non-government/unofficial land property rights systems had many inherent limitations. Therefore, land ownership disputes were not always adjudicated according to the principle that whoever owned the title deed owned the land. Instead, stability in local governance was the prior consideration. The court often manipulated deliberately the duality between narrative representation and practical consideration, and ruled such cases in favor of the one who managed and controlled the plot of land in practice rather than the one who in fact possessed the title deed.

Keywords: Land Property Rights, the Qing Code, Land Customs, Land Contracts, Land Litigation