

TWO TYCOONS, TWO FATES: ZHOU ZHENGYI AND SUN DAWU

BY QIN HUI

China's current social and economic climate compels many people to operate outside of the law, with widely divergent consequences. In this article, Qin Hui observes how the prosecutions of two wealthy men illustrate the arbitrary application of "rule of law" on the basis of personal connections and membership in privileged social groups.¹

In recent weeks domestic and international news has focused on the cases of several Chinese tycoons: real estate magnate Zhou Zhengyi, ranked by *Forbes* magazine as one of China's richest men,² who along with Qian Yongwei³ and Xu Peixin⁴ fell into the snare of the law through involvement in unbridled influence peddling. Their methods were truly shocking: in the case of Zhou Zhengyi, he was able to manipulate regulations so that local officials provided him with a land lease on prime property in Shanghai's city center at no cost, after which he was able to use this cost-free land as collateral on a multi-billion yuan loan and at the same time to forcibly remove the original residents of the property without appropriate compensation—thus did the "Shanghai Tycoon" materialize out of thin air!

Most intriguing is that all of the above "tycoons" arose through property and related sectors. And China's tycoons are indeed heavily concentrated in this sector: according to media analysis, among the 100 richest people in China listed by *Forbes* magazine last year, "Fifty percent were involved to at least some extent in the real estate industry." The real estate industry is virtually inseparable from the financial markets: "The real estate industry's project management is heavily dependent on the financial markets, in particular bank loans. Some property developers can go into a deal almost empty-handed, using relationships and the capital markets to make deals."

We know that in a highly competitive open market every trade and sector in Shanghai has winners and losers, but among the sectors there is a wide disparity in the level of profit. "Obscenely profitable enterprises" arise either from

jumping early into hi-tech value-added industries or from those sectors dominated by power monopolies. Up to the present China has very few genuine hi-tech value-added enterprises, and the number of billionaires they have produced is not great. Rather, the current crop of billionaires is largely concentrated in the real estate and finance sectors. After 20 years of marketization, China has become relatively free in respect of the distribution of commercial products and technical skills, and the mobility of labor resources has also improved; but in comparison, the real estate and financial sectors still maintain the lowest level of openness, and are most subject to monopoly and manipulation of power.

It is in precisely these two sectors, and in particular where the two sectors intersect, that China's billionaires abound. It's easy to imagine that even if I were a complete idiot, as long as I have the right "relationship capital" to move the powers that be to allocate land and loans, it would be almost impossible not to become rich! And apart from the convenience brought by my relationships, or *guanxi*, who is in a position to compete with me?

Let's take an example. At almost the same time as the Zhou Zhengyi case, in Hubei Province the peasant entrepreneur Sun Dawu was arrested by Xushui County Public Security police on May 29, 2003, and his property was confiscated. Xushui officials said Sun Dawu's Dawu Group had previously "accepted from company employees and residents of surrounding villages" capital totaling more than 30 million yuan, which constituted "illegally taking deposits from the public."

Previous to this, Sun Dawu, while expounding his ideas on his corporate Web site, had leveled criticisms at some of the practices of the local government, and observed that his enterprises, because they didn't deal in *guanxi*, never obtained bank loans. He said, "At present the peasants' money is mostly deposited in credit unions or rural banks, and through banks is carried to the cities as if the cities were drawing blood from the villages, drawing out what little capital the villages have to develop the cities. At present the villages don't have any finances to speak of, just as they have no influence to speak of . . . Big foreign financial groups and enterprises can establish a bank with 200 million yuan in capital, but the villages are not allowed to establish even small private banks . . . Even a huge enterprise such as mine has

difficulty obtaining bank financing, not to mention small and individually-owned businesses.”

Apart from the lack of access to credit, Sun Dawu’s article mentioned many other problems: “Since I started operating my business in 1985, the Commercial Bureau impeded shipment of my pigs, allowing them to suffocate to death in transit, and of my feed, allowing it to rot in the trucks, and now they’re doing the same with my foodstuffs . . . Turning to land, as long as you have money you can build where you want and it’s not against the law, but if you don’t pay money, even activities carried out by a peasant in relation to agriculture is declared against the law. I have the most famous breeding experts in the country here, and comprehensive testing facilities, but none of these are of any use, because any half-educated, low-level official from the Livestock Bureau can cast his eye and say, ‘It’s not up to standard, you’ll have to pay a fine,’ and all you can do is pay the fine. Turning to the need for bureaucratic consolidation, let’s look at XX County as an example: the Water Bureau consists of 30 people, but the actual overhead covers more than 330 people, while the Land Bureau covers more than 400 people and the Land Development Bureau more than 500 people. If you go to inspect their employment roster, you will find only 30 to 50 people. The limitless expansion of bureaucratic benefits makes it almost impossible for enterprises and peasants to survive. A few years ago, within this county one bureau head had a “gray” income of at least 100,000 yuan per year. With more than 60 bureaus in the county, and with each bureau employing 20 to 30 people and supporting another 300 to 400 people, isn’t it clear what’s going on? If you don’t believe me, take a look at their houses. Where does the money come from?”

At the time that Sun Dawu “broke the law,” apart from his company’s finances being investigated, his Web site was also shut down and fined 15,000 yuan for posting language that “seriously damaged the reputation of government departments.” His manuscripts for *I Speak for the Peasants* and other writings were confiscated. Yet those within rural policy circles all knew that the problems raised by Sun Dawu were in fact long-time issues, especially the siphoning off of village finances and the difficulty of village enterprises in obtaining financing.

In many rural areas today, not only private enterprises, but even governments at the township and village levels rely on borrowing from private individuals to fund their operations. Under the well-known “Double-tiered debt crunch” these local governments borrow far more from private individuals than from conventional bank loans. In other words, local governments are in actuality also “illegally accepting deposits from the public.” The difference between them and Sun Dawu is that they have power and Sun does not; they borrow money to use for administration expenses and Sun used it to support his production and for public works. If Sun Dawu is guilty, how can the vast majority of China’s rural governments not be equally guilty?⁵

In fact, because of the pervasiveness of the monopolization of financing, in recent times the relevant central government authorities have already designated rural financing as one of the rural issues requiring reform, and in recent years many

places, especially coastal areas, have in fact already liberalized and expanded rural private credit companies, “Because if these local financing groups are investigated, local enterprises may go into paralysis, as they will find it very difficult to obtain financing from national banks.”

In fact, as we can see from the words of Xushui County officials, Sun Dawu does not even constitute a “private financing group.” He wasn’t building up a money hoard or establishing a power base; rather, his borrowings were a form of public welfare and a means of keeping money flowing into local production. Of course, there are many things that are reasonable and desirable but not necessarily legal, and this writer is not familiar with the relevant laws, nor does he have a thorough understanding of Sun Dawu’s conglomerate, and is therefore unable to comment on the legality of what Sun did. But if the situation’s results are hard to evaluate, its antecedents are not: Sun Dawu provided employment to a large numbers of villagers in his agricultural enterprises over the past 18 years, he didn’t speculate in the stock market or get involved in real estate opportunism, and his business was not in a perilous financial condition. If he had been able to borrow money through the usual channels, would he have needed to borrow money from his employees and fellow villagers?

In a situation of financial monopoly, in which villagers are not even allowed to borrow their own money, which instead is transferred to the cities to support urban billionaires, the funds that the Sun Dawus of China can’t borrow are instead dropped into the hands of the Zhou Zhengyis. By leveraging their *guanxi*, these real estate-financial sharks can get all of the property and funding they want; the land they get is in massive lots, and the funding they receive is in the billions. The funds are invested in real estate, and the residents of that property are forced from their homes.

In comparison, how can someone like Sun Dawu, who struggles without loans for more than ten years and runs afoul of the law because of private loans, compete with someone like Zhou Zhengyi? The fact is, the more that routine loans required by China’s Sun Dawus are refused, the more money is available to the Zhou Zhengyis to nourish their *guanxi*, and the more “relationship capital” they build up, the more profit opportunities they gain. In an open credit system operating in a market ruled by law, if most businesses could easily obtain financing, what good would Zhou Zhengyi’s *guanxi* be? But in another kind of “market,” it is possible to wave a magic wand of power and declare, “If I say you’re poor, you’re poor, even if you weren’t to start with, and if I let you get rich, you get rich, even if you weren’t to start with.” How can anyone be comfortable with this divergence between rich and poor?

As it is in finance, so it is with real estate, be it in the cities or in the villages. In recent years there has been a lot of talk about privatization of land ownership. Some people say that privatization of property ownership and free buying and selling will lead to coercive property deals, causing peasants to lose land and giving rise to a social crisis. This writer does not advocate complete privatization of land, which would certainly lead to problems with national land management. But to suggest that a social crisis would result is overreaching. I will

not discuss here whether the history books were correct in the past in writing that “buying and selling of property among the people led to conflicts among the peasants.” But under the present system where land is “allocated by officials, assessed by officials and sold by officials,” can it be said that the scope of “coercive property deals” has been reduced? I will not discuss here the situation in the cities where Zhou Zhengyi can “get land for nothing,” nor will I discuss the means by which rural land is becoming increasingly less available for agriculture under official policies of “funding the bureaucracy through land sales,” in which land is appropriated at a low value and then sold at a high price to commercial interests through a feudal throw-back system; rather I will further examine the issue of coercive rural property transactions.

We should all remember in 2001 the uproar over the “Jiang Gang Incident”: at that time the village government of Jiang Gang Village in Jiangxi’s Nanchang County controlled land totaling 50,000 mu, which supported the livelihoods of tens of thousands of villagers. The village government sold off most of that land to a company for the purposes of “developing environmentally-friendly agriculture.” Of course the deal was not presented as a sale but rather as rent, but in fact the “rent” was not paid to the villagers, but rather to the local government. Although the government claimed it would deduct this rent from the various taxes levied on villagers, the villagers never actually received any such benefit. And in response to the villagers’ resistance and complaints, the village government erected a new Public Security Bureau dispatch station on the property, from which it dispatched police to “maintain order.”

After this matter was exposed by CCTV and other news media, the matter was presented more favorably in a feature article in the November issue of *Zhongguo Minbing* (China People’s Soldiers): “A Guangdong Province party member, XXX, traveled more than 1,000 li to become a villager, leading a group of young technicians made up largely of soldiers to the banks of Jiangxi’s Fanyang Lake, where they rented 50,000 mu of land from Nanchang County’s Jiang Gang Village, and effectively promoted reforms in the system of land use rights transfer . . . They embodied a progressive direction in agricultural production development, which was noted with considerable approval by leaders at all levels of Jiangxi Province,” etc., etc. And according to what I have recently seen on a local Web site inviting investment, that village now has flower plantations, livestock pens and other large-scale operations on a piece of land covering more than 1,000 mu; I don’t know if all of the land was obtained in a similar way.

Now the relationship between public power and the market has come to people’s attention. There have been calls for strengthening the system to prevent the limitless expansion of billionaire assets leading to social inequity. There have been calls for making the system more open so ordinary people have more opportunities to get rich. But I think this is not yet the time to debate the merits of “unfettered market reform versus the welfare state.” What we need to prevent is “public power” lacking “public” controls and thereby becoming increasingly less “public.” As soon as these powers lose their public character, injustice is certain to result, whether under

economic reform or state control, worsening a situation in which those in power are able to create or destroy wealth at will; excessive reform may result in prosperity without benevolence, and excessive state control may prevent the benevolent from prospering. When Zhou Zhengyi is pampered, Sun Dawu is destroyed; the door is shut on legal means for ordinary people to prosper, while it is opened to tycoons controlling land and money. It is in order to prevent this kind of crisis that the central government has taken on the duty of establishing a modernized political culture. Although the task is difficult, we must persist in carrying it out.

Author’s note: This article was submitted to *SouthernWeekend* in June 2003, and was to be published as the headline story under “Fang Zhou Commentary.” But before publication the article was scrapped. The publishers decided they would prefer to pay the cancellation fee. Eventually it was submitted to a number of other media but without being accepted.

Translated by Stacy Mosher

1. After rejection by various print media, this article was posted on December 17, 2003 on the Qinding Legal Web site: <http://www.qinding.com/article.asp?articleid=5366>.
2. Zhou Zhengyi, alias Chau Ching-ngai, chairman of Shanghai Nonkai Development Group, was arrested on September 6, 2003 on charges of falsely reporting the registered capital of his company and of manipulating Nonkai’s stock trading price. Zhou’s arrest came on the same day that a special committee of Bank of China in Hong Kong said that former chief executive Liu Jinbao had exercised bad judgment in approving a \$226.9 million loan to Zhou. Another Bank of China executive, Or Man-ah, resigned in connection with the loan. Zhou had sought the loan, granted in June 2002, to buy a controlling stake in Hong Kong-listed Shanghai Land Holdings Ltd. There has been no official news of the Zhou Zhengyi case since his arrest; Boxun News reported in early February that a verdict had been handed down, but had not been made public for fear of raising protests among Shanghai residents forcibly removed from the property Zhou developed. Meanwhile Zhou’s wife, Mao Yuping, was charged by Hong Kong’s Independent Commission Against Corruption on December 12 and is now awaiting trial.
3. Qian Yongwei, chairman of Shanghai-based real-estate conglomerate Wantai Group, was detained in July 2003 on fraud charges in connection with 1.3 billion yuan (\$150 million) obtained from the Bank of China’s Shanghai branch. Wantai did not have any business income in the first six years after it was established in 1995. It is suspected that Qian used the loan to acquire Hong Kong-listed Sui Chong Holdings Ltd, subsequently renamed Sun Man Tai Holdings Co. Authorities said that Wantai and Zhou Zhengyi’s Nongkai Development Group were under a joint investigation for possible fraud.
4. Xu Peixin went on trial in Hong Kong at the end of November 2003 on allegations of fraud in relation to his publicly listed company, Global Trend Intelligent Technologies Limited.
5. Sun Dawu went to trial on October 30, 2003 and was sentenced to three years in prison, suspended for four years. Following sentencing he was released, having spent five months in detention. As a condition of his release, Sun has maintained a low public profile.