

J. Y. Interpretation No.125 (October 30, 1968) *

ISSUE: Are Article 114 of the Land Act and Article 438 of the Civil Code governing the termination of a lease contract applicable to the termination of a farmland lease contract entered into under the Act Governing Reduction of Farm Rent to 37.5 Percent?

RELEVANT LAWS:

Article 17 of the Act Governing Reduction of Farm Rent to 37.5 Percent (耕地三七五減租條例第十七條); Article 114 of the Land Act (土地法第一百四十四條); Article 438 of the Civil Code (民法第四百三十八條).

KEYWORDS:

ending a cultivated land lease contract (耕地租賃契約之終止), rehabilitation and compensation (回復原狀及損害賠償).**

HOLDING: The conditions for ending a cultivated land lease contract before its term has expired are regulated by Article 17 of the Act Governing Reduction of Farm Rent to 37.5 Percent. Provisions on ending a lease contract in

解釋文：依耕地三七五減租條例訂立之租約，在租佃期限未屆滿前，得終止之情形，同條例第十七條已有規定，無土地法第一百四十四條及民法第四百三十八條有關終止租約規定之適用。

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Article 114 of the Land Act and Article 438 of the Civil Code should not be applied.

REASONING: Although there are respective provisions on ending a cultivated land lease contract in the Land Act and Civil Code, Article 17 of the Act Governing Reduction of Farm Rent to 37.5 Percent explicitly stipulates that before its term has expired no cultivated land lease contract may be ended without satisfaction of one of the listed requirements. By its wording, it is therefore obvious that a landowner may end a contract only when one of the conditions occurs. According to Article 1 of the Act, provisions on ending a lease contract in Article 114 of the Land Act and Article 438 of the Civil Code should not be applied. It should be pointed out that when a tenant violates the above provisions in the Land Act and Civil Code, a landowner has the right to apply for rehabilitation and compensation, or to claim the contract to be null and void according to Article 16, Paragraph 2, of the Act Governing Reduction of Farm Rent to 37.5 Percent.

解釋理由書：關於耕地租賃契約之終止，土地法及民法雖均設有規定，唯耕地三七五減租條例第十七條明文規定，耕地租佃期限未屆滿前，非有左列情形之一，不得終止。是出租人終止租約，僅限於有該條各款所定情形之一者始得為之，文義至為明顯。依同條例第一條前段，應無適用土地法第一百四十四條及民法第四百三十八條規定以終止租約之餘地。至承租人違反上開民法及土地法之規定，出租人得依法請求回復原狀或損害賠償，或本於耕地三七五減租條例第十六條第二項主張租約無效，均屬別一問題，併此指明。