# Regulations on Selling with Recourse under Qing Law and the Practice of Selling with Recourse in Qing Society

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Selling with recourse was a common practice in land deals during the Qing Dynasty in China. However, people have different points of views on this type of transaction. Is this a sort of pawn or selling? Qing legal literature indicated that Qing officials did pay close attention to this type of transaction in between pawn and selling: This type of transaction was made under indenture and proper assignment of property right. Yet, this full discharge of contractual obligation did not preclude the seller to request to redeem the sold property at a later date. Related discussion on the legislation of selling with recourse in the Qing Dynasty gave us the impression that selling with recourse was a form of land trade whereby "the selling entails subsequent reversion of property through redemption". But the legal effect was just manifested grossly as "an indenture". As such, we could see that Qing officials did recognize this type of land deal was different from selling without recourse and also different from pawn. This is selling with recourse.

In the early Qing Dynasty, there were no explicit legal rules governing selling with recourse. They tended to determine whether the selling was conditional by the payment of deed tax and registration for transferring property. Until the 8$^{th}$ year of Emperor Ong Zheng (1730), the Qing government began to recognize the practice of selling with recourse. They started to specify in the indenture whether the selling was made with or without recourse. For selling with recourse, how to exercise the right of redemption and the legal effect of illicit redemption were

also specified in the indenture. During the time of Emperor Qian Long, the Qing government tended to use term of the indenture as a yardstick to regulate selling with recourse recognized by the bylaw of Qing. After series of attempts, the Qing government set the term of 30 years for the exercise of the right of redemption under selling with recourse in the 18th year of Emperor Qian Long (1753). If such right was not exercised within 30 years, the selling would turn without recourse. This new law was intended to be applicable to the land deal before 1753 whereby selling with or without resource was not clear cut. However, the wording of the "Qing Code" has not been explicit and detailed, to the effect that some officials interpreted the term of 30 years as the redemption period. By and large, if the provisions of redemption were explicitly stated in the indenture, Qing law recognized redemption was legal irrespective how long the land deal has been made.

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