

**SUPREME COURT OF KOSOVO
GJYKATA SUPREME E KOSOVËS
VRHOVNI SUD KOSOVA**

**KOSOVO PROPERTY AGENCY (KPA) APPEALS PANEL
KOLEGJI I APELIT TË AKP-së
ŽALBENO VEĆE KAI**

GSK-KPA-A- 090/2014

Prishtinë/Priština,
25 November 2015

In the proceedings of:

U.K.

Represented by Board Director

M.R.

Pejë/Pec

Represented by

A. V. (lawyer)

Prishtinë/Priština

Appellant

v.s.

P.H. E.

Prishtinë/Priština

Appellee

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Beshir Islami, Presiding Judge, Anna Bednarek and Krassimir Mazgalov, Judges, on the Appeal against the Decision of the Kosovo Property Claims Commission KPCC/D/R/215/2013 (case file registered at the KPA under the number KPA13398), dated 21 August 2013, after deliberation held on 25 November 2015, issues the following:

JUDGMENT

The Appeal of U. K. LLC from Prishtinë/Priština, against the Decision of the Kosovo Property Claims Commission KPCC/D/R/215/2013, regarding case file registered at the KPA under the number KPA13398, dated 21 August 2013, is dismissed as belated.

Procedural and factual background:

1. On 7 September 2006, M. R., acting as an authorized representative of the company U. K. (henceforth: the Appellant), filed a claim with the Kosovo Property Agency (KPA) claiming the repossession and compensation for unlawful use of 12 houses located in street “Çesmja e bardhe” in Prishtinë/Priština, with total surface of 2.072.24 m².
2. To support his claim he provided the KPA with the contract on construction dated 1997 and signed with the P.H.E from Prishtinë/Priština
3. The notification of the claim was carried out by publishing in the KPA Notification Gazette No. 11 and the UNHCR’s property office Bulletin on 25 April 2013, according to the notification and confirmation report done by the KPA.
4. The current user of the property: the P. H. E. from Prishtinë/Priština, while contacted by the Executive Secretariat of the Kosovo Property Agency contested the claim, but did not submit any supporting evidence.
5. On 21 August 2013 the Kosovo Property Claims Commission refused the claim in certified Decision No. KPCC/D/R/215/2013.
6. On 2 December 2013, the Decision was served on the Appellant. The Appellee was served with the Decision on 12 November 2013.
7. On 24 January 2014 the Appellant, represented by the lawyer A. V. filed an Appeal to the Kosovo Property Agency on the grounds that the Decision involves fundamental error and serious breach of substantive and procedural law and it rests upon an erroneous and incomplete determination of the facts.

Legal reasoning:

8. The Appeal is belated. Section 12.1 of the Law No. 03/L-079 Amending UNMIK Regulation 2006/50 on the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property provides as follows: “*Within thirty (30) days of the notification to the parties by the Kosovo Property Agency of a decision of the*

Commission on a claim, a party may submit through the Executive Secretariat of the Kosovo Property Agency to the Supreme Court of Kosovo an appeal against such decision”.

9. The Appellant was served with the Decision of the KPCC on 2 December 2013, therefore the time limit to submit an Appeal ended on 2 January 2014. Yet the Appellant filed the Appeal only on 24 January 2014. That means that the Appeal was filed outside the time limit provided for by law. The Appellant did not give any reasons for filing late Appeal and the Court cannot detect any reason for the delay.
10. Therefore the Appeal had to be dismissed as inadmissible on procedural grounds on the basis of the above quoted Law. As a consequence the Supreme Court could not examine the grounds indicated in the Appeal.

Legal Advice

11. Pursuant to Section 13.6 of Law 03/L-079, this Judgment is final and enforceable and cannot be challenged through ordinary or extraordinary remedies.

Beshir Islami, Presiding Judge

Anna Bednarek, EULEX Judge

Krassimir Mazgalov, EULEX Judge

Urs Nufer, EULEX Registrar