

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

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

GSK-KPA-A-068/15

Prishtinë/Priština, 18 May 2016

In the proceedings of

R. S.

Appellant

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Sylejman Nuredini, Presiding Judge, Beshir Islami, Judge and Krassimir Mazgalov, EULEX Judge, on the Appeal against the Decision of the Kosovo Property Claims Commission KPCC/D/A/228/2014 (case file registered at the KPA under the number KPA08625), dated 13 March 2014, after the deliberation held on 18 May 2016, issues the following

JUDGMENT

1. **The Appeal filed by R. S. against the Decision of the Kosovo Property Claims Commission KPCC/D/A/228/2014, dated 13 March 2014, regarding the Claim registered with KPA under No. KPA08625, is rejected as unfounded.**
2. **The Decision of the Kosovo Property Claims Commission KPCC/D/A/228/2014, dated 13 March 2014, regarding the Claim registered with KPA under No. KPA08625, is confirmed.**

Procedural and factual background

1. On 22 January 2007, R. S. (henceforth: the Appellant) filed a Claim with the Kosovo Property Agency (hereinafter: the KPA), registered under the case No.KPA08625, seeking repossession of a parcel No.52 with surface of 1.08.57 Ha and parcel No.53 with surface of 0.69.04 Ha both located in Granica- Do bara, Merdare/Merdare, Municipality of Podujevë/Podujevo.
2. In the claim the Appellant stated that the abovementioned parcels are usurped by UNMIK, Customs service of Kosovo and Kosovo Insurance Association in August 2002.
3. The original claim was split due to the partition and sale of some parts of the above mentioned parcels. As a result the original claim has remained with parcel No.53/2 with surface of 00.29.15 Ha. (Hereinafter: the claimed property).
4. With the Claim the Appellant submitted *inter alia* to the KPA:
 - The Inheritance Ruling No.172/06 issued by the Municipal Court in Kurshumljia, Serbia with which the Appellant was announced as sole inheritor of the claimed property after the death of his father M. S.
 - Possession list No.88 issued by Immovable property cadastre office Podujevë/Podujevo, listing the appellant's father as a sole owner of the claimed property.
 - Death certificate No.203-1125/07 issued by Municipality of Prokuplje, Serbia, certifying that the Appellant's father M. S. has passed away on 12 December 2005.
5. The KPA on 24 September 2007 found ex officio the abovementioned Possession list.
6. On 15.08.2013 the KPA found ex officio that the claimed property is registered in the name of E. S. who became the owner of the property in 2011 according to a purchase contract.

7. The Appellant was contacted on 26 August 2013 and confirmed that he had sold some parts of the parcels which are subject of the initial claim. The Appellant did not submit neither clarification nor documents about the stated sale.
8. The claim was physically notified on 22 November 2013 and through publication in the gazette of the KPA on 21 September 2010. The notification team found that the claimed property is pasture and it is not occupied. Nobody participated as a respondent in the procedure.
9. On 13 March 2014, the KPCC with its Decision KPCC/D/A/228/2014 dismissed the Claim with the reasoning that the Appellant did not lose the possession of the claimed property as a result of the armed conflict that occurred in Kosovo in 1998-1999, but rather as a result of a voluntary disposal after the conflict.
10. The KPCC Decision was served on the Appellant on 8 September 2014. On 7 October 2014 Appeal was filed by the Appellant.

Allegations of the Appellant

11. In his Appeal, the Appellant alleges that the appealed decision of KPCC is based on wrongly and incompletely established situation and wrongful application of the property law. The Appellant states that he had not alienated the claimed property and he had never filed any memo to the KPA informing it that such alienation ever happened.

Legal reasoning

Admissibility of the Appeal

12. The Appeal was filed within the time limit of 30 days set in Article 12.1 of the Law No. 03/L-079 and it is admissible.

Merits of the Appeal

13. The Supreme Court finds that the Appel is unfounded and therefore has to be rejected. In the Claim the Appellant himself is alleging that the claimed property has been usurped by UNMIK, Customs service of Kosovo and Kosovo Insurance Association in August 2002.

Therefore it cannot be assumed that the loss of the possession is connected to the armed conflict that occurred in Kosovo between 1998 and 1999.

14. Accordingly, the KPCC was correct when decided that the case is falling outside the jurisdiction of the KPCC and therefore dismissed the claim. Neither violation of substantive law nor an incomplete determination of the facts has been made. Therefore the Supreme Court finds the Appeal unfounded.
15. In the light of foregoing, pursuant to Section 13.3 under (c) of the Law 03/L-079, it was decided as in the enacting clause of this Judgment.

Legal Advice

Pursuant to Section 13.6 of UNMIK Regulation 2006/50 as amended by Law 03/L-079, this Judgment is final and cannot be challenged through ordinary or extraordinary remedies.

Sylejman Nuredini, Presiding Judge

Krassimir Mazgalov, EULEX Judge

Beshir Islami, Judge

Sandra Gudaityte, EULEX Registrar