

**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-76/13**

**Prishtinë/Priština,**

**29 January 2014**

In the proceedings of

**Sh. B.**

Prizren

*Appellant*

vs.

**L. R.**

Prizren

*Appellee*

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Elka Filcheva-Ermenkova, Presiding Judge, Dag Brathole, and Sylejman Nuredini, Judges, on the appeal against the decision of the Kosovo Property Claims Commission KPCC/D/R/167/2012 (case file registered at the KPA under the number KPA11706)) dated 5 September 2012 after deliberation held on 29 January 2014, issues the following

## JUDGMENT

1. **The appeal of Sh. B. is rejected as unfounded.**
2. **The decision of the Kosovo Property Claims Commission KPCC/D/R/167/2012 (regarding case files registered at the KPA under the number KPA11706), dated 5 September 2012 is confirmed.**

### **Procedural and factual background**

1. On 24 April 2007 Sh. B. filed a claim with the Kosovo Property Agency (KPA) seeking the right to use an apartment with a surface of 51,87 m<sup>2</sup> in Eduard Kardeli (Adem Jasheri St) 5 28 in Prizren. Berisha later submitted to the KPA a certificate from the District Public Prosecutor where it is stated that B. lived in the apartment from 1 January 1973 to September 1982.
2. L. R. responded to the claim on 6 April 2009. In the response he stated that the apartment was bought by his father A. R. on 2 February 2006. A. R. is now dead, and the flat is used by his inheritors, L. R. himself and his brother K. R.
3. On 5 September 2012 the Kosovo Property Claims Commission (KPCC) dismissed the claim in a cover decision. In paragraph 32 of the cover decision it is stated that the claim falls outside the jurisdiction of the KPCC, because the claimant himself has stated that he lost possession of the property in 1982.
4. The decision was served on Berisha on 27 February 2013. He filed an appeal to the KPA Panel of the Supreme Court on 11 March 2013. The appeal was served on R. on 3 June 2013. He did not reply within the 30 days deadline. The Supreme Court received the case-file on 15 January 2013.

### **The allegations of the parties**

5. Sh. B. alleges that the decision is grounded on erroneous and incomplete evaluation of the evidence.
6. It is not disputed that B. was the holder of the residential right over the disputed apartment. and that he resided in the apartment for 10 years. He was allocated with the apartment from the state entities of that time, first as a judge of the Municipal Court in Prizren and then as prosecutor. The apartment

was the property of the Municipal Assembly in Prizren. Subsequent sales stemming from the factory “Progres” in Prizren, in the last instance to A. R, cannot produce any legal effect.

7. L. R. has not replied to the appeal, but alleged before the KPCC that his father had made a valid purchase of the apartment.

### **Legal reasoning**

8. The appeal is admissible because it has been filed within 30 days as foreseen by law (Section 12.1 of UNMIK Regulation 2006/50 as amended by Law No. 03/L-079).
9. B. has himself stated that he lost possession of the apartment in 1982 after having lived there for 10 years.
10. According to section 3.1 of UNMIK Regulation 2006/50 on the Resolution of Claims relating to Private Immovable Property, including Agricultural and Commercial Property as amended by Law No. 03/L-079 the KPCC has the competence to resolve conflict related ownership claims and property right claims “directly related to or resulting from the armed conflict that occurred between 27 February and 20 June 1999.”
11. It is clear that B. claim is in no way related to the armed conflict in 1998-1999. The Supreme Court therefore agrees with the decision of the KPCC that the claim was outside its jurisdiction, and therefore had to be dismissed. The appeal is unfounded, and the Supreme Court has confirmed the decision of the KPCC.
12. In the light of foregoing, pursuant to Section 13.3 under (c) of UNMIK Regulation 2006/50 as amended by Law 03/L-079, it was decided as in the enacting clause of this judgment.

### **Legal Advice**

13. 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

*Elka Filcheva - Ermenkova, EULEX Presiding Judge*

*Dag Brathole, EULEX Judge*

*Sylejman Nuredini, Judge*

*Holger Engelmann, EULEX Registrar*