

**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-100/2014

Prishtinë/Priština,
10 December 2014

In the proceedings of:

S. Zh.
Prishtinë/Priština

Appellant

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Willem Brouwer, Presiding Judge, Esma Erterzi and Sylejman Nuredini, Judges, on the appeal against the decision of the Kosovo Property Claims Commission KPCC/D/A/212/2013 (case file registered at the KPA under the number KPA00167), dated 21 August 2013, after deliberation held on 10 December 2014, issues the following:

JUDGMENT

1. The appeal of S. Zh. against the decision of Kosovo Property Claims Commission KPCC/D/A/212/2013, dated 21 August 2013, is rejected as unfounded.
2. The decision of Kosovo Property Claims Commission KPCC/D/A/212/2013, dated 21 August 2013 regarding the claim registered at the KPA under the number KPA00167, is confirmed.

Procedural and factual background:

1. On 1 August 2006, received on 2 August 2006, the appellant filed a claim with the Kosovo Property Agency (KPA), seeking repossession of parcels no. 4397/1 and 4398, Cadastral Zone Prishtinë/Priština, Municipality of Prishtinë/Priština (hereafter: the claimed property). In his claim he states his father, F. Zh. (henceforth: claimant's father), deceased on 1 June 2004, is the property right holder. He also claims de-expropriation of the claimed property.
2. To support his claim, the claimant submitted the following documents:
 - Purchase Contract OV.br.794/64, verified before the District Court of Prishtinë/Priština on 21 April 1964, concluded between claimant's father and J. S. J. over the claimed property, then known as parcel numbers 934 and 935;
 - Claimant's fathers request to the Municipality of Prishtinë/Priština dated 10 November 1998, asking amendment of the decision no. 07-464-65/77, by which the Municipality of Pristina expropriated the claimed property on 7 October 1977 (p. 012/63);
 - Claimant's statement dated 16 March 2009. Claimant explains in this statement the change made within the Cadastral Office of Pristina in regard to parcels nos. 934 and 935 to new numbers.
 - Statement of the Municipality of Prishtinë/Priština about the background/history of the cadastral parcels no. 934 and 935, dated 14 June 2010. This document explains that in 1960, the cadastral parcel no. 934 and no. 935 changed into the parcel no. 4397 and 4398.
3. KPA notified the claim.
4. No other party joined proceedings before the KPCC.
5. KPA added *ex officio* three Possession Lists to the case file:
 - Possession List no. 4137, issued on 20 August 2008 by the Department for Cadastre, Geodesy and Property of the Municipality of Prishtinë/Priština; in this Possession List is laid down that parcels nos. 4397/1 and no. 4398/1 in Cadastral Zone Prishtinë/Priština are registered as a public/state owned property (Pasuri Shoq.-Shfryt-Kuvendi Komunal).
 - Possession List no. 8317, issued on the same date and by the same institution. In this Possession List is laid down that parcel no. 4398/3 in Cadastral Zone Prishtinë/Priština is recorded in appellant's name.
 - Possession List no. 8400, issued on the same date and by the same institution. In this Possession List is laid down that parcel no. 4398/3 in Cadastral Zone Prishtinë/Priština is recorded in the name of U. A.(O) and U.O. (A).
6. In the appealed Decision of 21 August 2013 the Kosovo Property Claims Commission (KPCC) dismissed the claim due to lack of jurisdiction. In the reasoning of its decision, the KPCC indicates that according to the evidence submitted to the claim, the claimant failed to show that his claim involves circumstances directly related to or resulting from the 1998/99 conflict.

7. The decision was served on Appellant on 24 February 2014.
8. On 5 March 2014, received by KPA on 10 March 2014, Appellant filed an appeal to the KPA Panel of the Supreme Court.

Allegations of the appellant:

9. The appellant alleges that his father is the legitimate owner of the claimed property. He states that the claimed property was expropriated by the Municipality of Prishtinë/Priština in 1977 and that this expropriation cannot stand. The appellant adds that he did not receive any compensation, and there was no court procedure before taking the claimed property. The appellant states also that from the moment of expropriation (in 1977) his family was not in possession of the claimed property.

Legal reasoning:

Admissibility

10. The appeal is admissible. It has been filed within 30 day period as prescribed in section 12.1 of UNMIK Regulation 2006/50 as amended by Law No. 03/L-079, on the resolution of claims relating to private immovable property, including agricultural and commercial property (hereinafter Law No. 03/L-079).

Merits

11. According to Section 3.1 of Law No. 03/L-079 – as far as relevant for this case - the KPCC has the competence to resolve conflict-related (ownership) claims involving circumstances directly related to or resulting from the armed conflict that occurred between 27 February 1998 and 20 June 1999.
12. In the current case is not disputed that at least most of the claimed property was expropriated from Appellant's father in 1977. Appellant did not state any other relevant circumstances that relate his claim for de-expropriation, understood as a claim about loss of ownership, or otherwise determination of ownership of the claimed property, to the armed conflict. Therefore the claim is not related to the armed conflict in the period between 27 February 1998 and 20 June 1999 as meant in Section 3.1 of Law No. 03/L-079. The Supreme Court concludes that KPCC rightfully dismissed the claim as falling outside its jurisdiction.

Legal Advice

Pursuant to Section 13.6 of UNMIK Regulation 2006/50 as amended by Law No. 03/L-079, this judgment is final and enforceable and cannot be challenged through ordinary or extraordinary remedies.

Willem Brouwer, EULEX Presiding Judge

Esma Erterzi, EULEX Judge

Sylejman Nuredini, Judge

Urs Nufer, EULEX Registrar