

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-118/2014

Prishtinë/Priština, 4 May 2016

In the proceedings of:

The legal entity **U. K. DOO**

Appellant

Representative: A. Q. V.

Laywer in Prishtinë/Priština

vs.

S. M.

Appellee

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of Sylejman Nuredini, Presiding Judge, Rolandus Bruin and Beshir Islami, Judges, on the appeal against the decision of the Kosovo Property Claims Commission (henceforth: the KPCC) no. KPCC/D/A/212/2013 dated 21 August 2013 (case file registered at the Kosovo Property Agency (henceforth: the KPA) under No. KPA13391), henceforth also: the KPCC Decision, after deliberation held on 4 May 2016, issues the following

JUDGMENT:

The appeal of U. K. DOO against the Decision of Kosovo Property Claims Commission no. KPCC/D/A/212/2013, dated 21 August 2013, as far as it concerns the claim no. KPA13391 is dismissed as belated.

Procedural and factual background

1. On 7 September 2006 M. R. as authorized representative of the legal entity U.K.DOO (henceforth: the Appellant) filed a claim at the Kosovo Property Agency (KPA), seeking confirmation of its ownership right, repossession and compensation for the unlawful use of the commercial field without building in Prishtinë/Priština, Cadastral parcels nos. 2757 and 2756, Municipality Prishtinë/Priština, surface 4.86.64 and 01.68.75 ha (henceforth: the claimed property).
2. The claim was notified on 29 January 2007 by putting a sign on the claimed parcel.
3. On 1 October 2010 S. M. replied to the claim and asserted to have legal rights to the claimed property.
4. KPCC with the Decision KPCC/D/A/212/2013, dated 21 August 2013, refused the claim with the reasoning (in paragraphs 12 and 99-101, 116) that the Appellant failed to provide any evidence to show its ownership right or any other property right over the claimed property. The claim for compensation was refused as KPCC does not have jurisdiction on such claims. On the last page the KPCC decision contains information about the possibility to file an appeal within 30 days of the notification of the decision.
5. The Decision, together with an appeals information sheet, was served on the authorized representative of the Appellant, M. R., on 10 February 2014.
6. On 26 March 2014 the Appellant filed the appeals against the decisions on both claims.

Allegations of the Appellant

7. The appellant challenges the KPCC decision on the claim as containing a fundamental error and serious violation of the procedural law and being based on an incomplete determination of the facts. Therefore, it asked from the Supreme Court to accept his appeal and annul the KPCC decision as ungrounded and unlawful.

Legal reasoning:

Admissibility of the appeal

8. Section 12.1 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 (henceforth: UNMIK Regulation 2006/50) provides as follows: “*Within thirty (30) days of the notification to the parties by the Kosovo Property Agency of a decision of the [KPCC] 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 KPCC decision was served on the Appellant on 10 February 2014 and the Appellant should submit the appeal within the deadline of 30 days as prescribed by the abovementioned provision. The Appellant filed the appeal only on Wednesday 26 March 2014. This date is the 44th day after the notification of the KPCC decision and falls outside the deadline prescribed by the law.
10. The Appellant did not give any justifying excuses about filing the appeal past the deadline.
11. He was sufficiently warned of the deadline, as the decision contained a warning on this deadline.
12. Therefore the appeal has to be dismissed as belated pursuant to Section 13.3 subparagraph (b) of UNMIK Regulation 2006/50 and article 195.1 (a) of the Law on Contested Procedure.

Legal Advice

13. Pursuant to Section 13.6 of UNMIK Regulation 2006/50 this judgment is final and enforceable and cannot be challenged through ordinary or extraordinary remedies.

Sylejman Nuredini, Presiding Judge

Rolandus Bruin, EULEX Judge

Beshir Islami, EULEX Judge

Signed by: Sandra Gudaityte, EULEX Registrar