

**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-159/13

**Prishtinë/Priština,
19 February 2014**

In the proceedings of

M. S.

Serbia

Appellant

vs.

N/A

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/183/2012 (case file registered at the KPA under the number KPA27583 dated 14 December 2012 after deliberation held on 19 February 2014, issues the following

JUDGMENT

1. The appeal of M. S. against the decision of the Kosovo Property Claims Commission KPCC/D/R/183/ dated 14 December 2012, with regard to the claim registered with KPA under No. 27583 is rejected as unfounded.
2. The decision of the Kosovo Property Claims KPCC/D/R/183/ dated 14 December 2012, with regard to the claim registered with KPA under No. 27583 is confirmed.

Procedural and factual background

1. On 13 February 2007 M. S. filed a claim with the Kosovo Property Agency (KPA), seeking ownership of an apartment with a surface of 78,50 m² on the third floor of parcel nr. 2049, 2051 and 2052 in Ferizaj/Uroševac. With the claim he submitted several documents concerning the property, including a purchase contract dated 11 March 1999 and a lease contract dated 15 March 1999
2. Prior to making the claim S. filed a similar claim with the Housing and Property Claims Commission (HPCC). This claim was dismissed and referred to the competent local court by the HPCC in its decision no. HPCC/D/189/2005/C dated 30 April 2005. A request for reconsideration was rejected by the HPCC in its decision nr. HPCC/REC/58/2006 dated 18 February 2006.
3. On 14 December 2012 the Kosovo Property Claims Commission (KPCC) with its Decision KPCC/D/R/183/2012, rejected the claim. In paragraph 30 in the cover decision, which according to the certified decision dated 2 April 2013 applies specifically to the claim, it is stated that the documents that the claimant (S) had submitted, had not been verified by the Executive Secretariat as genuine. The executive secretariat had also not been able to obtain *ex officio* any evidence that would support his claims.
4. The KPCC decision was served on S. on 13 May 2013. On 31 May 2013 he appealed the decision to the KPA Appeals Panel of the Supreme Court. As no respondent has been registered, there is no appellee in the case. The Supreme Court received the case-file on 28 January 2014.

Allegations of the appellant

5. M. S. alleges that the KPCC has erroneously and incompletely established the facts and has made an erroneous application of substantial law.
6. The KPA has stated that the Executive Secretariat could not verify any of the documents attached with the request. S. alleges that institutions and the records exist and can confirm the authenticity of the documents. He states that the statement made by the KPCC, which is without concrete reports on verification, is unacceptable
7. In the appeal S.gives a detailed presentation of the documents that he has submitted in order to confirm his ownership. He states that the entire procedure of ownership acquisition was in accordance with legal provisions and no part of this process was discriminatory towards anyone. Finally S. invokes articles 8 and 1 of the European Convention of Human Rights and Article 22 of the Constitution of the Republic of Kosovo.

Legal reasoning

8. The appeal has been filed within the time limit of 30 days set in 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 (*hereinafter Law No. 03/L-079*) Art. 12.1, and is admissible.
9. The KPCC based its decision on the fact that the KPA, and the KPCC Executive Secretariat had made a negative verification in the documents, on which S. bases his claim of ownership, including the lease contract dated 15 March 1999, the Contract on Purchase of the Apartment dated 11 March 1999, and the confirmation from the Municipal Court of Ferizaj/Uroševac dated 15 March 1999. The KPCC Executive Secretariat had not been able to obtain *ex officio* any evidence that supported S. claim. Based on this, the KPCC found that S. had failed to establish any property right over the disputed property.
10. The Supreme Court notes that the Housing and Property Claims Commission dismissed S.claim in decision HPCC/D/189/2005/C dated 30 April 2005, and rejected his request for reconsideration in decision HPCC/REC/58/2006 dated 18 February 2006.
11. The appeal from S. repeats the same allegations that he made before the KPCC. No new evidence of significance has been submitted with the appeal.
12. The Supreme Court finds that the KPCC has made a correct decision, based on a thorough and correct procedure. Accordingly the Supreme Court finds that no violation of the European Convention of Human Rights or the Constitution of the Republic of Kosovo has been made. The Supreme Court finds the appeal unfounded.

13. 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

14. 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

Sylejman Nuredini, Judge

Dag Brathole EULEX Judge

Urs Nufer EULEX Registrar