

**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- 161/13
GSK-KPA-A- 162/13
GSK-KPA-A- 163/13**

**Prishtinë/Priština,
24 April 2014**

In the proceedings of:

R.J
Claimant/Appellant

vs.

N/A

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Esma Erterzi, Presiding Judge, Willem Brouwer and Sylejman Nuredini Judges, on the appeal against the decision of the Kosovo Property Claims Commission (KPCC) KPPC/D/A/164/2012 (case files registered at the KPA under the number KPA06708, KPA06709, KPA06711), dated 5 September 2012, after deliberation held on 24 April 2014, issues the following:

JUDGMENT

1. The appeals registered under case no GSK-KPA-A-161-2013; GSK-KPA-A-162-2013 and GSK-KPA-A-163-2013 are joined in case no GSK-KPA-A-161-2013.
2. The appeal of R.J against the Decision of the Kosovo Property Claims Commission KPPC/D/A/164/2012, dated 5 September 2012 (in relation to cases KPA06708, KPA6709, KPA6711) is dismissed as inadmissible.

Procedural and factual background:

1. On 6 February 2007, the Appellant R.J filed 3 claims asking for the repossession of the cadastral parcels no 17, 18 and 47 in the place “Carevac Grlica” in the Municipality of Kaçanik/Kaçanik. The claims are registered under separate numbers with the KPA. The details of the information related to properties claimed are as follows:

Appeals No.	Case No.	Parcel Number	Surface	Place	Municipality
GSK-A-161-13	KPA06711	47	0.02.33 ha	Carevac Gërlica/Grlica	Kaçanik/Kaçanik
GSK-A-162-13	KPA06709	18	0.02.00 ha	Carevac Gërlica/Grlica	Kaçanik/Kaçanik
GSK-A-163-13	KPA06708	17	0.04.01 ha	Carevac Gërlica/Grlica	Kaçanik/Kaçanik

2. Together with the claim, the Appellant submitted, *inter alia*, a copy of the possession list no 258 issued by the Public Geodesy Office Centre for Immovable Property Cadastre Prishtina, Strpce Department in Vucitrn, Kacanik on 29 January 2002 indicating the registration of cadastral parcels 17,18 and 47 in his name.
3. The notifications of the claims were carried out through publication in the KPA Notification Gazette in addition with the distribution of the list and Gazette to the governmental bodies. No notice of participation was filed in any case.

The KPA verified that said parcels were still registered under the name of the claimant based on the possession list no 258 issued by the Kosovo Cadastral Agency, on 3 March 2008. However, according to the data in the KPA file, on 7 October 2010, the KPA contacted the claimant who stated that after the conflict he had sold the cadastral parcels 17, 18 and 47 to third persons. The same information is revealed by reports, with the numbers KPA06708, KPA06709 and

KPA06711, dated 23 July 2012, as well as in the correspondence activities in case no KPA06705 in a claim filed by the same claimant for another cadastral parcel.

On 5 September 2012, KPCC, with the Decision KPCC/D/A/164/2012, dismissed the claim of the claimant for parcels numbers 17, 18, 47 due to the statement of the claimant that he voluntarily disposed of these properties after the conflict.

4. The Decision of the KPCC was served on the claimant on 22 April 2013. He filed an appeal against the said Decision, via UNHCR Office, on 30 May 2013.

Allegations of the claimant/appellant

5. The Claimant alleges that the parcels belong to him and he lost their possession as a result of the circumstances during the armed conflict of 1998-1999. The loss of possession was indicated as 19 June 1999.
6. In his appeal, he alleged that the KPCC made a wrong decision since he never sold those parcels to anyone else. He further denied the alleged communication between the KPA officer and himself. He claimed that he neither contacted the KPA officials nor told them that he sold the properties after the conflict.

Legal reasoning:

Joining of the appeals

7. Section 13.4 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 03/L-079), provides that the Supreme Court can decide on joined or merged appeals, when such joining or merger of claims has been decided by the Commission pursuant to Section 11.3 (a) of this Regulation. This section allows the Commission to take into consideration the joining or merger of claims in order to review and render decisions when there are common legal and evidentiary issues.
8. The provisions of Law on Civil Procedure that are applicable in the proceeding before the Appeals Panel of the Supreme Court pursuant to Law No. 03/L-079, as well as provision of Article 408.1 as read with Article 193 of the Law No. 03/L-006 on Contested Procedure, provide for the possibility of joining of all claims through a ruling if that would ensure court effectiveness and efficiency of the case.

9. In the text of the appeals filed by the appellant, the Supreme Court observes that apart from a different case number for which the respective appeal is filed, the facts, the legal grounds and the evidentiary issues are exactly the same in those 3 (three) cases. Only the parcels, subject of the property right which is alleged in each claim, are different. The appeals are based on the same explanatory statement and on the same documentation. Moreover, the KPCC's legal reasoning for the claims is the same one.
10. The appeals registered under GSK-KPA-A-161/13 to 163/13 therefore are joined in a single case under GSK-KPA-A-161/13.

Admissibility of the appeal

11. The appeals were filed on 30 May 2013 whereas the challenged decision of the KPCC was served on the claimant on Monday 22 April 2013. The deadline for filing an appeal expired on Wednesday 22 May 2013,. No official holiday required the extension of the deadline. And the claimant/appellant did not provide any justification for the late filing of the appeal. The Supreme Court therefore notes that the appeal was not filed within the 30 days' time-limit as foreseen by law (Section 12.1 of Law 03/L-079).
12. The appeals are belated. The appeals of the claimant in the joined cases, therefore, are dismissed as inadmissible pursuant to Section 13.3 (b) of the UNMIK Regulation No 2006/50, as amended by Law No 03/L-079. The merits of the appeals will not be examined by the Supreme Court.

Legal Advice

13. Pursuant to Section 13.6 of Law 03/L-079, this judgment is final and enforceable and cannot be challenged through ordinary or extraordinary remedies.

Esma Erterzi, EULEX Presiding Judge

Sylejman Nuredini, Judge

Willem Brouwer, EULEX Judge

Urs Nufer, EULEX Registrar