

**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-128/13**

**Prishtinë/Priština,  
26 March 2014**

In the proceedings of

**S. L.**

R. 4.

8.B.,

M.

*Claimant/Appellant*

vs.

**N/A**

*Respondent/Appellee*

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of Elka Filcheva - Ermenkova, Presiding Judge, Esma Erterzi and Shukri Sylejmani, Judges, on the appeal against the decision of the Kosovo Property Claims Commission KPCC/D/A/164/2012 (case file registered at the KPA under number KPA91264), dated 5 September 2012, after deliberation held on 26 March 2014, issues the following:

## JUDGMENT

1. The decision KPCC/D/A/164/2012, dated 5 September 2012, in its part referring to the case registered with the KPA under the number KPA 91264, is annulled as rendered in the absence of jurisdiction.
2. The claim of S. L., registered as KPA91264 is dismissed as inadmissible.

### Procedural and factual background:

1. On 14 November 2006, S. L. filed a claim with the Kosovo Property Agency (KPA), seeking for repossession of the cadastral parcels no. 107/2, 108, 110, 114 located in the municipality of Dečan/Dečani in Gornji Ratis, cadastral zone Ratis i Eperm/Gornji Ratis, with a total surface of 3ha, 95ar, 45m2. He alleged that he is the owner of the property in Gornji Ratis, which he inherited from his mother with the contract on lifelong support, dated 27 September 1985.
2. In the claim form it is further stated that by signing the form, the claimant establishes that the private property was lost as a result of the circumstances in 98/99 in Kosovo and that the date of loss is 12/06/1999.
3. To support the claim, S. L. submitted copies of an extract from the possession list no 18, cadastral municipality Gornji Ratis, 12 June 1992, listing *inter alia* the cadastral parcel no's 107, 108, 110, and 114. S. L. submitted also a copy of a contract on lifelong support, concluded on 27 September 1985 in Bar between S. L. from Bar-Rena, as support provider on one side and L. V., born V. from village G. Ratis, Dečan/Dečani municipality, residing in Bar since 1983, as the support receiver. The contract was signed at the Court in Bar, Republic of Montenegro, on 1 October 1985. Further a copy of a death certificate of the claimants mother, issued in Bar on 18 October 2007 was provided, confirming death of V. L. born V. on 24 November 1987.

4. On 2 February 2010, KPA confirmed the accuracy of the claimed property relating to parcel no. 108 with cadastral map, ortophoto and GPS coordinates.
5. On 18 February 2010, KPA verified negative the possession list no. 18, represented by the claimant. The Executive Secretariat established *ex officio* that all parcels were registered in the name of several co-owners, heirs of V. L. and that this registration happened in 1997.
6. With Cover Decision KPCC/D/A/164/2012, dated 5 September 2012, the Kosovo Property Claims Commission (KPCC) refused the claim. The Commission contemplated that: the claimant submitted a contract on lifelong care from 1985 concluded between the claimant and his mother; pursuant to this contract the claimant had to be “settled” after his mother’s death as her inheritor; the contract on lifelong care stipulated that four hectares of his mother’s property will be given to a person called V. L. upon the death of the claimant’s mother; here was no indication which parcels or part of them should be left to this V. L.. However, the Executive Secretariat found *ex officio* possession list no. 18 listing the claimed property in the name of V. L.’s heirs. The Secretariat established that the properties were registered in the cadastre under the name of V. L.’s heirs in 1997. Subsequently, the Executive Secretariat contacted the claimant and asked him to submit additional evidence to prove his ownership right, however he failed to do so.
7. The KPCC decision was delivered to the claimant on 15 April 2013.
8. He filed an appeal on 10 May 2013, challenging the KPCC decision because of fundamental error and serious misapplication of the applicable material and procedural law and erroneous and incomplete determination of facts.

**Admissibility of the appeal:**

9. The appeal was filed in time. Therefore it is admissible.
10. According to Section 12.1 of UNMIK Regulation 2006/50 as amended by the Law No. 03/L-079 on the resolution of claims relating to private immovable property, including agricultural

and commercial property (hereinafter the Law No. 03/L-079), a party may submit an appeal within thirty (30) days of the notification of the decision.

**Validity of the decision and jurisdiction:**

11. The decision of the KPCC had to be annulled as rendered in the absence of jurisdiction.
12. According to Section 3.1 of the Law the Commission has the competence to resolve claims related to the armed conflict of 1998/1999, claims related to rights that cannot be exercised because of circumstances directly related or resulting from the armed conflict that occurred in Kosovo between 27 February 1998 and 20 June 1999.
13. In the context of the established facts, it should be accepted that the alleged loss of property is in no way related to the armed conflict in Kosovo from 1998/1999. The claimant's mother died in 1987 in Bar, Montenegro. Subsequently in 1997 the properties were registered in the cadastre under the names of the heirs of V. L.. There is no indication that before or after 1997 – i.e. before the armed conflict, the claimant possessed the lands and/or that they were registered under his name. There was a contract in his favour and in favour of V. L. from 1985, signed by the mother of the claimant. She died in 1987 and 10 year later the properties were registered under the names of the heirs of L. (the Possession List, presented by the claimant was negatively verified). This leads to the only conclusion that even if the claimant had some rights with regards to these properties, their alleged loss is not related to the armed conflict of 1998/1999.
14. The data in the case leads to a hypothetical property dispute between the claimant and the heirs of V. L., which dates back to 1987, the year when the claimant's mother passed away. This kind of dispute however is not within the competence of this Court and the KPCC in the current proceedings. As noted above it is not related to events of 1998/1999.
15. On the basis of the above and according to the provision of section 12.2 of the Law No. 03/L-079 and art. 198, paragraph 1 of the Law on Contested Procedure, it has been decided as in the enacting clause of this judgment.

**Legal Advice**

Pursuant to Section 13.6 of UNMIK Regulation 2006/50 as amended by Law 03/L-079, this judgment is final and enforceable and cannot be challenged through ordinary or extraordinary remedies.

**Elka Filcheva-Ermenkova, EULEX Presiding Judge**

**Esma Erterzi, EULEX Judge**

**Shukri Sylejmani, Judge**

**Urs Nufer, EULEX Registrar**