

**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-052/14

Prishtinë/Priština,

20 July 2016

In the proceedings of:

L.P.

Omladinskih Brigada 158/21

Belgrade, Serbia

Appellant

The KPA Appeals Panel of the Supreme Court of Kosovo composed by judges: Sylejman Nuredini, as Presiding Judge Anna Bednarek and Krassimir Mazgalov, Judges, on the Appeal against the Decision of the Kosovo Property Claims Commission KPCC/D/R/207/2013 (case file registered at the KPA under the number KPA 56743) dated 11 June 2013, after the deliberation held on 20 July 2016, issues the following:

JUDGMENT

The Appeal of L.P. filed against the Decision of the Kosovo Property Claims Commission KPCC/D/R/207/2013, as far as it concerns the case registered at the KPA under the number KPA56743, is dismissed as belated.

Procedural and Factual background:

1. On 13 March 2007, L.P. (hereinafter the Appellant) filed a Claim with the Kosovo Property Agency (the KPA) seeking re-possession of the prefabricated residential building and of the land in the surface of 3 ares and 40 square meters, located in “JNA” street No 38, cadastral parcel 2609/1, cadastral zone Pejë/Peć. The Appellant stated that he was the user of the public land and the owner of the building which is now being occupied. He alleged that his late father K.P. had acquired the property right and obtained the construction permit on the socially owned land given for temporary use. He claimed repossession of the property.
2. To support his Claim, he presented the following documents:
 - The ID card issued on 18.02.2005 by the authorities of the Republic of Serbia;
 - The Decision Br. 05-351/1847 dated 30 September 1993 issued by the Municipality of Pejë/Peć, Department of Urbanism, Residential and Legal-property matters. The Decision granted the permission to the Appellant for temporary usage of the socially owned land for the period of 6 months.
 - The urban-technical conditions for adjustment of the land and the construction of the building.
 - The Death Certificate issued by the authorities in Serbia indicating that K.P. died on 1 August 2000.
 - The ID card issued on 2 October 2002 by the authorities in Serbia.
3. The KPA notified the claim according to the standard procedure by placing a notice on the property on 14 October 2008. On 26 March 2013, the property was identified accurately through Orto-photo and GPS coordinates. On 14 October 2008, A.B. appeared as the Appellee, but did not claim property rights over the property.
4. By the Cover Decision KPCC/D/R/207/2013, the Kosovo Property Claims Commission (hereinafter the KPCC) decided that the property right holder in this concrete case acquired the right for temporary use and construction of the movable structure, therefore the Claim should have been dismissed due to the lack of

Commission's jurisdiction, as provided for in Article 3.1 of the UNMIK Regulation 2006/50, as amended by the Law No 03/L-079.

5. The Decision of the KPCC was served on the Appellant on 7 November 2010. On 10 December 2010, the Appellant filed an Appeal against the Decision of the KPCC.

Allegations of the Appellant:

6. The Appellant requested the Supreme Court of Kosovo to approve his Appeal and to modify the Decision of the KPCC by recognizing his rights over the claimed property. He alleged that the KPCC's Decision was based on erroneous and incomplete determination of facts and on erroneous application of the material law.

Legal reasoning

7. The appeal is belated. Article 12.1 of the Law No 03/L-079 amending UNMIK Regulation 2006/50 on the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property, prescribes that: *"Within thirty (30) days of the notification to the parties by the Kosovo Property Agency of a decision of the Commission 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"*
8. The Appellant personally received the KPCC's Decision on 7 November 2013; therefore the deadline to file an Appeal elapsed on 9 December 2013, as the 30th day was a nonworking day. However, the Appellant filed the Appeal only on 10 December 2013, one day after the deadline elapsed. This means that the Appeal was filed outside the deadline prescribed by the Law.
9. The Court found that the delivery was done in person in compliance with article 110.1 of the Law No 03/L-006 on Contested Procedure (Official Gazette of the Republic of Kosovo No 38/2008). The Appellant did not provide any reasons for the delay in filing of the Appeal, and the Court could not find any reason for the delay in the case files either.
10. Therefore, the Appeal is dismissed as inadmissible based on the procedural grounds of the abovementioned Law. Consequently, the Supreme Court could not review the grounds of the Appeal.

Legal Advice

Pursuant to article 13.6 of the Law No 03/L-079, this Judgment is final and enforceable and cannot be challenged through ordinary or extraordinary remedies

Sylejman Nuredini, Presiding Judge

Anna Bednarek, EULEX Judge

Krassimir Mazgalov, EULEX Judge

Sandra Gudaityte, EULEX Registrar