

**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-154/13

**Prishtinë/Priština,
11 December 2013**

In the proceedings of

Q.G

R.G

Claimant/Appellant

vs

Respondent/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/A/188/2013 (case file registered at the KPA under the number KPA 1182) dated 13 February 2013, after deliberation held on 11 December 2013, issues the following

JUDGMENT

1. **The appeal of Q.G against the decision of the Kosovo Property Claims Commission KPCC/D/A/188/2013, dated 13 February 2013, regarding case file registered at the KPA under the number KPA1182 is dismissed as inadmissible.**

2. **The appeal of R.G against the decision of the Kosovo Property Claims Commission KPCC/D/A/188/2013, dated 13 February 2013, regarding case file registered at the KPA under the number KPA1182, is rejected as unfounded.**

3. **The decision of the KPCC/D/A/188/2013, dated 13 February 2013, regarding case files registered at the KPA under the number KPA 1182 is confirmed.**

Procedural and factual background,

1. On 31 October 2007 Q.G filed a claim with the Kosovo Property Agency (KPA), seeking ownership and repossession of a part of parcel no. 704/5, in street “Skenderbeu”, Possession List 1381, with surface 0.23.78 ha, field, of the Cadastral Zone of Istog/Istok, Municipality of Istog/Istok.

2. On 24 October 2012 the Kosovo Property Claims Commission (KPCC) dismissed the claim in a cover decision. In paragraph 18 in the cover decision, which according to the Certified Decision dated 13 February 2013 applies specifically to the claim, it is stated that according to documents submitted by the claimant, and which have been verified by the Executive Secretariat or confirmed by the claimant, the claimant failed to show that his claim involves circumstances directly related to or resulting from the 1998-1999 conflict. Accordingly the claim was considered to fall outside the mandate of the KPCC, and was dismissed.

3. The KPCC decision was served on Q.G on 30 July 2013. Q.G and his brother R.G appealed the decision on 2 August 2013. R.G was not a party in the proceedings before the KPA, but he was named in the claim as an “Other party as a natural person to the claim”.

4. No opposing party or respondent has been identified by the KPCC or by the Supreme Court.
5. The Supreme Court received the case-file 25 November 2013.

Allegations of the appellants.

6. Q.G and R.G state the decision made by the KPCC is based on an erroneous and incomplete determination of the factual situation, and a wrongful application of the relevant legal provisions.
7. The KPCC has not taken into account that the Istog/Istok Municipality has expropriated the property in 1983. The purpose of the expropriation was to construct a bus station. G. were Promised Land as compensation, but this was never given to them. They have not been given any monetary compensation, and the compensation demand now amounts to EUR 460 000.
8. According to the cadaster the property is still registered in the name of Q.G and R.G.

Legal reasoning

9. The appeal has been filed within the time limit of 30 days set in Art 12. 1 of the UNMIK Regulation 2006/50 as amended with Law No. 03/L-079 (hereinafter: Law No. 03/L-079).
10. R.G was not a party to the proceedings before the KPCC. Art. 12.1 of Law No. 03/L-079 states that “a party may submit” an appeal. There is no indication that R.G was not aware of the proceedings. Under these circumstances it follows from the jurisprudence of the Supreme Court, i.e GSK-KPA-A-140/2013, and in accordance with the Article 13 paragraph 3 (b) of Law No. 03/L-079 the appeal has to be dismissed as inadmissible.
11. The appeal from Q.G is admissible.
12. However the Supreme Court agrees with the KPCC that the claim is not within the jurisdiction of the KPCC, and accordingly not within the jurisdiction of the KPA Appeals Panel of the Supreme Court. The Supreme Court also mainly agrees with the reason given by the KPCC.
13. According to Section 3.1 of Law No. 03/L-079, the KPCC has the competence to resolve conflict-related claims concerning ownership over or property rights to private immovable property,

including agricultural and commercial property. The KPCC is only competent if the claims are directly related to or resulting from the armed conflict that occurred between 27 February 1998 and 20 June 1999.

14. In the present case G. claims that the disputed property was expropriated in 1983. It is clear that the claim concerns a dispute that started before 1998, and that it has no relation to and is not resulting from the armed conflict in 1998/1999.
15. The claim is therefore inadmissible due to lack of jurisdiction. The appeal is unfounded, and the Supreme Court rejects the appeal and confirms the decision of the KPCC (Section 13 paragraph 3 (c) of the Law No. 03/L-079).
16. Because the KPCC and the KPA Supreme Court do not have jurisdiction in the case, neither the KPCC nor the KPA Panel of the Supreme Court has reviewed the merits of the case, which will eventually have to be decided independently by the ordinary courts in Kosovo.

Legal Advice

17. Pursuant to Section 13.6 of Law No. 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

Holger Engelmann, EULEX Registrar