

**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-067/2015

Prishtinë/Priština,
2 November 2016

In the proceedings of:

L. K.

Appellant

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of Sylejman Nuredini Presiding Judge, Beshir Islami and Krassimir Mazgalov, Judges, deciding on the Appeal against the Decision of the Kosovo Property Claims Commission (henceforth: the KPCC) no KPCC/D/R/231/2014 dated 13 March 2014 (case file registered at the Kosovo Property Agency under No. KPA38058), after deliberation held on 2 November 2016, issues the following

JUDGMENT

1. **The appeal of L. K. against the Decision of the KPCC no KPCC/D/R/231/2014, dated 13 March 2014, is rejected as unfounded.**
2. **The Decision of the KPCC no KPCC/D/R/231/2014 as far as it concerns claim no. KPA38058 is confirmed.**

Procedural and Factual background

1. On 23 October 2007 L.K. (henceforth: the Appellant) filed a claim at the Kosovo Property Agency (henceforth: the KPA), seeking confirmation of his Property Right over an apartment located in Svetog Igumana, Prizren/Prizren, first floor, with a surface of 100 m² (henceforth: the claimed apartment).
2. The Appellant submitted the following documents to the KPA:
 - A written statement of M. L. and M. M. dated 7 February 2007 (No 105).
 - A copy of an invoice No 199 dated 7 May 1999, with address: S. Igumanova nn.
 - A copy of a Student's Report Card on the name of K. K. dated 25 December 1999, with address: S. Igumanova nn.
3. On 25 January 2008 the KPA notified the claim at the location of the claimed apartment and found the apartment occupied by an unknown person. This person refused to identify himself and did not sign a notice of participation. Also, on 4 March 2008 the KPA notified the claim by publishing it in the KPA gazette.
4. No one participated in the proceedings before the KPCC.
5. The KPA verified the written statement dated 7 February 2007 positively.
6. On 20 December 2013 the KPA requested the Appellant to submit further evidence in support of his claim. The Appellant did not follow up on this request.
7. The KPCC decided in the KPCC Decision to refuse the claim. In its reasoning (paragraphs 10, 50 and 51), as far as relevant, the KPCC noted that in support of his claim, the Appellant had submitted only two written statements confirming that he and his family had lived in the claimed apartment. The KPCC found that these statements, without any corroborating

documentation, did not constitute sufficient evidence to prove his alleged property right. Therefore, his claim was refused.

8. The decision was served upon the Appellant on 27 May 2014.
9. The Appellant filed an appeal against the KPCC decision on 12 June 2014.

Allegations of the Appellant

10. The Appellant challenges the KPCC Decision as being based upon an erroneous or incomplete determination of the facts. He states that, contrary to the conclusion of the KPCC, he was the owner of the claimed apartment before he and his family were forced to leave due to the armed conflict in 1999. He alleges that he gained the apartment from the Enterprise “Liria” where he was working for at that time as an award for his efforts. The management of Enterprise “Liria” was supposed to hand him the allocation decision, but due to conflict this never happened. In order to prove his employment with Enterprise “Liria”, the Appellant submitted a copy of his employment booklet. He states that he is unable to submit any further evidence due to the previously mentioned armed conflict.

Legal reasoning

Merits of the appeal

11. The Supreme Court of Kosovo considers that the evidences submitted by the Appellant only concerns the alleged use of the claimed apartment by the Appellant and his family in the period of 1998 and 1999. However, none of the submitted evidence corroborates the Appellant’s claim that the Enterprise “Liria” transferred to him any property rights or ownership of the claimed apartment. Consequently, the Appellant failed to prove his alleged property rights over the claimed apartment.
12. The Supreme Court concludes that the KPCC has taken a fair and grounded Decision in complete and correct proceedings. Therefore, the Supreme Court concludes that there was no

violation of the material and procedural rights and also there was no incomplete establishment of the factual situation. The Supreme Court concludes that the appeal is ungrounded.

Conclusion

13. Consequently, pursuant to Section 13.3.c of UNMIK Regulation 2006/50 as amended by Law No. 03/L-079 (henceforth: Law No. 03/L-079) the Supreme Court decided as in the enacting clause of this Judgment.

Legal Advice

14. Pursuant to Section 13.6 of Law No. 03/L-079 this Judgment is final and cannot be challenged through ordinary or extraordinary remedies.

Sylejman Nuredini, Presiding Judge

Beshir Islami, Judge

Krassimir Mazgalov, EULEX Judge

Sandra Gudaityte, EULEX Registrar