

**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- 066/15

**Prishtinë/Priština,
7 December 2016**

In the proceedings of:

R. M.

Appellant

vs.

N/A

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Sylejaman Nuredini, Presiding Judge, Krassimir Mazgalov and Beshir Islami, Judges, deciding on the Appeal against the Decision of the Kosovo Property Claims Commission KPCC/D/A/220/2013 (case file registered at the KPA under the number KPA39565), dated 27 November 2013, after deliberation held on 7 December 2016, issues the following

JUDGMENT

1. The Appeal of the R. M. against the Decision of the Kosovo Property Claims Commission KPCC/D/A/220/2013, regarding case file registered at the KPA under the number KPA39565, dated 27 November 2013, is dismissed as belated.

Procedural and factual background

1. On 5 May 2007, R. M, (henceforth: the Appellant), filed a claim with the Kosovo Property Agency (henceforth: the KPA) seeking confirmation of the ownership right over the cadastral parcel no 377 with the culture forest and the surface of 03.11.19 ha, which is located in the Municipality of Istog/Istok (henceforth: the claimed property). In addition to Appellant seeks for compensation of using the claimed property without his consent.
2. To support his claim he provided the KPA with following document:
 - The Judgment No. 246/92 rendered by Municipal Court of IstoG/Istok on 23 October 1996 by which the Contract on Exchange No. 86/60 concluded on 13 December 1960 between M., R., K., S., I., R. and S.M. and Municipality of Istog/Istok relating the cadastral parcel no 377 with the surface of 03.11.19 listed on Possession List no 234 was declared null and void.
3. The physical notification of the claim carried out on 26 December 2008 and reflects the claimed property as the forest which was not occupied.
4. The claim remains uncontested because no one expressed any interest to take part in the proceedings regarding the claimed property, within 30 days legal time frame, pursuant to provision of Section 10.2 of the Law No. 03/L-079.
5. According to the verification report dated 22 April 2009; the Judgment No.246/92 was not found while as far as it concerns the claimed property it was found registered as Socially Owned Property NB “Dubrava” Istog/Istok.
6. On 21 October 2013 and 1 November 2013 the Appellant was contacted by the KPA by the telephone and he confirmed that he and his family had no possession of the claimed property since 1960 when the property was sold to the Municipality of Istok/Istog and that the loss of possession was not related to the conflict. (Page No 052 of the case file).
7. On 27 November 2013 the Kosovo Property Claims Commission dismissed the claim in certified decision KPCC/D/A/220/2013. In paragraph 18 of the decision, which applies specifically to the claim, it is stated that on the basis of the submitted document by the Claimant and verified by the Executive Secretariat of the KPA the Claimant failed to show that his claim involve

circumstances directly related to or resulting from the 1998-1999 conflict. As for the compensation for the physical damage to, or for loss of use of the claimed property the Commission has no jurisdiction to such a request, pursuant to the Law No 03/L-079.

8. On 5 May 2014, the Decision was served on the Appellant. He challenged the KPCC's Decision on 14 October 2014.

Allegations of the appellant

9. The Appellant state the Decision made by KPCC is based on erroneously and incomplete determination of the factual situation.
10. The Appellant claims his Appeal to be considered because due to health reasons, he was unable to file an Appeal within the deadline.

Legal reasoning:

11. The Appeal is belated. Section 12.1 of Law No. 03/L-079 provides as follows: "*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*".
12. The Appellant was served on 5 May 2014. So the time limit ended on 4 June 2014. Yet the Appellant filed his Appeal only on 14 October 2014. This is outside the time limit. Besides saying that he had health problems he has given no excuse and the Court cannot detect any reason for the delay. No evidence supporting the allegation that he has had a health problem was submitted.
13. Therefore the appeals have to be dismissed on procedural grounds as belated pursuant to (Section 13.3 subparagraph (b) of UNMIK Regulation 2006/50 as amended by Law No. 03/L-079), Article 195.1 (a) and Article 196 of the LCP.

Legal Advice

14. 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.

Sylejman Nuredini, Presiding Judge

Krassimir Mazgalov, EULEX Judge

Beshir Islami, Judge

Sandra Gudaityte, EULEX Registrar