

**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-94/13

Prishtinë/Priština,
20 November 2014

In the proceedings of:

D. A.

Serbia

Appellant

vs.

Sh. K.

Obiliq/Obilić

Appellee

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of Willem Brouwer, Presiding Judge, Esma Erterzi and Sylejman Nuredini, Judges, on the appeal against the decision of the Kosovo Property Claims Commission KPCC/D/A/167/2012 (case file registered at the KPA under the number KPA23361), dated 05 September 2012, after deliberation held on 20 November 2014, issues the following

JUDGMENT

The appeal of D. A. against the decision of the Kosovo Property Claims Commission KPCC/D/A/167/2012 (case file registered at the KPA under the number KPA23361), dated 05 September 2012 is dismissed as belated.

Procedural and factual background:

1. On 23 July 2007, D. A. submitted a claim with KPA registered under the number KPA2336, in the capacity of use right holder over the house built on cadaster parcel 554 in the village Milloshevë/Miloševo-Obiliq/Obilić, seeking its repossession. She built the house in 1990. She had been allocated the parcel on which the house was built by the Elementary School in Milloshevë/Miloševo where she used to work. In 2000 the house was burnt down and re-built later and some Albanian occupants had moved in.
2. To support her claim, the appellant provided the KPA with the following documents:
 - Identity Card issued on 24 March 2011.
 - Request dated 20 August 1990 to Elementary School in Milloshevë/Miloševo asking permission to place a prefabricated house over there.
 - Possession list dated 20 August 1990 by Department of Geodesy confirming that the parcel 554 at the place called “Vishe Sela” CZ of Milloshevë/Miloševo is a socially-owned property which is used by Elementary School of Milloshevë/Miloševo.
3. According to verification report dated 17 January 2008 and 10 February 2010, the KPA Verification Team found, that based on the said possession list, the claimed property is registered under the name of the Elementary School of Milloshevë/Miloševo. By decision of the Municipal Assembly of Obiliq/Obilić dated 26 May 2009, the cadastral parcel in question has been allocated to Shensi Krasniqi for use and on 20 June to Bajram Shefqeti.
4. By decision KPCC 167/2012 regarding case registered at KPA under KPA no 23361 dated 05 September 2012, the Kosovo Claim Property Commission decided that the claim should be rejected because the claimant failed to submit sufficient evidence to prove her right of use.

5. The appellant A. D. received the appealed decision on 04 March 2013 whereas she filed an appeal against this decision on 05 April 2013.

Allegations of the appellant:

6. The appellant alleges that the appealed decision has omitted justification of lawful rights, because the Commission restricts her right to use the apartment by proposing that such decision should be canceled.

Legal reasoning:

Admissibility of the appeal:

7. Having reviewed and assessed the appealed decision and the appeals filed pursuant to article 194 of LCP, the Supreme Court found that the appeal is belated.
8. The Supreme Court of Kosovo dismissed the appeal as belated pursuant to Article 186 par 1 as read with Article 196 of the LCP because A. D., the appellant, received the above decision on 04 March 2013 whereas she filed an appeal on 05 April 2013. This shows that the appellant filed the appeal after the time period of thirty-days as provided under provision of Section 12 para 1 of UNMIK Regulation 2006/50 as amended by Law no 03/L-79. Under the said provision, an appeal against a KPCC decision may be filed within 30 days from the day of its receipt.
9. Consequently, pursuant to provision of Section 13 para 3 subpara b) of UNMIK Regulation 2006/50 as amended by Law No 03/L-79, the Court decided as in the enacting clause of this judgment.

Legal Advice:

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

Willem Brouwer, Presiding Judge, EULEX

Sylejman Nuredini, Judge

Esma Erterzi, EULEX Judge

Urs Nufer, EULEX Registrar