

**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-098/2015

**Prishtinë/Priština,
20 September 2017**

In the proceedings of:

G. V.

Appellant

Vs.

Nobody

Appellee

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of Beshir Islami Presiding Judge, Krassimir Mazgalov and Shukri Sylejmani, Judges, deciding on the appeal against the Decision of the Kosovo Property Claims Commission KPCC/D/A/236/2014 (case file registered at the KPA under KPA90212), dated 30 April 2014, after deliberation held on 20 September 2017 issues the following:

JUDGMENT

The appeal of G.V. against the Decision of the Kosovo Property Claims Commission KPCC/D/A/236/2014, dated 30 April 2014, pertaining to the Claim KPA90212, is dismissed as incomplete.

Procedural and factual background:

1. On 30 December 2008, G. V. (hereinafter: the appellant) filed a claim with Kosovo Property Agency (KPA) claiming ownership of cadastral parcels no. 131/6, with a surface area of 01.00.00 ha and parcel no. 61, with a surface area of 02.67.07 ha, located in the cadastral zone of Sllatina. The party claims that his property was occupied by the Civil Airport of Sllatina and now he seeks compensation for use without his permission and return of possession.
2. Together with the claim, the appellant filed in the KPA:
 - Judgment P.br.41/92 dated 3 February 1993 by which the enterprise “Poljopriovreda” was obligated to return the parcel 131/6 to the appellant’s possession, because the same Judgment annulled the contract concluded in 1958;
 - Judgment P.br.423/93 dated 20 October 1994 by which the enterprise “Poljopriovreda” was obligated to return the parcel 61 to the appellant’s possession, because the same Judgment annulled the contract concluded in 1958;
 - Description of Possession List no.100 which proves that in the cadastral office in Lipjan, the claimed property was registered as socially-owned property of Agricultural Cooperative “Kosova”.
3. Identification of the claimed property was carried out on 22 July 2010 and was confirmed on 15 January 2014 using cadastral records as well as Orto-photos and GPS Coordinates. Claim notification was published in the Notification Gazette no.5 and was placed in the Lipjan Municipal Court, UNHCR Office, etc.
4. According to the verification report, the submitted documents-judgments were found and positively verified, whereas KPA ex officio found ownership certificates proving that the claimed property was registered in the names of third persons M. and A. B, but there was no information on how the change in cadastral records came about. Also, cadastral records in

the Directorate for Cadastre and Geodesy in Lipjan, administered by UNMIK, the possession list no.328 shows that cadastral parcel no.61, with a surface area of 3.67.01 ha, is registered in the name of M. and A.B.in ½ parts of the ownership. This possession list proves that it was updated in December of 1996.

5. On 30 April 2014, the Kosovo Property Claims Commission (hereinafter: KPCC), through its Decision KPCC/D/R/236/2014 (hereinafter: KPCC Decision) dismissed the claim and in its reasoning, in paragraph 18, it was stated that the claimant, in this case the appellant, had not lost possession as a result of conflict but as a result of an informal transaction.
6. The KPCC Decision was served on the appellant on 17 October 2014. On 14 November 2014, the appellant filed a claim enclosed with a lawsuit requesting from KPA and Lipjan cadastral office registration of the property according to the final judgment.
7. Despite the fact that G.V. does not name it as appeal, KPA forwarded it to the Supreme Court on 15 April 2015 treating it as appeal with respective reference. In this submission, the party was not challenging any part of the KPCC Decision and neither was the party claiming violations of the material or procedural law. The appellant requests from the KPA and Kosovo Cadastral Office to implement the final judgments and to register the claimed property in his name.
8. On 28 March 2017, the Supreme Court, pursuant to Article 179.1 of the Law no. 03/L-079 on Contested Procedure, finding that the appeal lacks the required elements foreseen under Article 178 of the Law no. 03/L-079 on Contested Procedure, sent a submission to KPA requesting that the appeal be filed with the Court within the deadline or be supplemented.
9. The Supreme Court of Kosovo ascertained, even after expiry of the time limit, that the appeal was not supplemented. For this reason, the Supreme Court dismissed the appeal as incomplete.

Conclusion

10. The Supreme Court based its decision on provisions of Article 178 of LCP which stipulates that “*Complaint should consist of: a) narrative of the verdict against which the complaint is done; b) statement that the verdict is opposed in complete or in specific parts; c) reasons for complaint and justification; d) signature of the party raising the complaint*”. Thus, the appeal that that is incomplete and not supplemented within the deadline was

dismissed as foreseen by Article 179.2 of the Law no. 03/L-079 on Contested Procedure in conjunction with Section 12.2 of UNMIK Regulation 2006/50, as amended by the Law 03/L-079.

11. The Court dismissed the appeals as not supplemented and it did not decide on its merits, thus this Judgment does not prejudice any property rights for the parties nor does it present any impediments in initiating proceedings before competent bodies or competent court.
12. Based on the above and pursuant to Article 13.3.(b) of the Law no. 03/L-079 and Article 195, paragraph 1(d) of the Law on Contested Procedure, it has been decided as in the enacting clause of this Judgment.

Legal advice

Pursuant to Article 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 legal remedies.

Beshir Islami, Presiding Judge

Krassimir Mazgalov, EULEX Judge

Shukri Sylejmani, Judge

Bjorn Olof Brautigam, EULEX Registrar