

**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-116/2014
GSK-KPA-A-117/2014**

Prishtinë/Priština, 20 April 2016

In the proceedings of:

The legal entity **U. K. DOO**

Appellant

Representative: A. Q. V.

Laywer in Prishtinë/Priština

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of Sylejman Nuredini, Presiding Judge, Rolandus Bruin and Beshir Islami, Judges, on the appeals against the decision of the Kosovo Property Claims Commission (henceforth: the KPCC) no. KPCC/D/A/212/2013 dated 21 August 2013 (case files registered at the Kosovo Property Agency (henceforth: the KPA) under Nos. KPA13390 and KPA13389), henceforth also: the KPCC Decision, after deliberation held on 20 April 2016, issues the following

JUDGMENT

The appeals of U. K. DOO against the Decision of Kosovo Property Claims Commission no. KPCC/D/A/212/2013, dated 21 August 2013, as far as it concerns the claims nos. KPA13390 and KPA13389 are dismissed as belated.

Procedural and factual background

1. On 7 September 2006 M. R. as authorized representative of the legal entity U. K. DOO (henceforth: the Appellant) filed two claims at the Kosovo Property Agency (KPA), seeking confirmation of its ownership right, repossession and compensation for the unlawful use of
 - a) in one claim the commercial field without building in the area Livade, Prishtinë/Priština, Cadastral parcel no. 1559/11, Municipality Prishtinë/Priština, surface 00.79.70 ha;
 - b) in the other claim a parcel uncultivated land in the industrial area of Prishtinë/Priština, surface 10.00.00 ha;(henceforth together: the claimed properties).
2. The claim meant under paragraph 1.a was registered at the KPA under no. KPA13390 and the claim under 1.b under no. KPA13389.
3. The claim no. KPA13390 was notified on 7 August 2008 by putting a sign on the claimed parcel. During the notification KPA found that the property is a meadow and not occupied.
4. The claim no. KPA13389 was notified through publication in the KPA Notification Gazette no. 11 and the UNHCR property office Bulletin on 25 April 2013, as KPA could not retrieve any document from the municipal cadastral office about the property.
5. No interested party approached KPA, therefore the claims were considered as uncontested.
6. KPCC with the Decision KPCC/D/A/212/2013, dated 21 August 2013, refused the claims with the reasoning (in paragraphs 12 and 99-101, 116) that the Appellant failed to provide any evidence to show its ownership right or any other property right over the

claimed property. The claims for compensation were refused as KPCC does not have jurisdiction on such claims. On the last page the KPCC decision contains information about the possibility to file an appeal within 30 days of the notification of the decision.

7. The Decision on both claims, together with an appeals information sheet, were separately served on the authorized representative of the Appellant, M. R., on 10 February 2014.
8. On 26 March 2014 the Appellant filed the appeals against the decisions on both claims.

Allegations of the Appellant

9. The appellant challenges the KPCC decision on both claims as containing a fundamental error and serious violation of the procedural law and being based on an incomplete determination of the facts. Therefore, it asked from the Supreme Court to accept his appeal and annul the KPCC decision as ungrounded and unlawful.

Legal reasoning:

Admissibility of the appeal

10. Section 12.1 of UNMIK Regulation 2006/50 on the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property, as amended by Law No. 03/L-079 (henceforth: UNMIK Regulation 2006/50) provides as follows: “*Within thirty (30) days of the notification to the parties by the Kosovo Property Agency of a decision of the [KPCC] 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*”.
11. The KPCC decision on both claims was served on the Appellant on 10 February 2014 and the appellant should submit the appeals within the deadline of 30 days as prescribed by the abovementioned provision. The Appellant filed the appeal only on Wednesday 26 March 2014. This date is the 44th day after the notification of the KPCC decision and falls outside the deadline prescribed by the law.
12. The Appellant did not give any justifying excuses about filing the appeals past the deadline.

13. He was sufficiently warned of the deadline, as the decision contained a warning on this deadline.

14. Therefore the appeals have to be dismissed as belated pursuant to Section 13.3 subparagraph (b) of UNMIK Regulation 2006/50 and article 195.1 (a) of the Law on Contested Procedure.

Legal Advice

15. Pursuant to Section 13.6 of UNMIK Regulation 2006/50 this judgment is final and enforceable and cannot be challenged through ordinary or extraordinary remedies.

Sylejman Nuredini, Presiding Judge

Rolandus Bruin, EULEX Judge

Beshir Islami, Judge

Signed by: Sandra Gudaityte, EULEX Registrar