

**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-71/2015**

**Prishtinë/Priština,  
27 July 2017**

In the proceedings of:

**Jugokoka represented by B. L. I.**

**Appellant**

vs.

**F.K. represented by “S & Q”- Law firm – Prishtinë/Priština**

**Appellee**

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Beshir Islami, Presiding Judge, Krassimir Mazgalov and Erdogan Haxhibeqiri, Judges, deciding on the appeal against the Decision of the Kosovo Property Claims Commission KPCC/D/C/240/2014 (case file registered at the KPA under the number KPA08054) dated 30 April 2014, after deliberation held on 27 July 2017 issues the following:

## JUDGMENT

1. The appeal of Jugokoka represented by B. L. I. against the Decision of the Kosovo Property Claims Commission KPCC/D/C/240/2014, dated 30 April 2014, regarding the case file registered with KPA under number KPA08054, is rejected as unfounded.
2. The Decision of the Kosovo Property Claims Commission KPCC/D/C/240/2014, dated 30 April 2014, as far as it concerns the claim number KPA08054, is confirmed.

### **Procedural and factual background**

1. On 14 December 2006, Jugokoka represented by M. L. filed a claim with the Kosovo Property Agency (KPA) seeking repossession of the business premises. He claims that the "Jugokoka" Joint Stock Company, which he represents, is the owner of the business premises with a surface of 20.69 m<sup>2</sup>, located in "Dardania" street, lamela 1.3, shop 4/II, Municipality of Prishtina (henceforth: the claimed property).
2. To support his Claim, the Appellant provided the KPA with the following documents:
  - The contract on joining labor and means between the Office for Urbanism, Design, Consulting and Civil Engineering of Kosovo and the Joint Stock Company "Jugokoka" from Belgrade represented by M. L. The contract was concluded on 10 February 1992 and was protocolled in the registry of the parties but was not confirmed by the Court.
  - Ruling No. 35045/2005 dated 8 July 2005 on registration on the registry of the economic entities of Serbia in Belgrade.
  - ID card of M. L. issued by the authorities of the city of Belgrade on 10 October 1997.
  - Contract on loan concluded between Investbanka DD Belgrade and Jugokoka No. 02/28 on 13 February 1992.
  - Death Certificate dated 11 August 2013, indicating that M. L. passed away on 22 January 2013.
  - Birth certificate issued on 11 June 2013, indicating that B.L.-I. is the daughter of M.
  - Letter addressed to the KPA dated 28 February 2014, by which among others, the Claim is taken over by B. L.-I., the daughter of M..
  - Ruling of the Municipal Court in Prishtina C. No. 1663/2004 dated 22 February 2007, by which this court declares lack of jurisdiction and forwards the case to the KPA.
3. The Notification of the Claim was done on 18 July 2008 where it was confirmed that the property was a shop used by F. K. She signed the notice of participation in the procedure and stated that the facility was unfinished and was not in use before the conflict by anyone. Her family invested and adopted it for their business.
4. To support her claims, she submitted a statement to the KPA and a series of invoices on behalf of the private enterprise without any relevance to the concrete case.
5. The Executive Secretariat of KPA has found only the contract not verified by the Court which was located in the archive of the contracting parties.
6. On 30 April 2014, the KPCC by its decision KPCC/D/C/240/2014 rejected the Appellant's Claim with the reasoning in paragraph 38 that the Appellant had not proved to have lost possession as a result of the conflict because he did not prove ownership or

any other property right over the claimed property immediately before or during the conflict of 1998-1999.

7. The Decision was served on Appellant on 10 September 2014, whereas she filed an appeal on 8 October 2014. The KPCC Decision was served on the Appellee on 5 September 2014.

### **Allegations of the Appellant**

8. The Appellant challenged the KPCC's Decision by stating that the Decision rests on the erroneously and incomplete establishment of the factual situation and violation of the material and procedural law.
9. According to the Appellant, B. L. I. is the owner of the claimed property based on the submitted evidence. It is not clear to her as to why the Claim was rejected and why the Executive Secretariat of the KPA could not verify the documents that prove her property right despite the fact that according to her, she has submitted evidence which show that she is the co-owner.
10. The Appellant repeats the same allegations as in the first instance by presenting the same documents which were already addressed by the KPCC.

### **Admissibility of the appeal**

11. The appeal was filed within 30 days as foreseen by Article 12.1 of the Law No 03/L-079 and is admissible.

### **Legal reasoning**

12. The Supreme Court reviewed the appealed Decision pursuant to provisions of Article 194 of Law on Contested Procedure No 03/L-006 (henceforth: LCP) and after evaluating the allegations of the Appellant it found that the appeal is unfounded.
13. The Supreme Court finds that the KPCC has rendered a correct Decision when rejected the Claim with the reasoning that the Appellant failed to prove any property right before or during the conflict.
14. Pursuant to article 3.1 of the Law No 03/L-079, a Claimant is entitled to an order from the Commission for repossession of the property if the Claimant not only proves ownership of a private immovable property or use rights of the private immovable property, including agricultural and commercial property, but also that he or she is not now able to exercise such property rights by reason of circumstances directly related to or resulting from the armed conflict that occurred in Kosovo between 27 February 1998 and 20 June 1999.
15. According to this legal provision, the Appellant had to file evidence in support of her claim to prove the ownership right/or the use right over the immovable property.
16. The KPCC based its Decision on the fact that the Appellant failed to submit any evidence that could be verified by the KPA that she as a property right holder, enjoys any property rights over the property as well as on the fact that the Executive Secretariat *ex officio* had not found such evidence.
17. The only evidence that refers to the Appellant as the owner is the unconfirmed contract in the court which does not constitute the alleged property right.
18. The Appellant's appeal brings the same allegations she had pointed out before the KPCC. She had not submitted any new evidence with the appeal.

19. Given the above, the Supreme Court finds that the KPCC rendered a fair and grounded decision following a due procedure. Consequently, the Court finds that there was no violation of substantive law or incomplete determination of the factual situation.
20. In the light of foregoing, pursuant to Section 13.3 subparagraph (c) of the Law 03/L-079, it was decided as in the enacting clause of this judgment.

**Legal Advice**

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

**Beshir Islami, Presiding Judge**

**Krassimir Mazgalov, EULEX Judge**

**Erdogan Haxhibeqiri, Judge**

**Sandra Gudaityte, EULEX Registrar**