

**SUPREME COURT OF KOSOVO
GJYKATA SUPREME E KOSOVËS
VRHOVNI SUD KOSOVA**

**KOSOVO PROPERTY AGENCY APPEALS PANEL
KOLEGJI I APELIT TË AGJENCISE KOSOVARE TE PRONES
ŽALBENO VEÇE KOSOVSKA AGENCIJA ZA IMOVINU**

GSK-KPA-A-197/2014

Prishtinë/Priština, 10 August 2016

In the proceedings of:

R.M.

Appellant/Claimant before the first instance

VS

Appelle
N/A

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of Sylejman Nuredini, Presiding Judge, Rolandus Bruin and Beshir Islami, Judges, on the appeal against the decision of the Kosovo Property Claims Commission (henceforth: also the KPCC) no. KPCC/D/A/220/2013 dated 27 November 2013 (case file registered at the Kosovo Property Agency under No. KPA17665), henceforth also: the KPCC Decision, after deliberation held on 10 August 2016, majority of the panel issues the following

JUDGMENT:

1. **The appeal of R. M. is rejected as unfounded.**
2. **The Decision of the Kosovo Property Claims Commission no. KPCC/D/A/220/2013, dated 27 November 2013, as far as it concerns claim no. KPA17665 is confirmed.**

Procedural and Factual background

1. On 11 December 2006 R. M. (henceforth: the Appellant) filed a claim at the Kosovo Property Agency (KPA), seeking confirmation of his ownership right over and repossession of a parcel of land in Pejë/Peć, cadastral zone Pejë/Peć, parcel number 4056/7, with a surface of 4.60 are (henceforth: the claimed property). He also requested the KPCC to grant him compensation of the damage.
2. The Appellant submitted with his claim *inter alia* to KPA:
 - A document 'Decision', given by the Municipal Assembly of Pejë/Peć, dated 14 April 1995, no. 02-4633/328; according to this decision to the Appellant is given for permanent usage against compensation the claimed property as urban construction land;
 - A document 'Contract on allocation for usage of urban construction land', concluded between the Appellant and the Social Fund for Construction Land and Roads MA, dated 3 June 1997, registration number 10-352/382; according to this contract the Appellant is given in use as urban construction land the claimed property under the obligations to pay an amount of 10,600 Dinars as compensation and to start construction of a house on the parcel within one year.
3. KPA notified the claim on 8 June 2008 by putting a poster with information about the claim on the claimed property. The first notification was wrongly conducted, therefore KPA further renotified the claim through publication in the KPA Notification Gazette no. 3.
4. The procedure was uncontested, due to the fact that no other party participated in the proceedings before KPCC.
5. The KPA verified the submitted documents negatively, as they were not found at the Municipality of Pejë/Peć. The KPA added ex officio to the case file Possession List no. 2608, dated 9 October 2007, updated in 1995, from cadastral zone Pejë/Peć. According to this list the claimed

property is registered as socially owned property in the name of 'P.SH.K.K. Cadastral zone Pejë/Peć', i.e. the Municipality of Pejë/Peć.

6. The KPCC decided in the KPCC Decision to refuse the claim for ownership and for repossession and to dismiss the claim for compensation. In its reasoning (paragraphs 12, 102, 103 and 171), as far as relevant, KPCC states that the Appellant failed to show his ownership right as the submitted documents were not found genuine, no other evidence was obtained that could support the claim, and the claimed property is listed in the Cadaster as socially owned property in the name of the Municipal Assembly of Pejë/Peć. The claim for compensation was dismissed as the KPCC has no jurisdiction on such claim.
7. The decision was served upon the Appellant on 20 June 2014.
8. The Appellant filed an appeal against the KPCC decision on 30 June 2014.

Allegations of the parties

9. The Appellant alleges that the KPCC decision does not reflect the factual state. He states that he bought the claimed parcel from the Municipality of Pejë/Peć. He refers to the documents he submitted to the KPA/KPCC. He further alleges that he brought all the construction material needed for building the house on the claimed property, but was not able to build the house due to the war in Kosovo. He further maintains that his request for compensation is justified, as someone else built a residential building on the claimed property, which he perceives as a violation on his property rights.

Legal reasoning:

Admissibility of the appeal

10. The appeal is admissible as it has been filed within the deadline of 30 days as prescribed by 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: Law No. 03/L-079).

Merits

11. The appeal is unfounded and as such it shall be rejected. Based in the Consolidated Verification Report date 29 January 2013, results that the documents submitted by the appellant before the

first instance are negatively verified. The appellant with his appeal has filed the same documents as evidence. The Supreme Court notes that the documents submitted by the appellant to support his allegations are not sufficient.

12. In accordance with the article 3.1 of the Law no.03/L-079, KPCC has the competence- as far as relevant here - to resolve conflict-related claims involving ownership claims with respect to private immovable property, including agricultural and commercial property, and claims involving property use rights in respect of private immovable property, including agricultural and commercial property. Therefore, it is necessary to determine whether the appellant has any right over the claimed property.
13. In these circumstances, the Supreme Court assess that the appeal is ungrounded, because the appellant failed to prove the property rights he alleges. As for the decision of KPCC about the dismissal of the claim for compensation, the Supreme Court concludes that KPCC was right when states that this claim falls outside of the jurisdiction.

Conclusion

14. Consequently, pursuant to Section 13.3.cof the Law No. 03/L-079 the Supreme Court decides as in the enacting clause of this judgment.

Legal Advice

15. Pursuant to Section 13.6 of the Law No. 03/L-079 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