

**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-267/13

**Prishtinë/Priština,
2 December 2015**

In the proceedings of:

Q. E.

Appellant

vs.

R. L.

Appellee/Claimant

The KPA Appeals Panel of the Supreme Court of Kosovo composed of: Sylejman Nuredini, Presiding Judge, Krassimir Mazgalov and Anna Bednarek, deciding on the Appeal against the Decision of the Kosovo Property Claims Commission KPCC/D/A/140/2012 (casefiles registered at the KPA under the numbers KPA07767, KPA07770, KPA07773, KPA07774, KPA07775 and KPA07776), dated 29 February 2012, after the deliberation held on 2 December 2015, issues this:

JUDGMENT

1. The case files GSK-KPA-A-267/13, GSK-KPA-A-268/13, GSK-KPA-A-269/13, GSK-KPA-A-270/13, GSK-KPA-A-271/13 and GSK-KPA-A-272/13, are joined in a single case registered under the number GSK-KPA-A-267/13.
2. The Appeals of Q. E. against the Decision of the Kosovo Property Claims Commission KPCC/D/A/140/2012 dated 29 February 2012, as far as it regards the cases registered at the KPA under numbers KPA07767, KPA07770, KPA07773, KPA07774, KPA07775 and KPA07777, are dismissed as belated.

Procedural and factual background:

1. On 3 January 2007, R. L. (hereinafter: the Appellee) filed claims at the Kosovo Property Agency (KPA) seeking the confirmation of the ownership right, repossession and compensation for properties.

Data about the claimed parcels are the following:

Appeal number	KPA file number	Data on parcels
GSK-KPA-A-267/13	KPA07767	Parcel number 417/2, located in Pejë/Peç, cadastral zone Jabllanica e vogël, class 3 meadow, with a surface of 0ha 06ar 65 m ² ;
GSK-KPA-A-268/13	KPA07770	Parcel number 426/1, located in Pejë/Peç, cadastral zone Jabllanica e vogël, class 2 meadow, with a surface of 0 ha 32ar 16m ² ;
GSK-KPA-A-269/13	KPA07773	Parcel number 426/2, located in Pejë/Peç/Peç, cadastral zone Jabllanica e vogël, class 2 meadow, with a surface of 0 ha 7ar 24m ² ;
GSK-KPA-A-270/13	KPA07774	Parcel number 109, located in Pejë/Peç, cadastral zone Jabllanica e vogël, class 4 forest, with a surface of 0ha 81ar 63m ² ;
GSK-KPA-A-271/13	KPA07775	Parcel number 426/3, located in Pejë/Peç, cadastral zone Jabllanica e vogël, class 4 orchard, with a surface of 0ha 17ar 70m ² ;
GSK-KPA-A-272/13	KPA07776	Parcel number 426/3, located in Pejë/Peç,

		cadastral zone Jabllanica e vogël, class 4 orchard, with a surface of 0ha 24ar 33m ² ;
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The Appellee alleges that he lost the possession over the claimed property took place on 16 June 1999 as a result of the circumstances of 1998/1999.

2. To support his Claim, the Appellee submitted the following documents:
 - Transcript/Extract from the Possession List (FP) No. 37, issued by the Centre for Cadastre of the Immovable Property in Pejë/Peč Municipality dated 25 May 2004;
 - Identification card No. 20019529300113, issued on 9 June 2004; and
 - Death Certificate No. 203-13/289/06-III-07, issued by the Pejë/Peč Municipality on 13 December 2006.
3. The KPA's Verification Unit in its reports dated 6 February, 7 May, 18 July, 15 October, 8 and 21 November 2007, as well as in the Consolidated Verification Reports dated 13, 19, 21, 22, 23 November and 5 December 2007, positively verified in the Department of Cadastre in Pejë/Peč Municipality, respectively in the Administration of Kragujevac Municipality, Republic of Serbia the Possession List No. 37 and the Death Certificate No. 203-13/289/06-III-07.
4. On 7 February 2007, the KPA notified the Claim through a sign placed at the wrong property. During the visit carried out by the KPA Notification Team, it was ascertained that the property was not occupied.
5. On 19 February 2007, based on the wrong notification, the KPCC had issued its Decision KPCC/D/A/5/2007 in which it stated that the Appellee had proven that his father V. L. had been the owner of the claimed property.
6. It was ascertained that the notification of the Claim was not carried out properly. Through the KPCC's Decision dated 24 February 2010 No. KPCC/RES/16/2010, the previous decision (KPCC/D/A/5/2007) was annulled and the Claim was returned to the Executive Secretariat for further processing in order to correctly identify the claimed property, to properly notify the claim and to hear any responding parties in relation to the Claim.
7. The correct notification through publishing in the KPA's Official Gazette and the UNMIK Property Office Bulletin was carried out on 30 August 2010. The KPA's Official Gazette and the Bulletin were left with the village leader so that he could make it accessible to interested parties, then at a small store at the village entry and in the corner of the public road exiting Jabllanica village in Pejë/Peč Municipality.

Furthermore, the same publication (List and the Gazette) was published in the Pejë/Peč Municipality - Office of the Public Lawyer, Cadastral Office, Municipal Court, KPA Regional Office, Danish Red Cross (DRD), OSCE, UNHCR, Ombudsperson, Privatisation Agency of Kosovo and EULEX.

8. Notwithstanding the abovementioned (correct) notification of the claim, no notice of participation was submitted.
9. Through its Decision KPCC/D/A/140/2012, dated 29 February 2012, the KPCC conferred that the Appellee proved that V. L. was owner of the claimed property, that the he was entitled to possession of this property, and that any other person who occupied the property had to vacate it within 30 (thirty) days of receiving the order.
10. The KPCC's Decision was received by the Appellee on 23 July 2012. Q. E. received the KPCC's Decision on 22 March 2013.
11. The Appellant filed six Appeals on 23 April 2013. The Appellee received the filed Appeals on 26 February 2014, but did not file a Response to the Appeals.
12. On 29 July 2015, B. L., son of the Appellee received an Order from the Kosovo Property Agency Appeals Panel of the Supreme Court of Kosovo. However, the Appellee (or his son) did not respond to the said Order, except for submitting the copy of the Birth Certificate and the Identification card of B. L.
13. On 6 October 2015, the Appellant received an Order from the Kosovo Property Agency Appeals Panel of the Supreme Court of Kosovo, and he filed his response to it on 8 October 2015.

Legal reasoning:

Admissibility of the appeals

14. The Appeals are inadmissible because they were filed outside the legal frame pursuant to Section 12.1 of UNMIK Regulation No. 2006/50 as amended by Law No. 03/L-079 (hereinafter the Law No. 03/L-079) on the Resolution of Claims Relating to Private Immovable Property, including Agricultural and Commercial Property which provides that: *“Within thirty (30) days of the notification to the parties by the Kosovo Property Agency of a decision of the Commission 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”*.

15. The KPCC decided on this case with its decision KPCC/D/A/140/2012 of 29 February 2012. This Decision was served to the Appellant on 22 March 2013. The time limit for submitting an Appeal was 22 April 2013, and the Appeals were submitted by the Appellant on 23 April 2013 (one day after).
16. The Supreme Court could not find any reason why the Appellant should be excused for this delay. He was sufficiently instructed of the deadline, but the Appellant himself gave no reason for the delay.
17. On the basis of the circumstances mentioned above and in accordance with Section 13.3 (b) of the Law 03/L-079 and Article 195 (a) and the Supreme Court decided to dismiss the Appeals as belated, as in the enacting clause.

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.

Sylejman Nuredini, Presiding Judge

Anna Bednarek, EULEX Judge

Krassimir Mazgalov, EULEX Judge

Urs Nufer, EULEX Registrar