

**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-188/11

**Prishtinë/Priština,
17 April 2013**

In the proceedings of

M. L.

Claimant/Appellant

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of Anne Kerber, Presiding Judge, Elka Filcheva-Ermenkova and Sylejman Nuredini, Judges, on the request of the claimant concerning the decision of the Kosovo Property Claims Commission KPCC/D/R/32/2008 (case file registered at the KPA under the number KPA08391), dated 19 December 2008, after deliberation held on 17 April 2013, issues the following

RULING

The case is sent back to the KPCC as the appeal is on its merit a request for correction of textual error in the decision of the Commission.

Procedural and factual background:

On 5 January 2007 M. L. filed a claim with the Kosovo Property Agency, seeking repossession of a property located in Pejë/Peć – a house of 80 sq. m. and parcel 516/14. The building is situated in the said parcel. The claim was registered at the KPA under no. KPA08391.

With decision KPCC/D/R/32/2008 (case file registered at the KPA under the number KPA08391), dated 19 December 2008 the claim was granted. An individual decision followed, dated 26 March 2009, which described the property as parcel 516/14 with surface of 80 sq. m. The Claimant, now Appellant filed a an appeal stating that the decision is wrong because the surface of the house is 80 sq. m, the surface of the parcel is 453 sq. m, which amounts to 533 sq. m.

The KPA Appeals Panel requested the KPCC to respond whether there was a writing mistake - order of the Court, dated 17 April 2012.

A corrected individual decision followed, dated 14 May 2012 which described the property as a house of 80 sq. m. and parcel of 4 ar and 33 sq. m (or 433 sq. m)

With a new order, dated 11 September 2012 the Court again requested the KPCC to clarify whether there is a writing mistake in the new individual decision, whether the surface of the parcel is 4 ar and 33 sq. m or 4 ar. and 53 sq. m.

With a new decision dated 1 November 2012 the property is described as *“parcel number 516/14, a house with a surface of 80 sq. m. and associated land with a surface of 4 ar and 53 sq.m.”*

Thus the writing mistake in the original decision was corrected.

Legal Reasoning

The case has to be sent back to the KPCC without a decision on an appeal as the latter in fact represents a request for correction of a writing mistake, more so that the KPCC has already corrected the mistake itself in accordance with section 8.9 of Annex III of UNMIK/DIR/2007/5, implementing UNMIK/REG/2006/50 as amended by Law No. 03/L-079. The said provision prescribes that *“Any textual errors in a decision of the Commission which do not materially affect the rights of any party, may be corrected by a senior official designated by the Commission or by the Director of the Executive Secretariat, subject to the express written concurrence of the Chairperson of the Commission”*.

As stated the correction is within the prerogatives of the Commission itself and it has already been done.

Anne Kerber, EULEX Presiding Judge

Sylejman Nuredini, Judge

Elka Filcheva-Ermenkova, EULEX Judge

Urs Nufer, EULEX Registrar