

**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-143/15

**Prishtinë/Priština,
14 February 2018**

In the proceedings of:

B. J.

Represented by

Z. J.

Appellant

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of Beshir Islami, Presiding Judge, Anna Bednarek and Ragip Namani, Judges, deciding on the Appeal against the Decision of the Kosovo Property Claims Commission KPCC/D/A/244/2014 dated 18 June 2014 (the case file registered at the Kosovo Property Agency under the number KPA42230) after the deliberation held on 14 February 2018, issues the following:

JUDGMENT

The Appeal of B. J. against the Decision of the Kosovo Property Claims Commission KPCC/D/A/244/2014 dated 18 June 2014 with regard to the Claim registered under the number KPA42230 is dismissed as belated.

Procedural and factual background:

1. On 18 September 2007, Z. J, the family household member of the alleged property right holder filed a Claim with the Kosovo Property Agency (henceforth “the KPA”) on behalf of his father B. J.(henceforth “the Appellant”) seeking the repossession over the land parcel No 679/29 located at the place called “Zvana Cesta” in Lipljan/Lipjan, with the total surface of 1.20.00 ha (henceforth “the claimed property”). The Appellant stated that his father was the owner of the claimed property and that the loss of the possession was related to the armed conflict that occurred in Kosovo in 1998/99, indicating 16 June 1999 as the date of loss.
2. To support his Claim, the Appellant provided the KPA with the following documents:
 - The copy of the Contract on Sale of the Immovable Property concluded on 1 November 1956 in Lipljan/Lipjan between L. L. as the Seller and B.I. as the Buyer of the land parcel No 679/29, described in the Possession List No 100, located in village Slovi/Slovinje, Lipljan/Lipljan, with the total surface of 1.20 ha. The signatures of the parties to the Contract were legalized on 1 November 1956 before the Municipal Court of Lipljan/Lipjan with the reference number 602/56;
 - The copy of the Birth Certificate of the Appellant’s son, No 200-2863/02-IV issued Niš on 27 June 2002;
 - The copy of the ID of Z. J. (No 610010009).
3. The Notification Team of the KPA attempted to notify the Claim on 7 April 2008 unsuccessfully. According to the Notification Report, the claimed property was found to be a cultivated land occupied by unknown person. The Notification Team tried to identify the person using it, but without success. Hence on 22 July 2010 the notification of the Claim took place via publication in the KPA Notification Gazette No 5 of the UNHCR Property Office Bulletin. The Gazette and the List were left with the Head of the village who accepted to make it available for interested parties. The same publications were left at the entrance and exit of the village Slovi/Slovinje, Municipality of Lipjan/Lipljane, the Cadastral Office of Lipjan/Lipljane, Regional Office of Prishtinë/Priština. In addition, the List and the Gazette were distributed to the Head Office of the UNHCR, the Ombudsperson, the Kosovo Cadastral Agency (KCA), the Danish Refugee Council (DCR) and the UNMIK Office in Graçanicë/Gračanica.

4. As no party filed a Response to the Claim within the legal deadline of 30 days pursuant to Article 10.2 of Law No 03/L-079, the Claim was considered as uncontested.
5. According to the Verification Report of the Executive Secretariat of the KPA, the Contract on Sale No 602/56 concluded on 1 November 1956 was verified positively while the cadastral parcel No 679/29 was not found as such at the competent cadastre. Instead a cadastral parcel No 679 (not divided) was found registered under the name of O. K. who has been the owner of the claimed property since 1986 and yet he appears as the owner of it. To the Verification Report it was attached A Certificate for Immovable Property Rights No 71409077-00679 issued by the Municipal Cadastral Office of Lipjan/Lipljane on 3 November 2010, showing a cadastral parcel No 679 with the surface of 00.51.13 ha listed under the name of O. K.
6. The Executive Secretariat of the KPA contacted the Appellant and requested further documents to prove his father's alleged ownership right over the claimed property as the documents already submitted were not sufficiently proving that circumstance.
7. Moreover, on 15 January 2013, the Appellant was provided with an official information letter informing him that in case he fails to submit the requested documents within given deadline, his Claim may be refused by the Commission (page No 136 of the case file).
8. The Appellant did not submit the requested documents.
9. With its Decision No KPCC/D/A/244/2014, the Kosovo Property Claims Commission (hereinafter "the KPCC") refused the Claim with the reasoning that the Claimant failed to show ownership or any other property right over the claimed property immediately prior to or during the 1998-1999 conflict.
10. The Decision of the KPCC was served on the Appellant on 20 October 2014. On 21 November 2014, the Appellant filed an Appeal.

Allegations of the Appellant

11. The Appellant admitted that he had failed to provide the Executive Secretariat of the KPA with the requested documents. He underlined the claimed property had belonged to his family and that his family hasn't sold it. Moreover he indicated that the Appeal was related to the location of the claimed property.

Legal reasoning:

12. The Appeal is belated. Section 12.1 of the Law No. 03/L-079 "On the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property" (hereinafter "the Law No 03/L-079") foresees as follows: "*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*".
13. The Appellant personally received the KPCC's Decision on 20 October; therefore the deadline to file an Appeal elapsed on 19 November 2014, as the 30th day was a working day. However, the Appellant filed the Appeal only on 21 November 2014, two days after the deadline elapsed. This means that the Appeal was filed outside the deadline prescribed by the Law.
14. The Court found that the delivery was done in person in compliance with article 110.1 of the Law No 03/L-006 on Contested Procedure (Official Gazette of the Republic of Kosovo No 38/2008). The Appellant did not provide any reasons for the delay in filing

of the Appeal, and the Court could not find any reason for the delay in the case files either.

15. Therefore, the Appeal is dismissed as inadmissible based on the procedural grounds of the abovementioned Law. Consequently, the Supreme Court could not review the grounds of the Appeal

16. Based on the aforementioned and pursuant to Section 13.3.(b) of the Law No. 03/L-079 and Article 195, paragraph 1(a) of the Law on Contested Procedure, it is decided as in the enacting clause of this Judgment

Legal Advice

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

Beshir Islami, Presiding Judge

Anna Bednarek, EULEX Judge

Ragip Namani, Judge

Bjorn Olof Brautigam, EULEX Registrar