

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

**KOSOVO PROPERTY AGENCY (KPA) APPEALS PANEL
KOLEGJI I APELIT TË AKP-ës
ŽALBENO VEĆE KAI**

GSK-KPA-A-112/14
Prishtinë/Priština,

Prishtinë/Priština, 20 April 2016

In the proceedings of

P. K.

Appellant

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Sylejman Nuredini, Presiding Judge, Krassimir Mazgalov and Beshir Islami, Judges, on the appeal against the decision of the Kosovo Property Claims Commission KPCC/D/A/212/2013 (case file registered at the KPA under the number KPA52687) dated 21 August 2013 after deliberation held on 20 April 2016, issues the following

JUDGMENT

- 1. The appeal of P. K. against the decision of the Kosovo Property Claims Commission KPCC/D/A/212/2013 dated 21 August 2013 is rejected as unfounded.**

2. **The decision of the Kosovo Property Claims Commission KPCC/D/A/212/2013 (regarding case file registered at the KPA under the number KPA52687), dated 21 August 2013 is confirmed.**

Procedural and factual background

1. On 14 November 2007 P. K. (hereinafter: The Claimant) filed a claim with the Kosovo Property Agency (KPA) seeking repossession of 1/6 ideal part of a parcel no.240/3 with a surface of 09.60.00 Ha in the Cadastral Zone of Glllogjan/Glodane, Municipality of Decan/Dečane (hereinafter: the claimed property).
2. The claimant submitted with the claim the following documents:
 - Inheritance decision no.47/95 issued by Municipal Court Peje on 09.05.1995 certifying that the claimant inherits 1/6 ideal part of the claimed property.
 - Decision 770/29.03.1946 issued by Joint commission for the revision and allocation of the land to the colonists and agricultural interests in the Kosovo- Metohija region regarding the claimed property.
3. The claimed property was notified on 02 September 2008 and during the notification was found not occupied.
4. Nobody participated the proceedings before the KPA.
5. The KPA obtained *ex officio* a possession list from Department of the cadastre certifying that the former parcel no.240/3 is an old parcel prior aerial photographing during the decade 1980-1989 and corresponds to the new parcels 352 and 353 recorded in possession list 103 in Cadastral Zone of Glllogjan in the name of PSh OBPB PRODHIMTARIA E BIMEVE IRZNIQ.
6. The claimant was contacted by KPA on 26 July 2013 and on 02 August 2013 and asked for the date of loss of possession and why the inheritance decision was not registered in the Cadastral Office. The claimant declared that the inheritance decision was not registered because of the armed conflict that occurred in 1998-1999 and he did not lose the possession on 12 June 1999 as it is mentioned in the claim (this date was not written by him). The

claimant also asserted that he was not in possession of the claimed property during the conflict

7. The KPCC with the appealed decision KPCC/D/A/212/2013 dated 21 August 2013 dismissed the claim. In paragraphs 12 and 18 of the cover decision it is stated that the claim falls outside the jurisdiction of the KPCC, because the claimant failed to show that the claim involves circumstances directly related to or resulting from the armed conflict that occurred in Kosovo in 1998-1999.
8. The decision was served on the claimant on 21 February 2014. He filed an appeal to the KPA Panel of the Supreme Court on 17 March 2014.

The allegations of the appellant

9. P. K. (hereinafter: the appellant) alleges that the decision contains fundamental errors and seriously violates “his material and procedural property rights”.

Legal reasoning

10. The appeal is admissible because it has been filed within 30 days as foreseen by law (Section 12.1 of UNMIK Regulation 2006/50 as amended by Law No. 03/L-079).
11. The appellant has himself stated that he was not in possession of the claimed property during the conflict and he did not lose the possession on 12 June 1999 as it is mentioned in the claim.
12. According to section 3.1 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 the KPCC has the competence to resolve conflict related ownership claims and property right claims “**directly related to or resulting from the armed conflict that occurred between 27 February and 20 June 1999.**”
13. It is clear that the claim in this case is not related to the armed conflict in 1998-1999. The Supreme Court therefore agrees with the decision of the KPCC that the claim was outside its jurisdiction, and therefore had to be dismissed. The appeal is unfounded, and the Supreme Court has confirmed the decision of the KPCC.

14. In the light of foregoing, pursuant to Section 13.3 under (c) of UNMIK Regulation 2006/50 as amended by Law 03/L-079, it was decided as in the enacting clause of this judgment.

Legal Advice

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

Sylejman Nuredini, Presiding Judge

Krassimir Mazgalov, EULEX Judge

Beshir Islami, Judge

Sandra Gudaityte, EULEX Registrar