

**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-92/14

Prishtinë/Priština,  
17 September 2014

In the proceedings of:

S. Č.

Prishtinë/Priština

*Appellant*

vs.

N/A

*Appellee*

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Esma Erterzi, Presiding Judge, Elka Filcheva-Ermenkova and Sylejman Nuredini, Judges, on the appeal against the decision of the Kosovo Property Claims Commission KPCC/D/C/224/2013 (case file registered at the KPA under No. KPA10261), after deliberation held on 17 September 2014, issues the following

**JUDGMENT:**

1. The appeal of S.Č. against the decision of the Kosovo Property Claims Commission KPCC/D/C/224/2013 (case file registered at the KPA under No. KPA10261) dated 27 November 2013 is rejected as unfounded.
2. The decision of the KPCC/D/C/224/2013 (case file registered at the KPA under No. KPA10261) dated 27 November 2013, is confirmed.

**Procedural and factual background:**

1. On 22 January 2007, S. Č. filed a claim at the Kosovo Property Agency (KPA), seeking confirmation of ownership of garage no. G-14 at Sremska Lamella II, area 19m2, in Prishtinë/Pristina. She stated that the date of loss was 1 June 1999.
2. KPA notified the claimed property on 7 August 2007.
3. No response was made to the claim.
4. On 27 November 2013 the Kosovo Property Claims Commission (KPCC) dismissed the claim. The KPCC found that the claim was not related to the armed conflict in Kosovo in 1998/1999, therefore the claim is dismissed due to lack of jurisdiction.
5. The decision was served on S.Č. on 5 March 2014. She filed an appeal against the decision on 21 March 2014. The Supreme Court received the case file on 23 June 2014.

**Allegations of the appellant**

6. S. Č. alleges that she has proven that she bought the property and that she lost it because of the armed conflict in Kosovo in 1998/1999. Because of this other people have occupied her property. The KPCC wrongly concluded that Č. did not provided sufficient evidence. She has proven ownership through purchase contract and invoices. It is common knowledge that Albanians lost

possession of their properties at the first stages of the war, and that Serbs lost their properties after the war. These are notable facts that do not require evidence.

### **Legal reasoning**

#### *Admissibility of the appeal*

7. The appeal is admissible. It has been filed within the 30 day period as prescribed in section 12.1 of Law No. 03/L-079.

#### *Merits of the appeal*

8. According to “Contract on construction of garages” dated 4 May 1995 between Public Housing Company and S. Č. dated 4 May 1995, Č. has bought the disputed garage. The purchase price was 11 343 dinars. It follows from Art. 5 of the contract that 50 % of the purchase price was to be paid after signing the contract, and the rest was to be paid as instalments in accordance with construction dynamics of the garage and delivered invoices.
9. According to verification report dated 12 April 2007 Mr. R D., officer of the Public Enterprise said that these garages were not completed yet, and that the second part of the payment would be charged to S. Č. when their construction was finalized. According to verification report dated 12 September 2013, Mr. J.G., officer with Public Housing Enterprise, stated that Ms. Č. had failed to pay of her outstanding obligations to the seller.
10. The KPCC stated that Č. was contacted by the KPA on 30 September 2013, and that she confirmed that she did not have possession of the garage in 1998/1999, as the premises were not finished by then.
11. 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 (*hereinafter Law No. 03/L-079*), the KPCC has the competence to resolve conflict-related claims concerning ownership over or property rights to private immovable property, including agricultural and commercial property. The KPCC is only competent if the claims are

directly related to or resulting from the armed conflict that occurred between 27 February 1998 and 20 June 1999.

12. In the present case S.Č. herself states that she never had possession over the garage neither before, nor after the armed conflict that occurred in Kosovo in 1998/1999. Accordingly, the case falls outside the jurisdiction of the KPCC. The appeal must therefore be rejected and the decision of the KPCC confirmed.

13. The arguments of the appellant as to the merits of the claim are not assessed by the Panel since they are irrelevant for this case. Any dispute between S. Č. and the seller of the garage must be handled by the ordinary courts of Kosovo.

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

#### **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.

**Esma Erterzi, EULEX Presiding Judge**

**Elka Filcheva-Ermenkova, EULEX Judge**

**Sylejman Nuredini, Judge**

**Urs Nufer, EULEX Registrar**

