

**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-211/2014**

Prishtinë/Priština,  
10 August 2016

In the proceedings of:

**G.D.**

Berivojcë/Berivojce

Kamenicë/Kamenica

***Claimant/ Appellant***

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of Sylejman Nuredini, Presiding Judge, Rolandus Bruin and Beshir Islami, Judges, on the appeal against the decision of the Kosovo Property Claims Commission (henceforth: the KPCC) no. KPCC/D/R/231/2014 dated 13 March 2014 (case file registered at the Kosovo Property Agency under No. KPA00465), henceforth also: the KPCC Decision, after deliberation held on 10 August 2016, issues the following

**JUDGMENT:**

1. The appeal of G.D. against the Decision of the KPCC no. KPCC/D/R/231/2014, dated 13 March 2014, is rejected as unfounded.
2. The decision of the KPCC no. KPCC/D/R/231/2014, dated 13 March 2014, is confirmed as far as it concerns claim no. KPA00465.

**Procedural and Factual background**

1. On 7 March 2007 G.D. (henceforth: the Appellant) filed a claim at the Kosovo Property Agency (KPA), seeking confirmation of his right on residence at the apartment situated on the North-East side of the former administration building of the enterprise DD “Strezovce” in Kamenicë/Kamenica, in Street Glavna at the Municipality, Building of the “Committee”, with a surface of 35 m<sup>2</sup> (henceforth: the claimed accommodation). He states that he lost the possession of the claimed accommodation on 01 January 1999 due to the armed conflict in Kosovo in 1998/1999.

2. The Appellant submitted *inter alia* to KPA:

- ‘Decision On temporary accommodation of an employee’, dated 17 September 1997, no. 92 (henceforth: the Allocation Decision) issued by enterprise DD “Strezovce”. According to this Allocation Decision to the Appellant was allocated the claimed accommodation; based on the paragraphs 4 and 6 of the Allocation Decision the Appellant shall use the claimed accommodation upon a contract on lease until his housing issue is resolved through another appropriate manner as per the Law on Housing and other normative acts;

In statements, addressed to the KPA on 2011 and 2013, the Appellant explained that he used to live close to a ceramic tile factory, the enterprise “Karacevo”. At one day his house was cracked due to a bulldozer that was working (to) close to his house. He sued the enterprise “Karacevo”. His own employer, company D.D “Strezovce” granted as solution to him temporary housing in the building of the former Committee. After the war he discovered that the claimed accommodation was empty, the door broken and partly taken by his neighbour.

3. KPA notified the claim, but no other party participated in the proceedings before KPCC.
4. According to a verification report, dated 8 August 2008, KPA could not verify the Allocation Decision positively as the document was not found at the enterprise D.D “Strezovce” and the former secretary of the enterprise stated that the document is not valid and the signature on the document does not derive from the authorized person of that period.
5. The KPCC decided in the KPCC Decision to refuse the claim. In its reasoning (paragraphs 10 and 46 of the Cover Decision) KPCC notes that the Appellant seeks confirmation of a use right on the claimed accommodation on the basis of a temporary right of accommodation. The KPCC further reasons that there is no evidence that the temporary use right had been renewed or extended. The KPCC further considers that a mere temporary use right falls short of establishing a right of use over the claimed property that is capable of restitution under 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.
6. The decision was served upon the Appellant on 16 May 2014.
7. The Appellant filed an appeal against the KPCC decision on 13 June 2014.

**Allegations of the Appellant**

8. The Appellant states that he now is living in the damaged house next to the old tile factory of “Karacevo”. To him was allocated the claimed accommodation and he moved there after he received the Allocation Decision. He lived there until the war events in Kosovo and returned to his old village. The claimed accommodation is still empty. His current house might collapse totally in a light earthquake. He requests to solve this issue and submits the same documents as before the KPA/KPCC.

**Legal reasoning:**

*Admissibility of the appeal*

9. The appeal is filed within the 30 days deadline provided Law No. 03/L-079 and therefore admissible.

*Merits of the appeal*

10. Section 3.1 of UNMIK Regulation 2006/50 as amended by Law No. 03/L-079 reads:

*The Kosovo Property Agency shall, through the Executive Secretariat, have the competence to receive and register and, through the Property Claims Commission, have the competence to resolve, subject to the right of appeal to the Supreme Court of Kosovo, the following categories of conflict-related claims involving circumstances directly related to or resulting from the armed conflict that occurred between 27 February 1998 and 20 June 1999:*

*(a) Ownership claims with respect to private immovable property, including agricultural and commercial property, and*

*(b) Claims involving property use rights in respect of private immovable property, including agricultural and commercial property,*

*Where the claimant is not now able to exercise such property rights.*

11. The KPCC reasoned that there is no evidence that the temporary use right to the claimed accommodation has been renewed or extended. KPA could not verify the Allocation Decision as genuine.
12. The Appellant disputes in appeal this conclusion of the KPCC but does not submit other evidence than he already submitted before the KPA/KPCC.
13. According to the alleged Allocation Decision to the Appellant was granted a temporary use right until his housing issue is resolved. From the allegation of the Appellant follows that his housing issue is solved. He did not provide any evidence that his use right to the claimed accommodation otherwise has been renewed or extended as also the KPCC reasoned.
14. Therefore the KPCC decided rightfully that the Appellant is not entitled to use the claimed accommodation and refused the claim.

*Conclusion*

15. Consequently, pursuant to Section 13.3 sub c of the Law No. 03/L-079 the Supreme Court decides as in the enacting clause of this judgment.

**Legal Advice**

16. Pursuant to Section 13.6 of the Law No. 03/L-079 his judgment is final and enforceable and cannot be challenged through ordinary or extraordinary remedies.

**Sylejman Nuredini, Presiding Judge**

**Rolandus Bruin, EULEX Judge**

**Beshir Islami, Judge**

**Sandra Gudaityte, EULEX Registrar**