

**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-234/13

Prishtinë/Priština,  
11 February 2015

In the proceedings of:

**P. Đ. B.**

*Appellant*

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of Elka Filcheva-Ermenkova, Presiding Judge, Esma Erterzi and Sylejman Nuredini, Judges, on the appeal against the decision of the Kosovo Property Claims Commission KPCC/D/A/154/2012 (case file registered at the KPA under the number KPA30014), dated 6 June 2012, after deliberation held on 11 February 2015, issues the following

**JUDGMENT**

**The appeal of P. Đ. B. against the Decision of the Kosovo Property Claims Commission KPCC/D/A/154/2012 of 6 June 2012 as far as it regards the claim registered at the KPA under No. KPA30014, is dismissed as inadmissible due to the lack of legal interest.**

**Procedural and factual background:**

1. On 20 February 2007 the claimant Đ. P. B. filed a claim at the Kosovo Property Agency (KPA), seeking ownership right and repossession of the cadastral parcels no's. 737, 738, 739 and 740/1, with a surface 4ha 53ar 57m<sup>2</sup>, possession list no. 518, cadastral zone Xërxe/Zrce, Municipality of Rahovec/Orahovac. He alleged that he is the owner of 1/3 of ideal part of the claimed properties in Xërxe/Zrce, which he inherited from his father P. S. B. after the completion of the inheritance procedure. He stated that the properties were lost due to circumstances that occurred during the 1998/99 armed conflict in Kosovo.
2. To support the claim, Đ. P. B. (hereinafter the claimant) submitted copy of the possession list no. 518, cadastral municipality Xërxe/Zrce, issued on 29 August 2002 by the Directorate for Cadaster and Geodesy of the Municipality of Rahovec/Orahovac, listing the claimed cadastral parcels no's. 737, 738, 739 and 740/1.
3. On 30 August 2010, the KPA Executive Secretariat notified potential third parties regarding the claim through publication in the notification gazette no.7 and UNHCR property office bulletin.
4. On 10 October 2007, KPA verified positively the possession list no. 518, presented by the claimant. The Executive Secretariat established *ex officio* that both parcels were registered in the name of several co-owners, heirs of P. S. B.
5. No one responded to the claim. The claim was uncontested.
6. Previously, the KPCC with its Resolution KPCC/RES/19/2010 dated 12 May 2010 rescinded the KPCC decision KPCC/D/A/3/2007, dated 7 November 2007, because the claim was not properly processed by the Executive Secretariat since the claimed property had not been physically identified and properly notified.
7. With decision KPCC/D/A/154/2012, dated 6 June 2012, the Kosovo Property Claims Commission (KPCC) decided that the claimant was the owner of 1/3 of the aforementioned cadastral parcels no's 737, 738, 739 and 740/1. The KPCC decision underlined that “[...*The claims covered by this decision are uncontested and no evidence has been received or obtained by the Secretariat ex officio that would rebut the presumption of ownership. Consequently the Commission is satisfied that the documents submitted prove the claimants' ownership over the claimed properties...*]”.
8. The decision was served on the claimant's son on 7 November 2012. On 12 August 2013, P. Đ. B. after the death of his father (the claimant) filed an appeal.

**Allegations of the appellant:**

9. The claimant's son P. Đ. B. (hereinafter the appellant) appealed the entire KPCC decision alleging that the claimant was the owner of the claimed properties. Additionally, in his attached written statement [(this is identical copy as in the KPA case files KPA30017 (GSK-KPA-A-235/2013) and KPA90744 (GSK-KPA-A-236/2013)] as integral part of the appeal, referring to the immovable properties recorded within possession list no. 518 and certificate for the immovable property right UL-71510033-00518, issued on 3 July 2012 by Municipality of Rahovec/Orahovac, where among other properties the claimed parcels no's 737, 738, 739 and 740/1 are listed as well, the appellant alleges that since 1932 the owner of the claimed properties was his grandfather P. S. B. (hereinafter the Property Right Holder (PRH)). He added that PRH was under the pressure and threat to sale the claimed properties; therefore, the sale contract OV.br.129/67 between PRH and Municipality of Rahovec/Orahovac was imposingly concluded on 14 June 1967. The appellant also stated that the claimant and his brothers as heirs of PRH filed a lawsuit before the Municipal Court of Rahovec/Orahovac, seeking from the court annulment of this sale contract and declaring them owners of 1/3 of the ideal part each. Moreover, he stated that the Municipal Court of Rahovec/Orahovac with its decision P.br.165/97 dated 29 September 1997 annulled aforementioned sale contract and confirmed that the claimant and his brothers as heirs of PRH are co-owners of 1/3 of the ideal part each of the claimed properties.

**Legal reasoning:**

**Admissibility of the appeal:**

10. The appeal of the appellant is dismissed as impermissible.
11. From the case file it results that the claimant had requested to establish his ownership right by repossession of the litigious parcels. The KPCC decided in his favor and confirmed that the claimant is the owner of 1/3 of the ideal part of the claimed properties and granted repossession (see Article 11.2 of UNMIK Regulation 2006/50 as amended by Law no. 03/L-079). With its decision the KPCC decided entirely as the claimant had requested. According to provisions of Articles 14, 15 and 16 of UNMIK Regulation 2006/50 as amended by Law No. 03/L-079, the appellant may request from the KPA the execution of the decision.
12. As the claim has been entirely accepted, the appellant who is legal successors of the claimant has no legal interest for the submission of the appeal. According to Article 186.3 of the Law on Contested Procedure the appeal has to be dismissed as impermissible if the person who filed the appeal has no legal interest in filing the appeal.

13. In the light of the above and pursuant to Article 186 paragraph 3 of Law on Contested Procedure, it is decided as in the enacting clause of this Judgment pursuant to Article 13.3.subparagraph (b) of UNMIK Regulation as amended by Law No. 03/L-079.

**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.

**Elka Filcheva-Ermenkova, EULEX Presiding Judge**

**Sylejman Nuredini, Judge**

**Esma Erterzi, EULEX Judge**

**Urs Nufer, EULEX Registrar**