

**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- 174/2014

Prishtinë/Priština,
14 April 2016

In the proceedings of:

A.B.

Highway Ferizaj/Uroševac-Shkup/Skopje
Ferizaj/Uroševac

Appellant

vs.

M.A.

Str. Ratka Jevtića 108/b
11460 Lisović – Barajevo BG
Beograd
Serbia

Appellee

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Sylejman Nuredini, Presiding Judge, Anna Bednarek and Beshir Islami, Judges, on the Appeal against the Decision of the Kosovo Property Claims Commission KPCC/D/A/119/2011 (case file registered at the KPA under the number KPA14800), dated 7 September 2011, after deliberation held on 14 April 2016, issues the following:

JUDGMENT

The Appeal of A.B. against the Decision of the Kosovo Property Claims Commission KPCC/D/A/119/2011, regarding case file registered at the KPA under the number KPA14800, dated 7 September 2011, is dismissed as inadmissible.

Procedural and factual background:

1. On 4 December 2006, M.A. (hereinafter: the Appellee), filed a Claim with the Kosovo Property Agency (KPA) claiming the repossession of the land parcels registered in the Possession List No. 445 with the numbers: 1 with the surface 0.33.96 ha, 2 with the surface 0.29.26 ha, 3 with

the surface 0.09.36 ha and 4 with the surface 0.11.89 ha, located in “Potok Nekodim” in Ferizaj/Uroševac, cadastral zone Nekodim/Nekodim (hereinafter: the claimed property).

2. To support his Claim he provided the KPA with the Decision on inheritance rendered by the Municipal Court in Ferizaj/Uroševac on 8 July 1997 (case No. O 77/96), according to which the Appellee was successor of the claimed property after late father S.A.. The attachment was positively verified by the KPA.
3. The notification of the Claim was carried out on 15 August 2008. The property was found to be the non-occupied pasture. Subsequently the Claim was re-notified through publication in the KPA Notification Gazette No. 8 and the UNHCR’s property office Bulletin on 31 August 2010. The claimed property was found to be the cultivated land, meadow.
4. No occupant of the claimed property approached the KPA; neither submitted any Response to the Claim.
5. On 23 October 2008 the Kosovo Property Claims Commission (hereinafter: the KPCC) issued a Decision No. KPCC/D/A/25/2008. With the Resolution No. KPCC/RES/16/2010 of 24 February 2010 the Kosovo Claims Property Commission rescinded the latter Decision. On 7 September 2011 the KPCC rendered Decision No. KPCC/D/A/119/2011 and accepted the Claim, ordering at the same time the Appellee be entitled to repossession of the claimed property.
6. The Decision was served on the Appellee on 28 February 2012. The case was placed under the KPA’s administration on 7 July 2012.
7. On 8 April 2014 A.B. (hereinafter: the Appellant) filed an Appeal to the Kosovo Property Agency.

Legal reasoning:

8. According to Section 12.1 of the Law No. 03/L-079 Amending the UNMIK Regulation 2006/50 on the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property (hereinafter: the Law) provides 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*”.
9. The Appellant was not party to the proceedings before the body of the first instance: the KPCC hence he is not entitled to file an Appeal to the Supreme Court against the Decision.
10. It is necessary to underline here that as the Section 10.3 of the Law provides “*A person with a legal interest in the claim who did not receive notification of a claim may be admitted as a party at any point of the proceedings*”. However Section 14.1 of the Law indicates that “*The decision of the Commission shall become executable fifteen days following the date of notification of the decision to the parties if no appeal has been made to the Supreme Court.*”
11. The Appeal was filed on 5 April 2014, meaning more than 2 years after the deadline for submitting an Appeal and after the KPA placed the case under its administration. The proceedings in the case were though closed. Hence the Appellant may not benefit from the quoted Section 10.3 and be accepted in the proceedings as they were already concluded before his Appeal was filed.
12. The Appellant did not give any reasons for filing late Appeal and the Court cannot detect any reason for the delay. In particular he did not indicate why he did not take part in the proceedings

before the KPA and when he found out about the Decision. Therefore his Appeal cannot be accepted.

13. For all the above mentioned reasons, the Supreme Court considers that the requirements of Sections 12.1 and 10.3 of the Law are not met and the Appeal stands to be dismissed as inadmissible. As a consequence the Supreme Court could not examine the grounds indicated in the Appeal.

Legal Advice

14. Pursuant to Section 13.6 of Law 03/L-079, this Judgment is final and enforceable and cannot be challenged through ordinary or extraordinary remedies.
15. This Judgment has no prejudice to the Appellant's right to refer his case to the competent court outside the jurisdiction foreseen by provisions of Section 3.1 of Law no. 03/L-079.

Sylejman Nuredini, Presiding Judge

Beshir Islami, Judge

Anna Bednarek, EULEX Judge

Sandra Gudaityte, EULEX Registrar