

**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-058/14

Prishtina, 4 December 2014

In the proceedings of:

D. D.

Podgorica

Appellant

Vs.

N/A

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of Willem Brouwer, Presiding Judge, Esma Erterzi and Sylejman Nuredini, Judges, on the appeal against the decision of the Kosovo Property Claims Commission KPCC/D/A/204/2013 dated 11 June 2013 (case file registered at the KPA under No. 17908), after deliberation held on 4 December 2014, issues the following:

JUDGMENT

1. **The appeal of D. D. against the decision of the Kosovo Property Claims Commission KPPC/D/A/204/2013 (regarding case file registered at the KPA under number KPA17908) dated 11 June 2013, is dismissed as belated.**

Procedural and factual background:

1. On 30 January 2007, the Claimant D. D.(hereinafter: the appellant) in his capacity as a family house member of the deceased grandfather filed a claim at the Kosovo Property Agency (KPA) seeking for the repossession of the parcels no.137, 138 and 140 located in a place called Piskoti, in Cadastral Zone Jahoc, Municipality of Gjakovë/Đakovica. The claim was registered at the KPA under KPA17908.
2. The appellant, provided the KPA with the following documents to support his claim:
 - A lawsuit to the Municipal Court Gjakovë/Đakovica for restitution of the possession over the land, filed on 26 December 1995 by D. D.
 - Certificate no.01-951-1-152/1993 issued by Municipal Geodesy Directorate Gjakovë/Đakovica on 4 May 1993, on the background of the claimed parcels;
 - A copy of ID card of D. D.;
 - An appeal against decision P.br.3108/04 dated 30 May 2008 of Municipal Court of Pejë/Peć, where the appellant appealed the Court Decision P.Br.3108/04 dated 9 March 2007 through which the said Court declared itself incompetent to deal with the claimed property and advised the claimant to address his property issue to Kosovo Property Agency ;
 - The decision no.487 date 7 February 1946 issued by Agrarian Review Commission for Kosovo on allocation of the land;
3. KPA verified the document submitted by the claimant. From the verification it resulted that the claimed parcels 137, 138 and 140 based in 1982's aerial survey in 1988 experienced land consolidation than those parcels joined other land plots and took a new parcel number

no.46, which was listed under the Possession List no.772 in the name of PIK “Ereniku” Gjakovë/Đakovica. The Executive Secretariat ex-officio found a Possession List no.772, dated 16.12.2008 issued by Kosovo Cadastral Agency, Municipality of Gjakovë/Đakovica, which lists the claimed property on the name of PIK “Ereniku”(socially owned enterprise), Gjakovë/Đakovica.

4. When contacted by the Executive Secretariat, the appellant stated that in 1995 he initiated court proceedings in Municipality Court of Gjakovë/Đakovica on restitution of the claimed property. In his declaration on 20 October 2010, he stated that his grandfather lost the property in 1946 through the expropriation.
5. The property was notified on 28 December 2010 through publication in the KPA Publication Gazette no.2.
6. The claim is uncontested during the first instance proceedings because no responding party approached KPA to claim a right over the property.
7. KPCC dismissed the claim with the Decision KPCC/D/A/204/2013 dated 11 June 2013 with the reasoning that the claimant failed to show that the claim involves circumstances directly or resulting from 1998-1999 conflict. Therefore the claim falls outside of the mandate of the KPCC.
8. The decision was served on the appellant on 7 November 2013.
9. On 20 December 2013, he filed an appeal against the said KPCC’s Decision. With the appeal, the appellant filed the following (copies of) documents as evidence:
 - A claim against PIK Erenik in Gjakovë/Đakovica., for restitution of possession over the land, filed with the Municipal Court of Gjakovë/Đakovica. on 26 December 1995;
 - Certificate on background of claimed parcels issued by Municipal Geodesy Directorate Gjakovë/Đakovica on 4 May 1993;
 - The decision no.487 date 7 February 1946 issued by Agrarian Review Commission for Kosovo on allocation of the land

The allegations of the appellant:

10. The appellant with his appeal admit that his claim for restitution of possession over the property does not relate to the armed conflict in 1998-1999 in Kosovo, but it is based on the illegal occupation of the property in 1995. He stands that the property was illegally and unlawfully occupied by PIK Ereniku Gjakovë/Đakovica and asks from the Supreme Court

to grant his appeal and make a decision on restitution of possession over the property to him.

Legal reasoning:

Admissibility of the appeal

11. The appeal is inadmissible because it was not filed within 30 days' time limit as foreseen by the Section 12.1 of the Law No. 03/L-079. He was served with the Decision on 7 November 2013. The time limit for submitting an appeal had already expired on 7 December 2013 whereas the appeal was submitted on 20 December 2013. The Supreme Court has already decided in similar case such as GSK-KPA-A-29-33/12, where the appeal was filed 13 days after the time limit. Therefore the appeal is to be dismissed as belated. The challenged Decision of KPCC that is subject matter of the appeal as it regards claim no KPA17908 becomes final.

12. In the light of foregoing, pursuant to Section 196 of the Law on Contested Procedure, it was decided as in the enacting clause of this judgment.

13. This judgment has no prejudice to the claimant's right to pursue his rights for the property, if there is any, before the competent courts.

Legal Advice

14. Pursuant to Section 13.6 of the Law 03/L-079, this judgment is final and enforceable and cannot be challenged through ordinary or extraordinary remedies.

Willem Brouwer, EULEX Presiding Judge

Esma Erterzi, EULEX Judge

Sylejman Nuredini, Judge

Signed by: Urs Nufer, EULEX Registrar