

SUPREME COURT OF KOSOVO  
GJYKATA SUPREME E KOSOVËS  
VRHOVNI SUD KOSOVA

KOSOVO PROPERTY AGENCY (KPA) APPEALS PANEL  
KOLEGJI I APELIT TË AKP-ës  
ŽALBENO VEĆE KAI

GSK-KPA-A-091/13

Prishtinë/Priština,

17 January 2014

In the proceedings of

**M. L.**

Montenegro-Bar

*Claimant/Appellant*

vs.

N/A

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Elka Filcheva-Ermenkova, Presiding Judge, Dag Brathole, and Sylejman Nuredini, Judges, on the appeal against the decision of the Kosovo Property Claims Commission KPCC/D/R/167/2012 of (case file registered at the KPA under the number KPA91326) dated 5 September 2012, after deliberation held on 17 January 2014, issues the following

## JUDGMENT

1. The appeal of M. L. against the decision of the Kosovo Property Claims Commission KPCC/D/R/167/2012 regarding case file registered at the KPA under the number KPA91326, dated 5 September 2012, is dismissed as belated.

### Procedural and factual background

1. On 27 November 2006 M. L. filed a claim with the Kosovo Property Agency (KPA) seeking property right over cadastral parcels 691/2, 691/2,691/3 and 745/5 in Municipality of Istog/Istok, Cadastral Zone Lubovë/Ljubovo, with cadastral nr. 70806030 with a total surface of 2 ha 62 ar 69 m<sup>2</sup>. In the claim it was stated that the occupant was unknown.
2. On 13 August 2010 Lalić stated to the KPCC that he had sold the property to the current property right holder, A. K. from Peja/Peć. He also stated that K. had not paid the full purchase price.
3. On 5 September 2012 the Kosovo Property Claims Commission dismissed the claim in cover decision KPCC/D/R/167/2012, regarding case file registered at the KPA under the number KPA91326. In paragraph 54 and 55 in the cover decision, which according to the certified decision dated 1 February 2013 applies specifically to the claim, it is stated that the claimants (in this case L) had advised the Executive Secretariat that the properties had been sold to a third party after the conflict based on a valid contract of sale. Accordingly the KPCC found that L. did not lose possession of the property as a result of the 1998-199 conflict, but rather as a result of a voluntary sales transaction after the conflict. Consequently the claim fell outside the Commission's jurisdiction and was dismissed.
4. L. claim was not served on K, and K did not respond to the claim.
5. The KPCC decision was served on L. on 11 March 2013. He appealed the decision on 12 April 2013. The Supreme Court received the case file on 21 October 2013. The appeal has not been served on A. K.

### **The allegations of the appellant:**

6. M. L. admits in the appeal that he has sold the property to A. K. from Peja/Peć. However K. has not complied with the agreement because he has not paid the last instalment of EUR 15 000. The deadline for payment expired on 31 December 2004. K. has therefore not become the owner of the claimed property. L. alleges that K. has acted in bad faith also in other transactions at the expense of other displaced persons from Kosovo.

### **Legal reasoning**

7. The appeal is inadmissible because it has not been filed within 30 days as foreseen by law (Section 12.1 of UNMIK Regulation 2006/50 as amended by Law No. 03/L-079. The time limit for submitting an appeal was 10 April 2013, and the appeal was submitted by L. on 12 April 2013. The Supreme Court has already decided in similar case such as GSK-KPA-A-29-33/12, where the appeal was filed two days after the time limit.
8. In view of the fact that the appeal is belated, the Supreme Court finds it unnecessary to serve the appeal on A. K. in order to hear his views on the case.
9. Neither the KPCC nor the Supreme Court has decided the case on its merits. The dispute will eventually have to be decided by the ordinary courts of Kosovo.
10. 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.

## **Legal Advice**

11. Pursuant to Section 13.6 of UNMIK Regulation 2006/50 as amended by Law No. 03/L-079, this judgment is final and cannot be challenged through ordinary or extraordinary remedies.

*Elka Filcheva-Ermenkova, EULEX Presiding Judge*

*Dag Brathole EULEX Judge*

*Sylejman Nuredini, Judge*

*Urs Nufer, EULEX Registrar*