

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-107/13

Prishtinë/Priština,

31 January 2014

In the proceedings of

V. Đ.

Montenegro-Crna Gora

Appellant

vs.

N/A

Appellee

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/162/2012 (case file registered at the KPA under the number KPA53033) dated 5 September 2012 after deliberation held on 31 January 2014, issues the following

JUDGMENT

The appeal of V. Đ. against the decision of the Kosovo Property Claims Commission KPCC/D/R/162/2012 (case file registered at the KPA under the number KPA53033) dated 5 September 2012 is dismissed as belated.

Procedural and factual background

1. On 2 November 2007 V. Đ. filed two claims with the Kosovo Property Agency (KPA).
2. In the first claim Đ. claimed ownership of parcel nr. 1753/2 in the cadastral zone no. 71611015 of Vitomricë/Vitomrice, Municipality of Pejë/Peć. According to Possession List no. 1352 the area is 680 m². This claim was given claim nr. KPA53032 by the KPA.
3. In the second claim, which was filed on the same day, Đ. claimed ownership of a residential building of 160 m² on the same property. This claim was given claim nr. KPA53033 by the KPA.
4. A notification of the claim was made on the property on 31 January 2008. On photographs taken on the same day it is documented that the residential building had been destroyed.
5. The claims were not contested, and on 5 September 2012 both claims were awarded by the Kosovo Property Claims Commission (KPCC) in cover decisions nr. KPCC/D/A/162/2012 and KPCC/D/R/162/2012 respectively.
6. The decisions were served on Đ. on 14 December 2012. He filed an appeal against cover decision KPCC/D/R/162/2012 (case files registered at the KPA under the number KPA53033) in front of KPA Appeals Panel of the Supreme Court on 26 April 2013. The appeal was received by the KPA on 8 May 2013.
7. The KPA has understood the appeal to refer to both decisions. However it is clear from the wording of the appeal that this only refers to KPCC/D/R/162/2012 (case files registered at the KPA under the number KPA53033), which deals with the building on the property.

The allegations of the appellant

8. V.Đ. does not challenge the decisions made by the KPCC as far as these refer to the ownership of the properties.
9. However Đ. claims compensation for physical damages because of the destroyed residential property as a result of the armed conflict in Kosovo. Dokić has noted that the KPCC has declared itself incompetent to decide the claim request, but states that the KPCC did not direct the claimant in which manner to request compensation for the physical damage.

Legal reasoning

10. The appeal is inadmissible. It has not been filed within the period of 30 days prescribed in Section 12.1 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. The appeal therefore has to be dismissed as belated.
11. The Supreme Courts notes *obiter dictum* that the appeal would have been rejected as unfounded even if it had not been belated, because the Section 3.1 of UNMIK Regulation 2006/50 as amended by Law No. 03/L-079, does not give the KPCC the competence to deal with claims of compensation. Such a claim will eventually have to be forwarded to the ordinary courts of Kosovo.
12. In the light of foregoing, pursuant to Section 13.3 under (c) of UNMIK Regulation 2006/50 as amended by Law 03/L-079, it was decided as in the enacting clause of this judgment.

Legal Advice:

13. Pursuant to Section 13.6 of UNMIK Regulation 2006/50 as amended by Law 03/L-079, this judgment is final and cannot be appealed.

Elka Filcheva-Ermenkova, EULEX Presiding Judge

Dag Brathole, EULEX Judge

Sylejman Nuredini, Judge

Holger Engelmann, EULEX Registrar