

**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-196/13

Prishtinë/Priština,

5 March 2014

In the proceedings of

N. R. L.

S.K. 10/1

R. N. K.^a B

B. Ub

S.

Claimant/Appellant

vs.

N/A

Respondent/ Appellee

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) KPCC/D/R/191/2013 (case file registered at the Kosovo Property Agency (KPA) under No. KPA08628), dated 13 February 2013, after deliberation held on 5 March 2014, issues the following:

JUDGMENT

The appeal of Nada R. L. against the decision of the Kosovo Property Claims Commission KPCC/D/R/191/2013 (case file registered at the KPA under KPA08628) dated 13 February 2013 is dismissed as belated.

Procedural and Factual Background

1. On 22 January 2007, the claimant, N. R. L. in her capacity as the wife of the deceased M. L., filed a claim with the Kosovo Property Agency (KPA) asking for the repossession of the apartment located in the municipality of Vushtrri/Vučitrn in Velika Reka, in the street Milana Pribicevica, number 41, with a surface of 80.44m². The claim was registered with the KPA under case no KPA08628.
2. The claimant stated that the loss of possession was a result of the circumstances in 98/99 in Kosovo and that the date of loss was 17 June 1999.
3. Together with the claim, she submitted the copy of a decision by the High Commission for Refugees of Serbia, number 350-6/569 from 8 October 1998, granting the alleged property right holder a temporary right of accommodation to the claimed property. The KPA positively verified this decision. With certificate no 019-923/1 from 28 November 2011, the Commissariat for Refugees certified the decision 350-6/569 from 8 October 1998.
4. In addition the claimant submitted a copy of the minutes from the handover of the apartment, issued by the Commissariat for Refugees from Belgrade for a handover on 27 October 1998. These minutes from the handover of the apartment are stamped with the date 30.08.1995. KPA verified the document positively.
5. To prove the family relationship, she provided the KPA with a death certificate of her late husband, issued in Radljevo on 20 August 2004. The death certificate showed that M. L., born on 1 M.19. and citizen of the Republic of Serbia and Serbia-Montenegro State Union, died on 19 August 2004 and that the name of his spouse was N.L. The document was positively verified by the KPA.

6. On 28 March 2008, the KPA notified the claim by placing a notification sign at the door of the alleged apartment. The KPA found the property occupied by F. K. who did not claim any legal rights to the claimed property.
7. On 22 November 2011, the KPA asked the claimant, since when she used the flat and to bring documents for payments of municipal obligations. She said, that she did not possess additional documents to prove the property right, but she would try to find them. The KPA gave her a deadline of 15 days.
8. With its decision KPCC/D/R/191/2013 dated 13 February 2013, KPCC refused the claim with the arguments that the only evidence submitted by the claimant in support of the claim is a decision by the High Commission for Refugees of Serbia granting the alleged property right holder a temporary right of accommodation to the claimed property.
9. The KPCC decision was served on the claimant on 18 June 2013, though she filed an appeal on 22 July 2013, challenging it because of inaccurate and incomplete establishment of factual background and inaccurate application of the substantive law.

Admissibility of the Appeal

10. 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 18 July 2013, and the appeal was submitted by L. on 22 July 2013. The Supreme Court has already decided in similar case such as GSK-KPA-A-29/12 where the appeal was filed two days after the time limit.
11. 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

12. Pursuant to Section 13.6 of UNMIK Regulation 2006/50 as amended by Law 03/L-079, this judgment is final and enforceable and cannot be challenged through ordinary remedies.

Elka Filcheva-Ermenkova, EULEX Presiding Judge

Esma Erterzi, EULEX Judge

Sylejman Nuredini, Judge

Urs Nufer, EULEX Registrar