

SUPREME COURT OF KOSOVO
GJYKATA SUPREME E KOSOVËS
VRHOVNI SUD KOSOVA

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

GSK-KPA-A-224/13

Prishtinë/Priština
12 March 2014

In the proceedings of

M S

P 4

81 P

M

Appellant

Vs.

N/A

Appellee

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Dag Brathole, EULEX Presiding Judge, EULEX Judge Elka Filcheva-Ermenkova and Judge Shukri Sylejmani on the appeal against the decision of the Kosovo Property Claims Commission KPCC/D/A/156/2012 (case file registered at the KPA under the number KPA 17530) dated 6 June 2012 after deliberation held on 12 March 2014, issues the following

JUDGMENT

The appeal of M S against the decision of the Kosovo Property Claims Commission KPCC/D/A/156/2012 (case file registered at the KPA under the number KPA17530), dated 6 June 2012, is dismissed as belated.

Procedural and factual background

1. On 3 November 2006 M S filed a claim with the Kosovo Property Agency, seeking ownership and repossession of parcel no. 51/1, 113,130/1 and 137 in Druar/Drvare, Vushtrri/Vučitrn, total area 153,12 ar, possession list no. 17, issued by Office of Cadaster for Immovable Property in on 6 July 1994. S filed the claim on behalf of her deceased father, P S. In the claim M S stated that the date of loss was 6 June 1999.
2. The KPA registered A B as responding party.
3. A competing claim was filed with the KPA by L S, who filed the claim on behalf of her late husband, B S, who allegedly had acquired the properties from his deceased mother, M S. M S and B S were siblings.
4. By its Cover Decision KPCC/D/A/155/2012 (case file registered at the KPA under the number KPA07492) dated 6 June 2012 the KPCC decided that B S is the owner of “the claimed property”, which was identified as parcel no. 51/1.
5. On the same day, 6 June 2012, by its Cover Decision KPCC/D/A/156/2012 (case file registered at the KPA under the number KPA 17530) the KPCC rejected the claim filed by M S. In paragraph 144 to 148 of the Cover Decision, which according to the individual Decision, dated 25 January 2013, applies specifically to the claim, it is stated that P S never acquired ownership over the claimed properties, and that M S had failed to show ownership or any other property right over the claimed properties. In the individual Decision dated 25 January 2013 no responding party was named.
6. The decision was served on M S on 11 March 2013. She filed an appeal against the KPCC decision KPCC/D/A/156/2012 (case file registered at the KPA under the number KPA

17530) on 26 July 2013. The appeal has not been served on any responding party or interested party. The Supreme Court received the case file on 5 February 2014.

The allegations of the appellant

7. M S has alleged that the decision of the KPCC is erroneous because her brother B S is not the property right holder. The property is registered in the name of her deceased father, P S and the inheritance procedure has not been concluded.
8. M S has not explained why the appeal has not been filed within the time limit of 30 days.

Legal reasoning

9. 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 (hereinafter: Law No. 03/L-079). The appeal therefore has to be dismissed as belated.
10. In the light of foregoing, pursuant to Section 12.2 of the Law 03/L-079 and Art. 196 of the Law on Contested Procedure, it was decided as in the enacting clause of this judgment.

Legal Advice

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

Dag Brathole, EULEX Presiding Judge

Elka Filcheva-Ermenkova, EULEX Judge

Shukri Sylejmani, Judge

Urs Nufer, EULEX Registrar