

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-053/14

Prishtinë/Priština, 11 November 2015

In the proceedings of

B.B.

Vidikovački Venac 67 17
11000 Beograd
Rakovica BG
Serbia

Appellant/Claimant

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Sylejman Nuredini, Presiding Judge, Rolandus Bruin and Krassimir Mazgalov, Judges, on the appeal against the decision of the Kosovo Property Claims Commission (KPCC) no. KPCC/D/R/215/2013 (case file registered at the KPA under the number KPA13301) dated 21 August 2013, after deliberation held on 11 November 2015, issues the following

JUDGMENT

- 1. The appeal of B.B. against the decision of the Kosovo Property Claims Commission no. KPCC/D/R/215/2013 dated 21 August 2013, with regard to the claim registered with KPA under No. 13301 is rejected as unfounded.**

2. **The decision of the Kosovo Property Claims Commission no. KPCC/D/R/215/2013 dated 21 August 2013, with regard to the claim registered with KPA under No. 13301, is confirmed.**

Procedural and factual background

1. On 23 August 2006 B.B. (henceforth: the claimant) filed a claim with the Kosovo Property Agency (KPA), seeking confirmation of user right and re-possession of the apartment (henceforth: the claimed property) located in Prizren/Prizren, in street SPK Culjan, Dositejeva, Lam 2, floor IV, no. 34, in a surface of 41.82 m².
2. With the claim she submitted *inter alia*:
 - Allocation decision no. 02-272/98 dated 19 June 1998, issued by Centre for Social Welfare of the Prizren/Prizren Municipality (henceforth: allocation right holder (ARH));
 - Contract on lease of the claimed property no. 01-490/98 dated 16 November 1998, concluded between the claimant and ARH. Based on this contract the claimant was obliged to pay the rental price in amount of 53,94 Dinars;
 - Receipt no. 0170, issued on 22 June 1998, by Public Enterprise “Elektrokosmet” Distribution, Prizren/Prizren. This confirms that the claimant paid the certain amount of money for registration as a consumer; and
 - Confirmation on receipt of the subscriber’s application no. 1475, issued by the Enterprise for Telecommunication “Telecom Serbia” a.d. Belgrade. This receipt confirms that the claimant made a request for connection of the telephone connection to the telephone network; and
 - Claimant’s ID card no. 221141, issued on 26 February 1998.
3. According to a Verification Report dated 21 February 2013, the KPA verified negatively the said allocation decision and contract on lease of the claimed property. The allocation decision was not found in the archive of the Centre of the Social Welfare.
4. On 27 August 2008, the KPA notified the claim by putting a notice in the door of the claimed property. It turned out that the claimed property was occupied by unknown person.
5. Nobody respondent to the claim within the set deadline of 30 days, therefore the claim was treated as uncontested.

6. On 21 August 2013 the Kosovo Property Claims Commission (KPCC) with its Decision KPCC/D/R/215/2013, refused the claim. In paragraph 10, 32 in the cover decision, which according to the certified decision dated 18 October 2013 applies specifically to the claim, is stated that the documents the claimant had submitted, had not been verified by the Executive Secretariat as genuine. The Commission finds the claimant has failed to establish any property right over the claimed property.
7. On 3 December 2013, the decision was served on the claimant. She filed the appeal before the Supreme Court on 27 December 2013 (henceforth: the appellant).

Allegations of the appellant

8. The appellant alleges that the KPCC has erroneously and incompletely established the facts and has made an erroneous application of substantial law.
9. The appellant states that the statement of the KPA that the Executive Secretariat has been unable to verify an allocation decision and contract on use, based on which she allegedly acquired a use right over the claimed property, does not stand.
10. She states that the statement made by the KPCC, which is without concrete reports on verification, is unacceptable.
11. In the appeal the appellant gives a detailed presentation of the documents that she has submitted in order to confirm her right of use.
12. The appellant proposes that the Supreme Court of Kosovo accept her appeal and issue the decision establishing that she has the right to repossession of the claimed apartment.

Legal reasoning

13. The appeal has been filed within the time limit of 30 days as foreseen by Section 12.1 of Law No. 03/L-079 and is admissible.
14. The KPCC based its decision on the fact that the KPA Executive Secretariat made a negative verification of the documents, on which the appellant bases her claim of use right. KPA went to the Centre of the Social Welfare but the documents (allocation decision and contract on lease) were not

found there. The KPCC Executive Secretariat had not been able to obtain *ex officio* any evidence that supported appellant's claim. Based on this, the KPCC found that the appellant had failed to establish any property right over the disputed property.

15. The appeal from appellant repeats the same allegations that she made before the KPCC. No new evidence has been submitted with the appeal.
16. The appellant failed to submit any other documents or evidence proving her alleged use right over the claimed property, despite the fact that the KPA requested from her clarification and additional information. In fact she presented confirmation no. 1475 dated 19 June 1998 and quittance no. 0170 dated 22 June 1998 whereby permission was given to appellant to connect a phone land line and electricity on appellant's name. However, those documents also are negatively verified.
17. The Supreme Court finds that the KPCC has made a correct decision, based on a thorough and correct procedure. Other than appellant states in appeal the verification by KPA is sufficiently and convincingly reported. Accordingly the Supreme Court finds that no violation of the substantial law or incompletely establishment of the facts has been made. The Supreme Court finds the appeal unfounded.
18. In the light of foregoing, pursuant to Section 13.3 under (c) of the Law 03/L-079, it was decided as in the enacting clause of this judgment.

Legal Advice

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.

Sylejman Nuredini, Presiding Judge

Krassimir Mazgalov, EULEX Judge

Rolandus Bruin EULEX Judge

Urs Nufer, EULEX Registrar