

**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-089/14**

**Prishtinë/Priština,  
16 December 2015**

In the proceedings of

**N.M.**

Str. Ramiz Sadiku, 2/19

Klinë/Klina

***Appellant/Respondent***

**vs.**

**S.S.**

Kralja Aleksandra 137

11315 Smederevo, Saraorci

Republic of Serbia

***Claimant***

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Beshir Islami, Presiding Judge, Anders Cedhagen and Anna Bednarek, Judges, on the appeal against the decision of the Kosovo Property Claims Commission KPCC/D/R/213/2013 (case file registered at the KPA under the number KPA08801), dated 21 August 2013, after deliberation held on 16 December 2015, issues the following

## JUDGMENT

1. **The appeal of N.M. against the decision of the Kosovo Property Claims Commission KPCC/D/R/213/2013 dated 21 August 2013, with regard to the claim registered with the KPA under No. KPA08801, is dismissed as belated.**
2. **The request of N.M. of restoration of period of time to file the appeal, is rejected.**

### Procedural and factual background

1. On 31 January 2007, S.S. (henceforth: the Claimant), as a family household member, filed a claim with the Kosovo Property Agency (henceforth: the KPA), seeking confirmation of user right and re-possession of an apartment located in Prizren/Prizren, in street Ramiz Sadiku, no. 2, in a surface of 48 m<sup>2</sup> (henceforth: the claimed property). The Claimant stated that his spouse K.S., as the Property Right Holder, is the owner of the claimed property.
2. On 14 December 2007, the KPA placed a notice of the claim on the door of the claimed property. The claimed property was found occupied by N.M. (henceforth: the Respondent) who signed the notification on participation on 19 December 2007. The Respondent claimed a legal right to the claimed property.
3. The Respondent, when he was contacted by the Executive Secretariat of the KPA, stated that he no longer contested the claim.
4. On 21 August 2013 the Kosovo Property Claims Commission (henceforth: the KPCC) with its Decision KPCC/D/R/213/2013, granted the claim.
5. On 2 December 2013, the decision was served on the Respondent (henceforth: the Appellant), and he filed an appeal, which was firstly received by the Special Chamber of the Supreme Court on 31 January 2014, and by the Supreme Court on 6 February 2014.

**Allegations of the Appellant**

6. The Appellant alleges that the KPCC's decision is unlawful and unfair. As such it contains essential violations, misapplication of material and procedural law and it is based on erroneous and incomplete establishment of facts.
7. The Appellant requested the Supreme Court to accept the appeal as grounded, to quash the KPCC's decision and to reject as ungrounded the claim submitted by the Appellee. Furthermore, the Appellant requested that the challenged decision be annulled and the case sent for retrial.
8. Finally, the Appellant alleged that the appeal was admissible since he had received the KPCC's decision indirectly on 6 January 2014. He added that, if the appeal was not admissible, he requested the restoration of period of time to file the appeal and that a fair decision to be taken in this regard.

**Legal reasoning:***Admissibility of appeal*

9. The appeal is inadmissible because it was filed outside the legal frame pursuant to Section 12.1 of UNMIK Regulation No. 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 (henceforth: UNMIK Regulation No. 2006/50) which provides that: *"Within thirty (30) days of the notification to the parties by the Kosovo Property Agency of a decision of the Commission on a claim, a party may submit through the Executive Secretariat of the Kosovo Property Agency to the Supreme Court of Kosovo an appeal against such decision"*.
10. The KPCC decided on this case with its decision KPCC/D/R/213/2013 on 21 August 2013. That decision was served on the Appellant on 2 December 2013. The time limit prescribed for filing of an appeal expired though on 2 January 2014. The Appellant, however, filed an appeal only on 6 February 2014.
11. The Supreme Court could not find any reason why the Appellant should be excused for this delay. The Appellant was sufficiently instructed about the deadline to file an appeal and gave no acceptable reason for the delay. The fact that the appeal was received by the Special Chamber of the Supreme Court on 31 January 2014 remains without influence for the admissibility of the appeal.

12. Pursuant to Articles 129 – 133 of the Law No. 03/L-006 on Contested Procedures (henceforth: the LCP) a court may allow a party to restore a period of time if there are reasonable circumstances. The Appellant has not shown any reasonable circumstances for the restoration to previous position.
13. On the basis of the above and in accordance with section 13.3 (b) of UNMIK Regulation No. 2006/50 and Article 195 (a) of the LCP the Supreme Court decided as in the enacting clause.

**Legal Advice:**

Pursuant to Section 13.6 of UNMIK Regulation 2006/50, this Judgment is final and enforceable and cannot be challenged through ordinary or extraordinary remedies.

**Beshir Islami, Presiding Judge**

**Anders Cedhagen, EULEX Judge**

**Anna Bednarek, EULEX Judge**

**Urs Nufer, EULEX Registrar**