

**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-161/14

Prishtinë/Priština, 3 February 2016

In the proceedings of:

A.V.

Gërlicë e përme,
Kaçanik/Kaçanik
Appellant

vs.

C.S.

Pasjak, Krushevac

Republic of Serbia

Appellee

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of Sylejman Nuredini, Presiding Judge, Beshir Islami and Anna Bednarek, Judges, on the Appeals against the Decision of the Kosovo Property Claims Commission KPCC/D/A/203/2013 dated 11 June 2013 (case files registered at the KPA under numbers KPA25088 and KPA90041), after the deliberation held on 3 February 2016, issues the following:

JUDGMENT

1. **The Appeals of A.V. against the Decision of the Kosovo Property Claims Commission KPCC/D/A/203/2013 dated 11 June 2013 regarding the case file registered at the KPA under the numbers GSK-KPA-A-161/14 and GSK-KPA-A-162/2014, are joined into one case under the case number GSK-KPA-A-161/2014.**

2. **The Appeals of A.V. , against the Decision of the Kosovo Property Claims Commission KPCC/D/A/203/2013 dated 11 June 2013, registered at the KPA under numbers KPA25088 and KPA90041, are dismissed as belated.**

Procedural and Factual background

1. On 7 May 2007, C.S. , (henceforth: the Appellee) filed two individual Claims at the Kosovo Property Agency (KPA) on behalf of his mother C.S., seeking the ownership right over the parcels 25 and 26 (the Claim registered under number KPA 25088) and parcel 24/1, (the Claim registered under number KPA 90041), located in cadastral zone Gërllicë/Grlica, Municipality of Ferizaj/Uroševac, registered in the Possession List No. 18. In these Claims, the Appellee stated that the loss of possession of the claimed properties was due to the circumstances related to the armed conflict that occurred in Kosovo during 1998/99, indicating 16 June 1999 as the date of loss.

2. To support his Claims, he submitted to the KPA the following documents:
 - The Possession List No. 18 issued by the Directorate for Cadastre, Geodesy and Property of the Municipality of Ferizaj/Uroševac, on 3 October 2008, indicating that the claimed properties were registered under the name of C.S.;

 - The Inheritance Decision T. No. 64/96, dated 17 June 1996, of the Municipal Court of Ferizaj/Uroševac wherewith it is ascertained that the property right holder, C.S., mother of the Appellee inherited the claimed property from her husband. These documents were verified positively by the KPA.

3. With Commission's Decision KPCC/D/A/203/2013 dated 11 June 2013 it is confirmed the property right of C.S., mother of the Appellee, over the parcels 25,26 (the Claim KPA 25088) and

parcel 24/2 1207 (the Claim KPA 9041), located Cadastral Zone Gërlicë/Grica, Municipality of Ferizaj/Uroševac, registered in the Possession List No. 18.

Joining of the Appeals:

4. Section 13.4 of UNMIK Regulation 2006/50 as amended by Law No. 03/L-079 provides that the Supreme Court may decide on joining or consolidating of appeals, when such joining or consolidation has been decided by the Commission pursuant to Section 11.3 (a) of the UNMIK regulation, as amended by Law. This Section allows the Commission to take into consideration the joining or consolidating of claims in order to review and render decisions when there are common legal and evidentiary issues.
5. The provisions of Law on Contested Procedure that are applicable in the proceeding before the KPA Appeals Panel of the Supreme Court pursuant to Section 12.2 of UNMIK Regulation 2006/50, as amended by Law No. 03/L-079, as well as pursuant to provision of Article 408.1 as read in conjunction with Article 193 of the Law No. 03/L006 on Contested Procedure, provide the possibility of joining of all claims through a ruling if that would ensure court effectiveness and efficiency of the case.
6. In the text of Appeals filed by the Appellant, the Supreme Court observes that apart from a different case number for which the respective Appeals are filed, the facts, the legal grounds and the evidentiary issues are exactly same in both cases. Only the cadastral parcels, subject of the property right, which is alleged in each Claim, is different. The Appeals are based on the same explanatory statement and on the same documentation. Moreover, the KPCC's legal reasoning for the Claims is the equal.
7. The Appeals registered under the numbers GSK-KPA-A-161/14 and GSK-KPA-A-162/14 are therefore joined in a single case under the number GSK-KPA-A-161/14.

Admissibility of the Appeals:

8. After having reviewed the case file the Supreme Court finds that the Appeals are belated.

9. Pursuant to Article 186 para 1 as read in conjunction with Article 196 of the LCP, the Supreme Court dismissed the Appeals as belated. Since, the Appellant received the appealed Decision on 05 September 2013, but filed the Appeals only on 17 April 2014. Based on this can be concluded that the Appellant filed the Appeals after the deadline of 30 days as provided for by the provision of Section 12 para 1 of UNMIK Regulation 2006/50 as amended by Law No. 03/L-79. Pursuant to this legal provision it is foreseen that an Appeal against the KPCC's Decision may be filed within the deadline of 30 days from the day of its receipt.

10. In the light of forgoing, pursuant to provision of Section 13 para 3 (b) of the UNMIK Regulation No. 2006/50, as amended by Law No. 03/L-079, , it is decided as in the enacting clause of this Judgment

Legal Advice:

11. 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 or extraordinary remedies.

Sylejman Nuredini, Judge, Presiding Judge,

Beshir Islami Judge

Anna Bednarek, EULEX Judge

Sandra Gudaityte, EULEX Registrar