

**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-195/14

Prishtinë/Pristina, 3 February 2016

In the proceedings of:

Z. B.

Appellant

The KPA Appeals Panel of the Supreme Court of Kosovo, composed of: Sylejman Nuredini, Presiding Judge, Rolandus Bruin and Beshir Islami, Judges, deciding on the appeal against the decision of the Kosovo Property Claims Commission (henceforth: KPCC) no. KPCC/D/A/220/2013, dated 27 November 2013, case file registered at the Kosovo Property Agency (henceforth: KPA) under no. KPA17767, after deliberation held on 3 February 2016, issues the following:

JUDGMENT

The appeal of Z. B. filed against the decision of the KPCC no. KPCC/D/A/220/2013, dated 27 November 2013, as far as it concerns case file registered in KPA under No. KPA17767, is dismissed as belated.

Procedural and factual background:

1. On 5 January 2007 Z. B. (henceforth: the Appellant) filed a claim at the KPA seeking confirmation of her 1/6 co-ownership right and repossession of – as far as relevant here – the parcels Cadastral numbers 272 and 273 in Banjicë/Banjica in the Municipality of Istog/Istok.
2. In the KPCC decision no. KPCC D/A/220/213, dated 27 November 2013, the claim of the Appellant was dismissed with the reasoning that the loss of property was not a result of the armed conflict in the period 1998/99, but the result of the voluntary alienation of those properties. According to documents found by KPA - the final judgment C.nr. 243/05 dated 05 January 2006, issued by the Municipal Court in Istog/Istok – S.and R. B., previously co-owners of these parcels, sold those to A. K.. That judgment is based on a legally valid contract, certified by the Municipal Court in Istog/Istok under no.167/06 dated 17 February 2006.
3. The Appellant received the KPCC decision on 26 May 2014.
4. She filed the appeal, dating it 27 May 2014. KPCC received the appeal on 1 July 2014, which is confirmed by the ascertainment of KPA dated 1 October 2014 with Ref.Nr.KPA17767.
5. The Appellant alleges that the KPCC decision does not contain a convincing reasoning, because she did not sell the contested properties as is proven by Possession List no. 99 that she sent to KPA.

Legal reasoning:

Admissibility of the appeal

6. After reviewing the appeal filed, pursuant to Article 194 of the LCP, the Supreme Court found that the appeal is belated.
7. The Supreme Court of Kosovo refers to Article 186, paragraph 1, in conjunction with Article 196 of the LCP.
8. The appellant received the KPCC decision on 26 May 2014, whereas the appeal was received by KPA on 01 July 2014. Thus, it can be ascertained that the appellant filed the appeal after the deadline of 30 days as prescribed by Section 12, paragraph 1. of the 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, because that term ended at Wednesday 25 June 2014. This legal provision foresees that an appeal against the KPCC decision can be filed within 30 days of its receipt.

9. Appellant dated the letter of appeal 27 May 2014, but there is no indication that she filed the appeal on that date.
10. Furthermore she did not present any justified reason to excuse her for filing the appeal after the legal deadline of 30 days.
11. Therefore, based on the above and pursuant to the provision of Section 13, paragraph 3, subparagraph b) of the UNMIK Regulation 2006/50 the Supreme Court decided as in the enacting clause of this Judgment.

Legal Advice:

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

Sylejman Nuredini, Presiding Judge

Rolandus Bruin, EULEX Judge

Beshir Islami, Judge

Sandra Gudaityte, EULEX Registrar