

**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-082/2014

**Prishtinë/Priština,
14 April 2016**

In the proceedings of:

U.K. DOO

Represented by A.V. a
Prishtinë/Priština

Appellant

Vs

A.B.

Str.V.Gervalla, no.1
Ferizaj/Uroševac

Appellee

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Beshir Islami, Presiding Judge, Anders Cedhagen and Rolandus Bruin, Judges, on the appeal against the decision of the Kosovo Property Claims Commission KPCC/D/C/216/2013 (case file registered at the KPA under No. KPA13395), dated 21 August 2013, after deliberation held on 14 April 2016 issues the following

JUDGMENT

The appeal of U.K. DOO from Prishtinë/Priština, against the decision of the Kosovo Property Claims Commission KPCC/D/C/216/2013, regarding case file registered at the KPA under the number KPA13395, dated 21 August 2013, is dismissed as belated.

Procedural and factual background:

1. On 7 September 2006, M.R. in the capacity of the representative of the legal entity “U.K. Doo” (hereinafter: the Appellant) filed a claim with the Kosovo Property Agency (hereinafter: the KPA), seeking the confirmation of his ownership right, repossession and compensation for the unlawful use of an office space with surface 54m² situated in the street Crnogorska no.1 in Ferizaj/Uroševac (hereinafter: the claimed property). He stated that the date of the loss of the property was 12 June 1999.
2. The notification of the claim was carried out on 4 June 2007. The property was found occupied by A.B. (hereinafter: the Appellee), who was present at the property. He did not claim a legal right over the property and did not sign the notice of participation. Although the Appellee expressed no interest in the procedure, he was considered as a party in the proceedings.
3. On 21 August 2013, the Kosovo Property Claims Commission (hereinafter: the KPCC), through its decision KPCC/D/C/216/2013 refused the claim. In the reasoning of the decision (paragraph 37), the KPCC underlined that the Appellant had failed to submit any evidence that could be verified by the Executive Secretariat, that the alleged property right holder enjoys any property right over the claimed property.
4. The KPCC’s decision was served upon the Appellant on 20 December 2013. The same decision was served on the Appellee on 4 December 2013. On 30 January 2014 the Appellant filed an appeal against the KPCC’s decision.

Allegation of the appellant

5. The Appellant filed an appeal through his representative Mr. A.V. a. With the appeal the Appellant requests the Supreme Court of Kosovo to reverse the KPCC's decision as unfounded and illegal and to accept his claim as grounded, and to acknowledge the property rights of the Appellant over the claimed property. In the appeal the Appellant indicated that the KPCC's decision contains fundamental error and serious violation of the material and procedural rights and that it is based on erroneous and incomplete verification of the factual state. The Appellant explained that the request is based on the contract concluded between Municipal Assembly Ferizaj/Uroševac and "UK" DOO. Through the contract the Appellant acquired the ownership over the claimed property, which was never contested.

Legal Reasoning

6. The appeal is belated. Section 12.1 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 (hereinafter: UNMIK Regulation 2006/50) provides as follows: "*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*".
7. The Appellant was served with the KPCC decision on 20 December 2013 but filed the appeal only on 30 January 2014. That means that the appeal was filed outside the time limit provided for by law. The Appellant did not give any reasons for filing a late appeal and the Supreme Court cannot detect any reason for the delay.
8. Therefore the appeal had to be dismissed as inadmissible on procedural grounds and the Supreme Court could not examine the grounds indicated in the appeal.

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

Rolandus Bruin, EULEX Judge

Sandra Gudaityte, EULEX Registrar