

**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-226/2014

**Prishtinë/Priština,
26 October 2016**

In the proceedings of:

M. P.

Represented by L. P.

Appellant

The KPA Appeals Panel of the Supreme Court of Kosovo composed of Beshir Islami, Presiding Judge, Anna Bednarek (Reporting) and Krassimir Mazgalov, Judges, deciding on the Appeal against the Decision of the Kosovo Property Claims Commission KPCC/D/A/220/2013 (the case files registered at the KPA under No KPA30630), dated 27 November 2013, after the deliberation held on 26 October 2016 issues the following:

JUDGMENT

The Appeal of M. P. against the Decision of the Kosovo Property Claims Commission KPCC/D/A/220/2013, dated 27 November 2013 related to the Claim registered under the number KPA30630 is dismissed as belated.

Procedural and factual background:

1. On 11 April 2007 L. M. P. (the Family Household Member) on behalf of his father M. P. the property right holder filed a Claim seeking the repossession of the land parcel parcels with the numbers 662/3 and 662/4, with the total surface area of 75 ar, 66m², located in the place called Brezhanik/Brežanik in Bellopole/Belo Polje, in Pejë/Peć (hereinafter “the claimed properties”).
2. He stated that the properties were lost due to the armed conflict that occurred in Kosovo between 1998 and 1999, indicating 13 June 1999 as the date of loss. Moreover he stated that his father and mother were the co-owners of the claimed property, but currently the land parcels are registered under the names of the two unknown persons who divided them into two equal parts. The Claim was registered by the KPA under the number KPA30630.
3. To support his Claim, L. M.P. submitted the following documents:
 - The copy of the Possession List No 197, issued on 18 May 2004 by the Department of Immovable Property, Cadastral Registry in Municipality of Pejë/Peć, in which his father appears as the co-owner of the 1/7 ideal part of the claimed properties;
 - The copy of the Power of Attorney granted by M. P. and Z.P.to their relative G.P. authorizing the latter person to sell the claimed properties. The signature of Z. P. below the Power of Attorney was legalised by the First Municipal Court in Belgrade on 9 March 2001 (No 2841/01);
 - The copy of the Power of Attorney granted by G. P. to R. R.i to sign on his behalf the Sale Contract regarding the claimed properties and to verify it before the Municipal Court of Pejë/Peć;
 - The copy of the Contract on Sale of the Immovable Property concluded on 12 March 2001 between R.R. acting as the representative of the M. P. and Z. as the Seller and T. H. as the buyer. The signatures of the persons who signed the Contract were legalised before the Municipal Court of Pejë/Peć on 15 March 2001 and holds the number: Ov. 769/01. On the basis of the Contract “1/2 of each of” the land parcels with the numbers 662/3 and 662/4 containing the claimed properties, with the total surface of 0.37,83 ha was sold to the buyer T.H.;
 - The copy of the Inheritance Decision rendered on 11 December 2008 in the case number O. 211/08 by the Municipal Court in Pejë/Peć which recognized M. P.as the sole legal heir of the late Z. P.;
 - The copy of the Death Certificate No E/6158/2006 of Z. P. issued on 15 November 2006 by the Municipality of Pejë/Peć.
4. Initially the claimed properties were visited on 17 October 2008, but the notification of the Claim was considered as incorrect due to the technical reasons. On 17 July 2010 the notification was done through the notification in the KPA Notification Gazette No 2 and the UNHCR’s Property Office Bulletin. Therefore another notification was carried out on 7 July 2010. On 31 January 2013 The Notification Team located again the claimed properties and found them to be the pasture and the parking place occupied by T. H.. At the spot the Verification Team met J.A. , who stated that he was using the land parcel No 662/3 and did not claim any legal right over the claimed properties and signed the Notice of Participation.

5. According to the Consolidated Verification Report compiled on 30 September 2013, the documents submitted by the Appellant were positively verified, except for the Possession List No 197 and the Power of Attorney granted on 9 March 2001.
6. On 27 November 2013, the Kosovo Property Claims Commission (hereinafter “the KPCC”), through its Decision KPCC/D/A/220/2013 (hereinafter “the KPCC’s Decision”) dismissed the Claim as falling outside its jurisdiction. In the reasoning of the Decision, the KPCC explained that the claiming party failed to show that his Claim involves circumstances directly related to or resulting from the 1998-1999 conflict.
7. The KPCC’s Decision was served upon L. P. on 25 April 2014 and to T. H. on 5 May 2014. On 30 June 2014 the Appellant filed an Appeal against the KPCC’s Decision.

Allegation of the Appellant

8. The Appellant requests the Supreme Court of Kosovo to accept his Appeal and to reach another Decision by recognizing him as the owner of the claimed properties. In the Appeal he indicated that the KPCC’s Decision involves fundamental error and serious breach of the substantive and the procedural law.

Legal Reasoning

9. The Appeal is belated. Section 12.1 of the Law No 03/L-079 “On the Resolution of Claims Relating to Private Immovable Property, Including Agricultural and Commercial Property” (hereinafter “Law No 03/L-079”) foresees 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*”.
10. L. P., representing his father M. P. was served with the Decision of the KPCC regarding the Claim No KPA30630 on 25 April 2014, therefore the time limit to submit an Appeal ended on 25 May 2014. Yet the Appeal was filed only on 30 June 2014, hence after the deadline. That means that the Appeal was filed outside the time limit provided for by law. The Appellant did not give any reasons for filing late Appeal and the Court cannot detect any reason for the delay. Therefore the Appeal for the instant Claim had to be dismissed as inadmissible on procedural grounds on the basis of the above quoted Law. As a consequence the Supreme Court could not examine the grounds indicated in the Appeal.
11. Based on the aforementioned and pursuant to Section 13.3.(b) of the Law No 03/L-079 and Article 195, paragraph 1(a) of the Law on Contested Procedure, it is decided as in the enacting clause of this Judgment

Legal Advice

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

Beshir Islami, Presiding Judge

Anna Bednarek, EULEX Judge

Krassimir Mazgalov, EULEX Judge

Sandra Gudaityte, EULEX Registrar