

**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-192/14

Prishtinë/Priština, 27 korrik 2016

In the proceedings of:

P. V.

Appellant

The KPA Appeals Panel of the Supreme Court of Kosovo composed of judges, Sylejman Nuredini, Presiding Judge, Krassimir Mazgalov and Beshir Islami, members, deciding on the appeal against the Decision of the Kosovo Property Claims Commission no. KPCC/D/R/231/2014 (case files registered at the KPA under the number (KPA00656) dated 13.3.2014), after deliberation held on 27 July 2016, issues the following:

JUDGMENT

1. **The Appeal of P. V. filed against the Decision of the Kosovo Property Claims Commission KPCC/D/R/231/2014 dated 13 March 2014, as far as it concerns the Claim number KPCC30522, is rejected as unfounded.**
2. **The Decision of the Kosovo Property Claims Commission No. KPCC/D/R/231/2014 dated 13 March 2014 is confirmed as far as it concerns the Claim registered with KPPC number.**

Procedural and factual background:

1. P. V. filed a claim as a property right holder seeking confirmation of the property right of his apartment located in “Vojvode Misiqa” street no. 28 in Prishtinë/Pristina, in surface of 57.62 m². He alleges that he lost the apartment due to the armed conflict which occurred in the period of 1998/99, indicating the date 1.6.1999 as the date of loss. The Claim is registered at the KPA under the number KPA 00656.
2. To support his Claim, the Appellant submitted the following documents:
 - Decision on allocation of the requested apartment no.2471 dated 25.11.1996 issued by the Joint Stock Company “Kosmet Put”, referring to the apartment which is the object of the Claim.
 - The contract on purchase certified by the Municipal Court of Mitrovicë/Mitrovica, Vr.II.nr.26/2000 dated 26.6.2000;
 - Contract Annex Vr.nr.II.26/2000 dated 26.6.2000.
3. The abovementioned documents are not verified positively by the Executive Secretariat.
4. The apartment was notified on 15 January 2008, 3.1.2008, 9.1.2008 and 15.1.2008 but the usurper was not found in this apartment
5. By its Decision **KPCC/D/R/231/2014 dated 13.3.2014**, the Kosovo Property Claims Commission (KPCC) **rejected the Claim** filed by P. V. as unfounded. In the reasoning of this decision in paragraphs 60, 61 and 62 it is concluded that the claimant has requested confirmation of the property right over the requested property, but failed to present legally valid evidence and propose legally valid relevant facts to confirm his property right of the apartment which is the object of the Claim. The presented documents are not verified positively by the KPA Executive

Secretariat. In addition, with the Decision on Appeal of KPCC it is concluded that that regardless of negative verification of documentation presented by the claimant pursuant to the Law on housing relations no. 42/86 and Law on housing no. 50/92, he did not present the contract on use for this apartment and that he took the same in his possession.

6. The Decision was served on the appellant on 23.5.2014, whereas he filed an appeal on 12.6.2014.

Allegations of the parties

7. The Appellant P. V. alleges that, KPCC's Decision on Appeal was rendered based on erroneous establishment of the factual situation and erroneous application of the material law. In addition, he states that according to the contract on purchase of the apartment Vr.nr.26/2000 dated 26.6.2000 certified by the Municipal Court of Mitrovicë/Mitrovica and the Contract Annex Vr.nr.II.26/2000 dated 21.8.2007, he is the exclusive owner of this apartment, therefore he requested if the Supreme Court to confirm his ownership of the apartment. Finally, he states that the Commission for Review of Property Claims failed to make sufficient efforts to verify his documents which he claims are true.

Legal reasoning

Admissibility of the appeal

8. The appeal is admissible; it was filed within the period of 30 days as prescribed by article 12.1 of the Law no. 03/L-079.

Jurisdiction

9. The Supreme Court has jurisdiction to review the appeal.
10. After having reviewed the appealed decision, case files and appeal allegations, the Supreme Court pursuant to the provision of the article 194 of the LCP, found that:
The Appeal is unfounded.
11. The Supreme Court notes that the appealed decision of the KPCC is right, complete, and comprehensible and contains description and explanation of the decisive facts for rendering a lawful decision. The KPCC, by its decision has properly established the factual situation and on

this basis has properly applied the material law by rejecting the Respondent's claim for confirmation of the property right to the apartment which is the object of this Claim, as unfounded. Attached to the claim, the Claimant presented the abovementioned contract as well as other evidence which are not relevant for decision of this legal housing matter, but also those contracts according to the Executive Secretariat of the KPA were not positively.

12. The KPCC rightly notes in the appealed decision in par 62 that, regardless of negative verification of contracts, the claimant was obliged pursuant to the Law on housing relations no. 42/86 and Law on housing no. 50/92, to present the contract on use for this apartment and that he took the same in his possession. For these exact reasons and based on presented evidence by the claimant, the conclusion of the Commission is correct and fair that the claimant has failed to prove the property right over the claimed property. Therefore, the Claim is rejected.
13. Object of special review and evaluation of the Supreme Court were also the Appellant's appeal allegations that the Commission failed to make sufficient efforts to verify the presented evidence and found these allegations as unfounded, unacceptable, incorrect and consequently unlawful. This is so because the appealed decision provides clear, comprehensible, thorough and correct explanations that the Commission, namely Executive Secretariat, made maximum efforts to verify the authenticity and genuineness of those contracts but nevertheless they were negatively verified. The court concludes that the Commission, just as the Supreme Court, cannot base its decision and grant the claimants Claim on negatively verified documents.
14. Subject of review and evaluation of the Supreme Court were also other documents submitted by the claimant-Appellant, however they could not influence rendering a different decision in this housing matter.
15. Consequently, the Supreme Court finds that KPCC based the decision on the correct and complete corroboration of the factual situation and the proper application of material law. Therefore, the Supreme Court concluded that the appeal is unfounded
16. Based on the reasons presented above, pursuant to article 13.3.c of the Law no. 03/L-079 and article 200 of the Law on contested procedure, Decision of the KPCC is confirmed and the appeal is rejected as unfounded.

Legal Advice

Pursuant to article 13.6 of the Law no.03/L-079, this judgment is final and enforceable and cannot be challenged through ordinary or extraordinary remedies

Sylejman Nuredini, Presiding judge

Krassimir Mazgalov, EULEX judge

Beshir Islami, Judge

Sandra Gudaityte, EULEX registrar