

In the name of God most Gracious most Merciful

Republic of Iraq
Federal supreme court
Ref. 116/federal/media /2013



Kurdish text

The Federal Supreme Court (F S C) has been convened on 5.5.2013 headed by Judge Madhat Al-Mahmood and membership of Judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-nagshabandi, Aboud Salih Al-temimi, Michael Shamshon Qas Georges and Hussein Abbas Abu AL-Temman who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (mim. teh. zin. feh.) his agent (.ain. sin. jim. sin.).

The Defendants: 1- Minister of Finance
2- Minister of Justice
3- General Manager of Real Estate Registration } being
in this
capacity

The Claim:

The prosecutor claimed before the FSC in the case No. (116/federal/2013) that the first defendant transfer of ownership of the property returning in sequence (11/6) sub-district (3) Talha and registered in the name of his client in the real estate registration directorate in Zubair on 8/October/1997 volume 240 this is based on the decision of the Revolutionary Command Council (dissolved) No. (103) on 11/8/1997 without recourse to the judiciary and since the above-mentioned decision is a form of confiscation of private property, it does not have constitutional legitimacy and is contrary to the

provisions of Articles (23/2 and 100) of the Constitution of the Republic of Iraq of 2005 and is contrary to the provisions of Article (16) of the Interim Constitution of 1970. Therefore, after the necessary procedure, he requested to rule that the decision is constitutionally invalid and to cancel it and to charge the defendants all fees, expenses and fees of the lawyers. The court invited the parties to argue, and the plaintiff's agent, the first defendant's agent and the second defendant's agent were present, and the third defendant's agent did not attend despite the notification and the public argument was started with the absence of the third defendant, the prosecutor repeated the petition and requested a verdict, with the defendants charging all expenses. The court was briefed on the answer list submitted by the defendant's agents, the Minister of Finance, a request to reject the case, and the plaintiff charged the expenses because resolution (103) of 1997 did not make any amendments and the provinces not mentioned in the resolution were subject to in-kind compensation measures in accordance with the provisions of Resolution (222) of 1977 by the Appropriations Committees formed in the Directorate of Agriculture of Baghdad, Wasit and Diyala, and these decisions included all the ownership measures for all the provinces of the country at the time except the Kurdistan region and that the Federal Cassation Court has already issued its decision to dismiss the plaintiff's case and that his client's department is an executive department that implements the decisions and laws issued by the higher authorities, the court also reviewed the answer draft submitted by his defendant's agent, the Minister of Justice/ being in this capacity on 15/12/2013, and requested that the case be rejected because the case was not competent for the FSC's consideration and the subject of the case represents a case of the plaintiff within the jurisdiction of the judiciary ordinary, if that is the case with the plaintiff charging all expenses and the fees of the lawyers as the court has seen the answering drafts submitted by the plaintiff's agent on 9/2/2014 and 4/3/2014 in response to the answer drafts of the

defendants' agents and he requested the verdict in accordance with the petition and the agent of each party repeated his previous statements and requests and requested the judgment under it and therefore where there is nothing left to say, the end of argument has been made clearly, the decision had made clear public.

The Decision:

After scrutiny and deliberation by the FSC found that the plaintiff's agent requested in his petition to the FSC to rule that the decision of the Revolutionary Command Council (dissolved) no. (103) of 1997 the illegality of the decision because the defendant, the Minister of Finance/ being in this capacity, transferred ownership of the property belonging to his client numbered (11/6) sub-districted 3 Talha without recourse to the courts in violation of the articles (23/2, 100 and 16) of the Constitution of the Republic of Iraq 2005 he sued the defendants/ being in their capacity for this purpose, as the defendants are not fit to be adversaries in such a case because Section 4 of the Civil Proceedings Law No. (38) of 1969 has recognized the opponent as follows (the defendant must be an opponent whose approval shall be a judgment of appreciation of his decision and be judged or bound by something to assess the proof of the case) since the case included a request to rule that the decision of the Revolutionary Command Council (dissolved) No. (103) of 1997, would not be valid for the defendants' litigation/ being in their capacity. Therefore, the defendants' liability is not valid, and if the liability is not directed, the court will open the court even on its own by dismissing the case without entering into accordance with article (80/1) of the Civil Proceedings Law No. (83) of 1969. The decision subject of a challenge has been implemented and no longer stands. For all of the above, the FSC decided to reject the plaintiff's case, charging him with all the costs of the lawsuit and the fees of the lawyers for the defendants, (feh. ha. ha.), the undersecretary of the Ministry of Finance (kha. alif. mim.) the undersecretary of the

Ministry of Justice, a sum of one hundred thousand dinars equal between them and the decision was issued unanimously and the decision had made clear public on 5/5/2014.