



The Federal Supreme Court (F.S.C.) has been convened on 4.5.2014 headed by the Judge Madhat Al-Mahmood and the membership of Judges Farooq Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabandi, Abood Salih Al-Temime, Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen whom are authorized in the name of the people to judge, they made the following decision:

The Plaintiffs:

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| 1- Feh. | } | Daughters of (zin. Ta. Alif. shin) in addition to the legacy of their testator (zin. Ta.alif.) – their agent the attorney (ta. Yeh. ha.) |
| 2- Mim. | | |
| 3- Waw. | | |
| 4- Jim. | | |
| 5- Alif. | | |

The Defendant:

The Minister of Finance / being in this post – his agent the legal official (feh. ha. Ha.).

The claim:

The agent of the plaintiffs claimed that the plaintiff (feh.zin.ta.) in addition to the legacy of her testator has referred to the Property Claims Committee in Al-Karkh requesting to

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Kurdish text

return the real state no.(42/16) Karada - Mariem which was appropriated under the name of the dissolved Presidency Divan (it is residential house with the included house, its area is of (7) olse And (15.75) meter build with alabaster and covered with teak wood of first class) registered under the name of the testator (zin. Ta. alif.) as free hold, the second judicial committee in Al-Karkh issued decision in the law suit (494561) on (5.11.2008) stating that the real estate shall remain under the name of the defendant being in this post and compel him to pay amount of (49,662,356) Million Dinar as compensation for the plaintiffs for the land and building, the Cassation Court issued the decision no.(6584/ cassation /2008) on 1.6.2011, the cassation decision was corrected by the defendant being in this post, the decision no.(973/ cassation decision correction/2011) on 28.2.2012 by dismissing the lawsuit ((no part is allowed to weaken the trust in the judicial procedures)). As the appropriation of the real state no.(42/16) Karada - Mariem by the dissolved Presidency Divan has excluded the property from the procedures of the valid appropriation law no.(12) for 1981, and the mentioned property was seizure out of the legal implementation of the Appropriation law violating by that article (23) of the Iraqi constitution (the immunity of the privet property), the court of property claims by the compensation



decision has acknowledged the incident of property appropriation, the cassation court when approved the decision has confirmed the incident of property appropriation and stated the compensation, but it retreated its decision when the correction was requested. As there is conflict in the laws, it is authority of the F.S.C. to tack legal procedures in case of laws conflict and constitutional violation. He requested to return the taken rights by injustice to its owners and to repeal the procedures that confiscated the people's rights , by that the judiciary has regained its stolen health. the adherence to the authoritative rulings and the weakening of confidence in the judicial procedures as stated in the correction decision no. 973/ cassation decision correction on 28.2.2012 without indicating or referring to the fact that the expropriation took place contrary to the constitution and the valid expropriation law without considering that the dissolved Presidency Office violated all laws and the constitution for a political, personal or partisan interest, therefore the exclusion from the expropriation procedures in the lawsuit (88/ appropriation /86 /-987) on (22.8.987) means confiscation, as it didn't grant the property owner the right to object according to law. it was based on invalid, usurper measures, and what based on falsehood, is invalid which requires restoring the situation to pre-appropriation. The public



benefit is a relative concept, and in the individual political system it is related to the philosophy of the system. Everything that is in the interest of the system falls under this concept, and many have remained prisoners of this concept, it is difficult to get rid of it quickly and the best proof is that the court will go that the confiscation procedures have achieved public benefit despite the seizure of citizens' property and distribution to the regime's leaders to strengthen their association with it and defend it. The assessment of the so-called allowance compensation as compensation and preventing the injured owner from the right to reject the allowance or object to it is a situation that conflicts with the simplest legal concepts, and it is not a right for those who say that objection weakens confidence in the judiciary, rather the opposite is true as the judiciary is obligated to correct the shadows that violate the law and restore rights to their owners. For all that he requested the F.S.C. to rule the defendant being in this post to return the property no (42/16) Karada – Mariem to the plaintiffs in addition to the legacy of their testator (zin. Ta. alif.), and to conduct an on-site inspection of the property to estimate the financial value and confirming the degree of construction and the descriptions that it estimates at an amount of three billion dinars on land and building, and he preserve the right of the claim for the increase is kept by an



organized or independent lawsuit according to the discretion of the expert, and to burden him the lawsuit expenses and fees of the advocacy. After registering the lawsuit before this court according to article (1) paragraph (3rd) of the F.S.C. bylaw (1) for 2005, after completing the required procedures according to article (2/1st and 2nd) of the mentioned bylaw, a date for the argument was scheduled, the agent of the plaintiffs attended by the power of attorney in the case petition, the defendant agent has attended and started the in presence public argument, the defendant agent repeated the answering draft submitted to the court dated on 27.1.2014 requesting to dismiss the lawsuit and to burden the plaintiffs the expenses and advocacy fees, because the subject of the lawsuit has been adjudicated and toke its last form when approved, it become final cannot be considered again for the unity of the lawsuit parties, their capacities, and the conflict is related to the right itself according to the provision of article (105) of the Law of Evidence no.(107) of 1979 the amended. whereas nothing is left to be said the court issued the following decision.

The decision:

During scrutiny and deliberation by the F.S.C. it found that the plaintiffs agent requested the F.S.C. to rule that the defendant being in this post to return the real state no.(42/16)

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Karada - Mariem to the name of the plaintiffs (in addition to the legacy of their testator (zin. Ta.alif.)) which was appropriated under the name of the dissolved Presidency Divan, he also requested to conduct an on-site inspection of the property to estimate the financial value and confirming the degree of construction and the descriptions that it estimates at an amount of three billion dinars on land and building. As the jurisdictions of the F.S.C. are specified in article (93) of the constitution of 2005 and article (4) of the F.S.C. law no. (30) for 2005, it didn't included what the plaintiffs are requesting, therefore the plaintiffs lawsuit are binding to be dismissed for lacking the jurisdiction to consider, the F.S.C. decided to dismiss the lawsuit and to burden the plaintiffs the fees and expenses of the defendant agent amount of (one hundred thousand) IQ.D. This decision has been issued unanimously, final and public on 4.5.2014.