

zdIn The Name Of God, Most Gracious, Most Merciful

**Republic of Iraq
Federal Supreme Court
Ref.13 /Federal/Media/2014**



Kurdish text

The Federal Supreme Court has been convened on 5/5/2014, headed by the judge Madhat Al-Mahmood and membership of judges Farouk Mohammed Al-Sami, Jaafar Nasir Hussein, Akram Taha Mohammed, Akram Ahmed Baban, Mohammed Saib Al-Nagshabndi, Abood Salih AL-Tememi, 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: (Ain.Ain.Ain.), his agent the barrister (Ain.Sin.Shin.Ain.).

The Defendant: minister of finance- being in this capacity- his agent the legal official (Feh. Ha.Ha.).

The Claim:

The plaintiff claimed that his client and the other partners who have shares in the estate No.(110/7) AL-Ribat AL-Sagheer initiated the case No.(485463/2004) before the Judicial Committee in AL-Basra for requesting to return the estate to them because the estate got owned based on the order of the president's divan (Dissolved) No.(Qaf/8/202/1992 on 5/1/1992) and by an appropriation decision which violates the law. The plaintiff initiated this case before the FSC, because of the unconstitutionality of the president's divan order which violates articles (23/2nd and 100) from the Constitution, and the article (16) from the temporary constitution. also, the decision of the revolutionary leadership council (Dissolved) is untouchable, can't be challenged, contrary to the Constitution, and the temporary constitution. furthermore, the decision of the revolutionary leadership council (Dissolved) is for the government's properties, not the personal properties. The plaintiff

requested to call the defendant to the argument and deciding the unconstitutionality of the president's divan order. The defendant had been notified about the case petition, so he answered on it by his draft dated 15/4/2014 included that the estate's appropriation was done according to the legal dealings and the compensation has no injustice obscene. Also, there is a case initiated before the committee of real estate property, he requested to review the decision issued in that case. The court called upon both parties, the plaintiff's agent repeated the case petition, and presented an explanatory draft on 5/5/2014 included his previous requests. The defendant agent repeated what included by his answering draft, and requested to reject the case because the estate got owned and registered in the name of the ministry of finance, the implementation of the order -which the appropriation was done according to- had ended. Both parties repeated their sayings, the court made the end of the argument and issued the following decision.

The Decision:

During the scrutiny and deliberation by the FSC, it found that the plaintiff's agent challenged the president's divan order No. (Qaf/202/1992) dated on (5/1/1992) issued by the president's divan (dissolved) about the appropriation of his client estate No.(110/7/ AL-Ribat AL-Sagheer) in AL-Basra. He initiated the case before the committee of the real estate property in AL-Basra No.(485463/2004), then he initiated the case before this court requesting the decision for the unconstitutionality of the aforementioned divan's order. The minister of finance couldn't be a litigant in this case because he neither related to the divan's order nor the decision of the revolutionary leadership council (Dissolved) that it depends on. The article (4) from the law of civil arguments requires that the defendant must be a litigant. His admission leads to a judgment by assessing issuing an admission from him, and he also must be convicted or obliged by something if the case was approved. So the case must be rejected from the litigation point. Also, the divan's order -that the appropriation was done according to- had executed and registered in the name of the ministry of finance and it is no more exist. This court is not competent to supervise on laws and regulations that its implementation had ended, so the case must be rejected from this point

too. The court decided to reject the case and to burden the plaintiff with all the expenses and fees of the advocacy for the defendant's agent amount of hundred thousand Iraqi dinars. The decision was issued unanimously on 5/5/2014.