

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 18/federal/media/2015



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 14/5/2015 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 Abu Al-Temmen who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (sin.ain.sin.ha.kha.feh.)- His agent the attorney (alif.mim.yeh.sin).

The Defendant: The speaker of the parliament/ being in this post - his agents (Sin.Ta.Yeh.) and (Heh.Mim.Sin.).

The Claim:

The plaintiff claimed that the defendant the speaker of the council of representative (I.C.R.)/ being in this post has issued the Property Claims Commission law No.(13) for 2010 and this law has included the phrase (the citizen) specifically in article (2/2nd) of it, as this text was contradict to the purpose and the objectives for which the Property Claims Commission was established and its quest to achieve justice for individuals as it works to process the violations committed by the former regime of private property, specifically

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property ownership, this text prevented the plaintiff from requesting to retrieve the estate he inherited from his father No.(448/100) area of the Al-Shuyukh in Al-Kadhimiya that he ownership and was registered by his name sense 1944, his ownership of the property was under valid law, and his ownership continued until it was expropriation in 1996 for an ethnic reasons, the plaintiff has based in his claim on article (23) of the constitution that stipulate (private property is protected. The owner shall have the right to benefit, exploit and dispose of private property within the limits of the law.), and also based on paragraph (2nd) of the mentioned article that stipulated (expropriation is not permissible except for the purposes of public benefit in return for just compensation, and this shall be regulated by law.), as the challenged text in its current state did not mention the nationality of the landlord, who was expropriated for political and ethnic reasons. For all the mentioned reasons the plaintiff requested to rule by revoking and repealing article (2/1st) and what listed in the reasons for the law of the Property Claims Commission law No.(13) for 2010 regard the phrase of the rights of citizens, and also to repeal all the legal implications that results from its content implement, and to obligate the defendant to conduct the legislation amendment upon the challenged articles for its unconstitutionality. On the scheduled date for argument the court convened and the two parties has attended, the agent of the plaintiff repeated what listed in the case petition and the requests of her client to change the phrase (the citizen) in the challenged article for being unconstitutional and replace it with the phrase (the landowner), the agents of the defendant/ being in this post repeated what listed in the answering draft and requested to reject the case

for the reasons listed in it. Whereas nothing left to be said the argument is closed and the decision is issued publicly.

The Decision

During scrutiny and deliberation by the F.S.C., the court found that the plaintiff has claimed that article (2/2nd) of the Property Claims Commission law No.(13) for 2010 and has included the phrase (the citizen) that prevented him from requesting to retrieve the estate he inherited from his father No.(448/100) area of the Al-Shuyukh in Al-Kadhimiya that he ownership and was registered by his name sense 1944, his ownership of the property was under valid law and continued until it was expropriation by the formal regime in 1996 for an ethnic reasons, the agent of the plaintiff in the session dated on 14/4/2015 has limited her request by removing the phrase (the citizen) in the challenged article and to replace it with the phrase (the landowner) instead. Such request is out of the F.S.C. jurisdictions that are stipulated in article (93) of the Iraqi republic constitution for 2005, and article (4) of the F.S.C. law No.(30) for 2005, as it is an jurisdiction of the legislation party, therefore the plaintiff case is binding to be rejected from the point of jurisdiction, accordingly the court decided to reject the case of the plaintiff, and to burden him the expenses and advocacy fees for the agents of the defendant the jurists (Sin.Ta.Yeh.) and (Heh.Mim.Sin.) amount of one hundred thousand Iraqi dinars divided on them equally. The decision has been issued decisively according to paragraph (2nd) of article (5) of the F.S.C. law No.(30) for 2005, and unanimously on 14/4/2015.