



The Federal Supreme Court (F S C) has been convened on 2.26.2018 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-Nagshabandi, Aboud Salih Al-Temimi , Michael Shamshon Qas Georges and Hussein Abbas Abu Al-Temmen who authorized in the name of the people to judge and they made the following decision:

The Plaintiff: (alif.ta.beh) her agent the barrister (ain.qaf.ain.beh).

The Defendant: (alif.ha.alif).

The Claim

The agent of the plaintiff claimed that Kirkuk first instance Court issued its decision No. (2169/beh/2004) which included transferring common share of real estate No. (55/1222mim 54 kha.teh) according to the decision of revolutionary leadership Council (dissolved) No. (1198) for 1977. Whereas the plaintiff has one share of aforementioned real estate, and because the land registry office in Kirkuk refused to execute the judgment in pretence it is conflicts the regulations issued by Kurdistan territory authorities. These regulations judged not to transfer the real estate for Arabic citizens in Kirkuk. Whereas the property of aforementioned real estate became unknown which is it argument point, so he requested to set a day for pleading and to notify the defendant, and to issue a fair decision which does not conflict with the private regulations of Kirkuk Governorate. He also requested to void the transferring decision. After registering this case at this Court according to clause (3rd) of article (1) of the FSC bylaw, and after completing required procedures according to clause (2nd) of

article (2) of aforementioned bylaw. The answer of the defendant was received, and he requested to reject the case for the reasons listed in his draft dated on 2.15.2018. the Court set 2.26.2018 a date for pleading, and on that day the agent of the plaintiff attended and the defendant did not attend in spite of he was notified. Therefore, the Court decided to proceed the case in his absence according to the law, and the agent of the plaintiff repeated what listed in the petition of the case and requested to judge according to it. The agent of the plaintiff added he has nothing to add to the petition of the case. Whereas the Court completed its investigations, and the case became prepared to take a decision about it. The Court made the end of pleading clear and recited the decision publicly on 2.26.2018.

The Decision

After scrutiny and deliberation by the FSC, the Court found that the agent of the plaintiff clarified in the petition of the case that Kirkuk first instance Court issued its decision No. 2169/beh/2004 which included transferring common share in the real estate (55/1222mim 54 kha.teh) according to provisions of revolution leadership Council No. (1198) for 1977, whereas his client owns one share of aforementioned real estate, and the land registration office in Kirkuk refused to execute the decision because it is conflicts with the regulations issued by Kurdistan territory authorities. Therefore, property of the real estate became unknown, and he requested to issues a fair decision which does not conflicts with the private regulations of Kirkuk governorate. He also requested to void the transferring registry. The FSC finds that its competences are determined in article (4) of its law No. (30) for 2005 and article (93) of Republic of Iraq constitution for 2005, and not among these competences is issuing a decision does not conflicts with the private regulations of Kirkuk governorate, or to void the transferring registry. Accordingly, the FSC decided to reject the case for incompetence, and to burden the plaintiff the expenses. The decision issued decisively and unanimously

according to article (94) of Republic of Iraq constitution for 2005,
and it was made clear on 2.26.2018.