

IN THE NAME OF GOD, MOST GRACIOUS, MOST MERCIFUL

Republic of Iraq
Federal Supreme Court
Ref. 40/federal/media/2015



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 29/6/2015 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 Abas Abu Al-Temmen who are authorized in the name of the people to judge and they made the following decision:

The Plaintiffs:

- 1- (ha.mim.ain.ain.alif.ain).
- 2- (ha.mim.ain.ain.alif.ain).
- 3- (ain.mim.ain.ain.alif.ain).
- 4- (ra.mim.ain.ain.alif.ain).
- 5- (zin.mim.ain.ain.alif.ain).



Their agent the attorney
(nun.ra.ra.)

The Defendant:

the Minister of justice/ being in this post -his agents the judicial
(kha.alif.mim.).

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The Claim:

The plaintiffs' claims that the dissolved Presidential Divan order to form a committee in Al-Karkh first instant court to consider the funds liquidation of (ha.kaf.) under its letter No.(qaf/6966) on 3/4/1996 informed by the ministry of justice, in light of that the committee has issued its letter No.(2509) on 3/12/1997 directed to the real estate registry office in Al-Risafa which obliged it to transfer the property of the plaintiffs (Albo Jumaa) No.(332/292) and register it by the names of (ra, sad, ha, ain, sad, ha, waw, beh) sons of (ha.kaf.) starting from 24/2/1996 as a date to transfer the property ownership, and it was registered in their name by the competent real estate registry office, the plaintiffs requested to repeal the letter No.(2509) that is dated on 3/12/1997 and to re-register the property by their names for the reasons that the challenged letter issued by a committee formed in Al-Karkh first instant court and didn't based on judicial decision or lawsuit, also the letter violated the principal of separation of powers stipulated in article (47) of the constitution as the dissolved presidency Devan represent the executive authority and doesn't have the right to expropriate a property, as that is the jurisdiction of the judicial authority, and consider as interference in its affairs, that letter also consider as violation to the principal of the judicial independency, and interference in the justice affairs which was stipulated in articles (87, 88)of the constitution, the challenged letter also violated what stated in article (19) of the constitution which granted the individual the right to be treated with justice in judicial and administrative proceedings, and finally it violation for article (23) of the constitution which stated that the private property is protected. The

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owner shall have the right to benefit. After the case was registered a date was scheduled for the argument, the F.S.C. listened to the statements of the plaintiffs' agent and the defendant' agent who requested to reject the case for the reasons listed in the answering draft on 20/4/2015. As the F.S.C. has completed its investigations the argument is closed and issued the following decision.

The Decision

During scrutiny and deliberation by the F.S.C. the court found that the plaintiffs claimed that the dissolved presidency Divan order to form a committee in Al-Karkh first instant court to consider the funds liquidation of (ha.kaf.) under its letter No.(qaf/6966) on 3/4/1996 informed by the ministry of justice, in light of that the committee has issued its letter No.(2509) on 3/12/1997 directed to the real estate registry office in Al-Risafa which obliged it to transfer the property of the plaintiffs (Albo Jumaa) No.(332/292) and register it by the names of (ra, sad, ha, ain, sad, ha, waw, beh) sons of (ha.kaf.) starting from 24/2/1996 as a date to transfer the property ownership, and it was registered by their name in the competent real estate registry office, in light of that the plaintiffs requested to repeal the challenged letter No.(2509) that is dated on 3/12/1997 and to re-register the property by their names for the reasons that based on in their claim, as he challenged letter was not issued or based on judicial decision or lawsuit, also it violated the principal of separation of powers, and violation to the principal of the judicial independency. During scrutiny by the F.S.C. the court found that the challenged decision that is issued by Al-Karkh first

instant court through the formed committee under the letter of the dissolved presidency Devan, is an administrative decision that was already implemented, its consideration is out of the F.S.C. jurisdictions that are stipulated in article (93) of the constitution and article (4) of the F.S.C. law No.(30) for 2005, therefore the plaintiffs' case has lost its legal substantiation. Accordingly the court decided to reject the case from the point of jurisdictions, and to burden them the expenses and advocacy fees for the agent of the plaintiff amount of one hundred thousand Iraqi dinars. The decision has been issued decisively according to article (94) of the constitution and unanimously on 29/6/2015.