

In the name of God most Gracious most Merciful

Republic of Iraq
Federal supreme court
Ref. 12/federal/media /2013



Kurdish text

The Federal Supreme Court (F S C) has been convened on 28. 8. 2013 headed by 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-Temman who authorized in the name of the people to judge and they made the following decision:

The Plaintiffs: (ain), (ha), (alif), (ain), (zin) and (feh) sons of (kaf. alif. ain.) and (sin), (ra) daughters of (ain. ain. mim.) and (alif), (ain), (kaf) (feh), (sin) and (mim) sons and daughters of (mim. alif. ain.) their agents (kha. nun. ha.).

The Defendants: 1- Mr. Minister of Municipalities and Public Works
/being in this capacity.

2- Mr. Minister of Finance /being in this capacity his agent Mr.(ain. beh.)

The Claim:

The plaintiff's agents claimed that on 31/12/1993 The Expropriation Commission, formed by resolution (222) of 1977 (amended), issued of the Revolutionary Command Council (dissolved) the decision of the appropriation decision No. (14) on 31/12/1993 to acquire the numbered piece (10/17) (mim/27 Alrukaae) an area of (216) acres and (4) Ulke and (5) square meters a pure possession and it belongs to his clients without

compensated in cash or in kind. After the issuance of the Law of the Property Claims Commission, the numbered case was filed (150035) and the branch of the Authority in Baquba and the Judicial Committee issued its decision on 2/10/2010 to oblige the Minister of Finance/ being in this capacity the amount of compensation prescribed in the decision (2972/cassation/2011) the decision included the reversal of the mentioned decision to ascertain whether the plaintiffs received cash compensation or same value for the property and that the committee at the time of the consideration of the case included the Minister of Agriculture/ being in this capacity in the case and his agent that the property was acquired under resolution (222) of 1977 and that the plaintiffs did not receive any compensation for the property acquired either in cash or same value, the Judicial Committee issued its decision on 18/8/2011, which was issued in accordance with the decision of the Cassation Appeal Commission and included the decision of the plaintiffs for compensation, but the Cassation Appeals Commission issued its decision No. (8184/cassation/2011) on 12/8/2012, which contained facts that did not exist in the case and in accordance with the discriminatory decision, the Committee issued a decision in Baquba on 21/11/2012 to dismiss the plaintiffs for not being covered by law (13) of 2010. Based on the provisions of Article (3/heh) of the same law, based on the provisions of Article (23/1st & 2nd) and (90/3rd) of the Iraqi Constitution, supporting the decision of the Judicial Committee in Baquba on 18/8/2011 and charging the defendants fees and fees for lawyers. After registering the case with this court in accordance with article (1), paragraph (3rd) of the Bylaw of the FSC and completing the required procedures in accordance with the provisions of paragraph (2nd) of article (2) of the mentioned system, a date was set for the argument, and the second defendant's agent, the Minister of Finance/ being in this capacity attended, and the first defendant's agent did not attend, despite being notified and the argument immanence and public was initiated. The plaintiff's attorney repeated the petition and the second defendant's

agent answered, repeating what came up with his list submitted to the court, requesting the reject of the case because of the court's jurisdiction, and the court was briefed on the answer draft submitted by the first defendant, and after the attendees repeated their statements, the end of argument has been made clearly and public.

The Decision:

After scrutiny and deliberation by the FSC found that the plaintiffs' agent claims that the expropriation commission formed by the Decision of the Revolutionary Command Council (dissolved) No. (222) on 31/12/1993 decided to acquire the numbered piece (10/17) province (27 Alrukaae) belonging to his clients plaintiffs without cash compensation or same value, after the issuance of the Law of the Property claim commission, the case was filed No. (150035) before the Branch of Commission in Baquba, and the Judicial Committee issued its decision on 2/10/2010 to oblige the Minister of Finance to pay the compensation specified by the decision when challenging in cassation of the mentioned decision, the Discriminatory Committee issued its decision No. (2972/cassation/2011) overturning the decision to ensure that compensation was received or not, and after supporting the non-payment of compensation, the Judicial Committee issued its decision, which included the award to the plaintiffs for compensation. In challenging the mentioned decision, it issued its decision No. (8184/cassation/2011) on 12/8/2012, which contained facts that did not exist in the case and asked the committee to rule against the reject of the case, following the discriminatory decision, the Judicial Committee for Real Estate Property Disputes issued its decision on 21/11/2012 to reject the case and to ratify the decision on 17/1/2013 and to violate the mentioned decision to the provisions of the Constitution and the Law of the Real Estate Claims Committee No. (13) of 2010. The plaintiffs requested the FSC to scrutinize the case No. (150035) filed by the Royal Property Disputes Committee in Baquba and issue a decision to overturn the decision of

the Property Claims Committee issued in the case No. (150035) on 21/11/2012 because of its unconstitutionality and to issue the decision to include its clients in the provisions of the Law of the Royal Claims Committee No. (13) of 2010 and to support the decision of the Judicial Committee in Baquba on 18/8/2011. After scrutiny and deliberation by the FSC found that the court's competences of reference are limited by the provisions of Article (93) of the Constitution of the Republic of Iraq of 2005 and Article (4) of the FSC's Law No. (30) of 2005, and none of these jurisdictions considered the validity of judicial decisions or the scrutiny of cases pending by a judicial body formed under the provisions of the law. For the above, the ruling decided to reject the plaintiffs' case from the non-jurisdiction and charge them the fees and the fees of the lawyer of the second defendant's attorney (ain. beh) amount (100,000) one hundred thousand Iraqi dinar, the decision was made decisively and unanimously not be subject to challenge according to the article (94) of the Constitution and made clear in.