

Republic of Iraq
Federal Supreme Court
Ref. 17/ federal / ٢٠١٣



Kurdish text

The Federal Supreme Court (F.S.C.) has been convened on 4.12.2017 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 Abbas Abu Al-Temmen whom are authorized in the name of the people to judge, and it issued the following decision:

The Plaintiffs:

1. Jawhar Khadr Aziz.
2. (Sadiq, Ali, Ma'an, Iqbal, Nazhat and Enas) Abd al-Hilal Faraj Hamra's children _ being in this legacy of their inheritor Abd al-Karim Abd al-Hadi. Their agent Shehab Ahmed Younes.

The Defendant:

Minister of Trade and Industry of the Kurdistan Regional Government/being in this post.

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The Claim:

The agent of the plaintiffs claimed that the plaintiffs had previously contracted with the director general of the General Company for Trade and Processing of Grain _ being in this post affiliated to the Ministry of Trade of the central government under the contract dated August 1, 1989, which provides for the sale and purchase of the Duhok bakery and the leasing and leasing of its land, and the defendant filed the case numbered (317 / B / 2011) before the Court of First Instance in Dohuk requesting to oblige the plaintiffs to vacate the property numbered (1/7/13 Malta Province Islam) and its area (23400) square meters, for the expiry of the contract period on (1/8/2009).

And the Dohuk Court of First Instance ruled according to its numbered decision (317 / B / 2011) On December 11, 2011, the plaintiff was obligated to vacate, and the verdict was ratified by the Duhok District Court of Appeal in its discriminatory capacity, And since the contract subject of the lawsuit is a contract concluded between one of the departments of the Ministry of Commerce in the central government which is (the General Company for the Processing of Grain), the courts of the Kurdistan Region are not competent to consider the subject of the contract because the litigation is not directed, and Paragraph (30) of the



contract has specified a party Judicial jurisdiction to consider the cases that arise from the application of this contract, which are the Baghdad courts, and since the contract is the Shari'a of the contractors, the Baghdad courts are the ones with jurisdiction to hear the case.

Therefore, the plaintiff's attorney requested the Federal Supreme Court, after making the necessary decisions, to determine the jurisdiction to hear the above case in the federal judiciary and not in the Kurdistan region's judiciary, based on Article (93/8/a) of the 2005 Constitution of the Republic of Iraq. And (the defendant's attorney) did not attend despite the issuance of a summons to him before this court on 3/12/2017, but he did not attend and as the case is valid for adjudication in accordance with Article (11) of the rules of procedure of the Federal Supreme Court No. (1) for the year 2005, so the court decided to close argument, the decision issued publicly.

The decision:

During scrutiny and deliberation by the F.S.C., it found that the subject matter of the plaintiff's lawsuit does not constitute a conflict of jurisdiction between the federal judiciary and the judiciary in the Kurdistan Region according to the text of Article 93 / VIII / A of the Constitution of the Republic of Iraq for the

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year 2005, because the lawsuit numbered (317 / B / 2011) was filed in the Court of First Instance of Dohuk and it was settled By it on 11/12/2011 and the decision of the ruling issued in it was ratified by the Court of Appeal of the Dohuk Region in its discriminatory capacity, and no other court of the Federal Judicial Court considered it to say that there was a conflict of jurisdiction between the district courts and the federal judiciary. Therefore, the lawsuit is obligatory to respond, as there is no conflict of jurisdiction between the region and the federal judiciary, as the plaintiff's representative for the case. Therefore the plaintiff's case shall be rejected; the F. S. C. decided to dismiss the lawsuit with charging the plaintiffs all the case's expenses with the advocacy fees. This decision has been issued publicly, decisively and by agreement on 4/12/2017.