

In The Name Of God, Most Gracious, Most Merciful

Republic of Iraq
Federal Supreme Court
Ref.80 /Federal/Media/2014



Kurdish text

The Federal Supreme Court has been convened on 19/1/2015, 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-Nagshabndi, Abood Salih AL-Tememi, 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 Plaintiff:

- 1) (Ha.Ain.Ha)
- 2) (Lam.Ain.Alif)
- 3) (Kha.Ain.Alif)
- 4) (Beh.Sad.Mim.)
- 5) (Ain.Mim.Ain.)
- 6) (Mim.Mim.Ain.)
- 7) (Alif.Mim.Ain.)
- 8) (Feh.Ha.Mim.)
- 9) (Feh.Ain.Ain.)
- 10) (Shin.Ain.Ain.)
- 11) (Mim.Ain.Ain.)
- 12) (Feh.Ain.Ain.)
- 13) (Heh.Ain.Ain.)

Their agent the barrister (Ain.Mim.Dal)

The Defendant: minister of finance- being in this capacity- his agent the legal official (Alif.Feh.Heh.)

The Claim:

The plaintiffs' agent claimed that his clients own the plot No.(19/18), district (3), in AL-Dora, agricultural land, freehold. The appropriation was done based on the decision of the leadership of the revolutionary council, dissolved, in 1985. It stipulated that the plots, which belong to the plaintiffs including the plot the subject of the case, shall be appropriated for the cooperative for housing officers, commissioners of the interior forces and its civil employees as an exception from the law of appropriation No.(12) in 1981 and in exchange for a cash compensation that will be estimated by the committee of assessment based on the article (13) from the aforementioned law. The decision of the committee is final and decisive. Based on the claim, the plaintiffs were forced to take the cash compensation. For the above, the plaintiffs' agent requested from the court to oblige the defendant to give the deserved amount of compensation in compromise with the price of gold and by the date of the exposure which will be proceeded by the Federal Supreme Court. Also, he requested to elect three competent experts to estimate the compensation, on the condition that the assessment shall be in the price of the square meter. The case had been registered, the defendant was notified with the case petition, then his answering was received, he requested to reject the case due to the reasons listed by him. The court selected the day of the argument, it heard the sayings of both parties, the agent of the plaintiffs presented a clarifying draft dated on 2/12/2014. He emphasized that the compensation of his clients shall be in compromise with the gold price and by the date of the exposure which will be proceeded by the Federal Supreme Court and based on the law of property claims commissions No.(13) in 2010. Also, he requested to refer the case to the competent court of the first instance which the estate located in its boundary. Both parties repeated their previous sayings and requests. The court examined the case's documents, completed its investigation, and made both the argument's end and the decision understood publicly.

The Decision:

During the scrutiny and deliberation by the FSC, it found that the plaintiffs submitted a case against the minister of finance for the appropriation of the plot (19/18), district (3), in AL-Dora which was distributed as blocks to the members of the cooperative for housing officers, commissioners of the interior forces and its civil employees which is difficult to return it back. The plaintiffs requested to oblige the defendant to give the deserved amount of compensation in compromise with the price of gold and by the date of the exposure which will be proceeded by the Federal Supreme Court. the court finds that the plot was appropriated by the formed committee based on the decision of the leadership of the revolutionary council, dissolved, No.(382) in 1985 and based on the provisions of the article (13) from the law of appropriation No.(12) in 1981. At that time, the experts determined the value of plants and facilities with no objection from anyone, so the trying of the case for re-estimating the amount of compensation in compromise with the gold at the time of the exposure proceedings of the court and the trying of the plaintiffs' agent request to refer the case to the court of the first instance - located in the estate boundaries- are out of the FSC competence stipulated by the article (93) from the Constitution and the article (4) from the FSC Law No.(30) of 2005. The court decided to reject the case for the lack of competence and to burden the plaintiffs all the fees and expenses of the advocacy for the defendant agent the legal official (Alif.Feh.Ha.) amount of hundred thousand Iraqi dinars the judgment was issued unanimously decisive according to the article (94) from the Constitution. the court made the decision understood publicly on 19/1/2015.