

The In the name of god most gracious most merciful

Republic of Iraq  
Federal supreme court  
Ref. 91/federal/media/2018



Kurdish text

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The Federal Supreme Court (F S C) has been convened on 10.7.2018 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, Michael Shamshon Qas Georges, Hussein Abbas Abu Al-Temman and Mohammed Rajab Al-Kubaisi who authorized in the name of the people to judge and they made the following decision:

Plaintiff: (ha. kha. ra.) his agent (qaf. nun. kha.).

Defendant: President of the House of Representation/ being in this capacity his agents is the director in the legal department (sin. ta. yeh.) and assistant legal counsel in the legal department (heh. mim. sin.).

### Claim

The plaintiff's agent claimed that the Secretary of Baghdad/ being in this capacity was press charges No. (3128/beh/2017) At the Karkh primacy court on his client In which he requests cancellation of the registration of the property No. (6196/2 Al- Dowdy) which belongs to his client based on the decision of the Revolution Command Council (dissolved) No. (251) of the year 1986 and that the case is under the argument. He claimed that one of the paragraphs of the decision is ; in case of violation of the terms of the decision The project shall be expropriated land and building and that the confiscation is not supported by the law and in violation of the constitution in force since the property is protected. That the decision was initiated under the previous constitution and that the cancellation of the registration is different from the confiscation because the heroes apply to flawless registration such as forgery. And that the Secretary of Baghdad

requested the abolition of the restriction of the property and did not ask for confiscation. The agent of the plaintiff request to overturn the decision of the Revolutionary Command Council (dissolved) No, (251) of the year 1986 In violation of the constitution in force. The defendant/ being in this capacity was notified of the petition and its documents, and his agents replied that the plaintiff's agent did not indicate the constitutional alliance of the challenge decision. The FSC has ruled the case No. (54/federal/2018) and a similar case by refusing to challenge the constitutionality of the decision of the Revolution Command Council (dissolved) No. (251) of the year 1986. And requested to dismiss the case. On the day of the hearing, the plaintiff's agent attended, the agents of the defendant/ being in this capacity attended, and the prosecutor pleaded open and public, The prosecutor of the plaintiff repeated the petition and requested the verdict as stated therein, the agents of the defendant respond to what is stated in the pleading and ask to reject the case. The agent of the plaintiff request to postpone the case for the expiry of the sentence of defendant/ being in this capacity, he decided to reject the request because the case was against the defendant/ being in this capacity as a moral person and not a regular person. Therefore, the case remains on the side of the direction of the dispute and where there is nothing left said the conclusion of the argument was understood and the court issued a decision to rule publicly in the hearing.

#### The Decision :

After examination and deliberation by the FSC found that the plaintiff (ha. kha. ra.) challenge of unconstitutional of the Revolution Command Council (dissolved) No. (251) of the year 1986 for violating the provisions of the Constitution of the Republic of Iraq of the year 2005 which state that The private property is protected and the plaintiff claims that the decision on the appeal was issued under the previous constitution for the issuance of the Constitution of the Republic of Iraq of 2005 and she press charges this case on the occasion of the press charges of the Secretary of Baghdad/ being in this capacity No. (3128/beh/2017) in a primordial of Al-Karkh court and request to

abolition of the restriction of the property No. (6196/2 Al-Dowdy) for the reason that mentioned in the case, The court heard on the mentioned case and its annex with the urgent disclosure No. (115/mim/2014) found that the plot described had been allocated to (sin. ain. feh.) according to the Revolution Command Council (dissolved) No. (251) of the year 1986 at a special price (central) for the purpose of establishing a nursery on it, instead, a residential house was set up and sold to the plaintiff in this case (ha. kha. ra.). Accordingly, since the plot described above was sold at a special price and with the aim of establishing a nursery on it and that the plaintiff in this lawsuit, which preceded it has violated this condition, which owned the piece of land under it, Therefore, his violation calls for the abolition of his record, that , the ownership of the property in question is an unstable property, and is accompanied by a condition that is corrupt and can only be settled if that condition is fulfilled, based on the above the FSC found that the Revolution Command Council (dissolved) -challenge subject- came in parallel in his ruling and that the property of the land under which he agreed to own it under the condition that the resolution stipulated the subject of challenge is that the establishment of a nursery on the plot described, The FSC does not find anything that constitutes a departure from the provisions of the constitution by restoring the piece of land the subject of the prima facie case referred to above by the party that owns it in the original and according on that the case of the plaintiff (ha. kha. ra.) are not based on a constitution protected by the constitution, the court decided to reject the plaintiff's claim and its costs and the fees of the defendant's attorney's lawyers President of the House of Representation/ being in this capacity amount of (one hundred thousand) dinars. The judgment was issued by agreement on the basis of the provisions of article (94) of the constitution and article (5) of the FSC law No. (30) of 2005 and was understood publicly on 10/7/2018.