

Decision 1490/2023 of the Supreme Court of Greece (Areios Pagos)

Summary:

The Supreme Court of Greece affirmed the ownership rights of private landowners over a disputed parcel of land, dismissing the Greek State's appeal. This landmark decision underscores the importance of possession and good faith in establishing ownership and sets a precedent for future property disputes involving state claims.

Key Facts:

- **Parties:** Private landowners vs. Greek State
- **Initiation:** The case commenced in 2017 with a lawsuit of the private landowners against the Greek State filed before the Multimember First Instance Court of Syros.
- **Initial Ruling:** In 2019, the Court of First Instance of Syros (decision 12/2019) ruled in favour of the plaintiffs, recognizing their co-ownership.
- **Appeal:** The Greek State appealed the decision. In 2021, the Three-Member Court of Appeals of the Aegean (decision 56/2021) dismissed the appeal substantively, upholding the plaintiffs' ownership rights.
- **Supreme Court (Areios Pagos):** The Greek State challenged again the Court of Appeals decision before the Supreme Court. In 2023, the Supreme Court (1490/2023), affirmed the plaintiffs' ownership and dismissed the Greek State's claims.

Key Legal Principles:

1. Ownership acquisition:

- The court acknowledged the private ownership rights on the basis of extraordinary usufruct, emphasizing that good faith and legal title are essential elements for establishing ownership.
- Specific requirements outlined in Article 4 of Law 3127/2003 were pivotal in affirming the plaintiffs' ownership rights.

2. State ownership and succession:

- The court evaluated the historical context, particularly Ottoman laws and the succession of the Greek State, emphasizing of the particularities of the properties in the Cyclades islands, to determine the property's ownership status.
- The court rejected the notion that the property ever became ownerless, maintaining its continuous private ownership by the private landowners.

3. Possession and Good Faith:

- The court affirmed the plaintiffs' longstanding possession and their good faith belief in their exclusive ownership, dismissing the Greek State's claims as lacking specificity and evidence.
- The court also clarified that registering a property as public land in the relevant books does not constitute a disturbance of the private individual's ownership.

Analysis of the Decision:

The Supreme Court's meticulous examination of the evidence and legal principles led to the dismissal of the Greek State's appeal. The judgment emphasized:

- The significance of possession and good faith in establishing ownership.
- The inadequacy of the Greek State's arguments regarding the dissolution of ownership rights.
- The necessity of considering historical context and legal precedent in property disputes.

More specifically:

- The Greek State claimed the property was ownerless, invoking Article 972 of the Civil Code. However, the court found no evidence to support this, as the property had remained constantly under private control over the years.
- The court highlighted the lack of specificity and historical evidence in the Greek State's claim, underscoring the importance of a thorough investigation.
- It is accepted that the State bears the burden of proving the bad faith of the private possessor or their predecessor at the time of the acquisition of possession. Furthermore, when invoking the claim of acquiring ownership on the grounds that the property is ownerless, the State must specify and substantiate how and in what manner the property became ownerless.
- The court clarified that mineral ownership does not equate to land ownership, dismissing the Greek State's claims regarding the property's utility for mining activities based on its morphology and location.

Significance of the Decision and Evolution of Property Law:

- **Context:** The case concerns a private property located in the coastal settlement of Kato Agios Petros on the island of Andros, within an area of approximately 10,000,000 m² (the "Mines of Agios Petros") that has been recorded as public land since 2002.
- **Precedent:**
 - a) The judgment sets a critical precedent in Greek property law by clarifying that the registration of a property as public land in the relevant records does not constitute a disturbance of the private owner's possession. This is particularly pertinent given that the designation of the larger area as public land was carried out arbitrarily and without prior substantive investigation.
 - b) The judgment also sets a critical precedent for the specific area of approximately 10,000,000 m² still recorded as public land (known as the "Mines of Agios Petros") on the island of Andros.
- **Legal Modernization:** It contributes to the modernization of Greek property law, highlighting the importance of historical and legal contexts in ownership disputes.
- **State Arbitrariness:** The decision addresses and curtails state arbitrariness in property registration and claims.

Conclusion:

Decision 1490/2023 by the Supreme Court of Greece reinforces the principles of possession and good faith. It addresses state arbitrariness and sets a precedent for future property disputes. The decision has significant consequences for thousands of other owners who happen to have rights in the specific area of Andros, where, 22 years after the initial registration of the public property, and despite the relevant opinions of the Public Property Advisory Council, the State's claim continues to exist and the issue remains unresolved.

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