

Turkish Constitutional Court: Expropriated Property Not Used for Expropriation Purposes Violates Property Rights

13 Sep 2016

The Turkish Constitutional Court recently held that property rights had been violated where a Municipality expropriated private property to build a playfield, but later re-zoned the property to become a commercial area and sold the site to a third party via tender. The Court held this to be an unlawful interference with property rights and the prior property owner was entitled to initiate a new trial to rectify the violation's outcomes.

The prior property owner initiated an action against the municipality, claiming compensation for the difference between the Municipality's expropriation payment and the land value on the date of filing the lawsuit. The First Instance Court and Court of Appeal dismissed the case. Accordingly, the applicant escalated the matter to the Constitutional Court, claiming violations to his property rights, the right to a fair trial, as well as the principle of equity.

The Constitutional Court considered the merits of the case and ruled that the property rights have been violated and the property owner could initiate a new trial to rectify the results of these violations. The Constitutional Court ruled:

- The expropriated land was not used for the initial expropriation purpose (to build a playing field).
- The expropriated land was not used for the purpose of public interest.
- The process of the land's conversion to a commercial area and sale to third parties should be assessed as added value. Post-appropriation sale to third parties deprived the applicant of the added value resulting from these sales.
- The area was expropriated within the framework of expropriation transactions and zoning regulations established by the Constitution and other legislation. Accordingly, the Court ruled the expropriation process was conducted without any concrete realization of the public interest, and the expropriation only lead to the property transfer for income generation.

The Constitutional Court gave the decision on 21 April 2016 (application number 2013/6151) published in Official Gazette number 29752 on 24 June 2016. Please see this [link](#) for full text of the Constitutional Court's decision (only available in Turkish).

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