

**DECISION**  
***in the name of the Russian Federation***

January 5, 2003, the City of Nalchik

*The Nalchik City Court composed of:  
Chairperson Ms L.M. Tleuzheva, a presiding judge  
Assisting: L.D. Kulyeva, a secretary*

considered at an open court session a civil case concerning a complaint filed by Ms Larisa Akayeva against actions of the Justice Department for State Registration of the Right of Real Estate Possession and Real Estate Transactions on the territory of Kabardino-Balkariya (KBR) and

**ESTABLISHED THE FOLLOWING:**

Ms L. Akayeva purchased Apartment No.1 at 121, Malbakhova str., the City of Nalchik, owned by Mr O.D. Yefimov in accordance with a purchase-and-sale agreement issued on April 25, 2002.

On May 25, 2002, the Justice Department for State Registration of the Right of Real Estate Possession and Real Estate Transactions on the territory of Kabardino-Balkariya (KBR) denied Ms. Akayeva registration of the above purchase-and-sale agreement referring to the Resolution of the Kabardino-Balkaria Parliament of 22.11.2001 “On provisional measures to restrict registration of persons arriving to Kabardino-Balkaria (KBR) for permanent residence”.

The applicant found this decision unlawful and filed a complaint in Court requesting the Court should recognise the actions of the Justice Department for State Registration of the Right of Real Estate Possession and Real Estate Transactions on the territory of Kabardino-Balkariya (KBR) as unlawful and obligate the Justice Department to register the above purchase-and-sale agreement.

At the court session, the applicant sustained the complaint.

The Justice Department for State Registration of the Right of Real Estate Possession and Real Estate Transactions on the territory of Kabardino-Balkariya (KBR) requests the case be considered in the absence of its representative.

Having listened to the accounts of persons involved in the case and after examining the materials on the case, the Court has found the complaint sound and valid and subject to just satisfaction on the following grounds.

Under Article 1 of the RF Law of 25.06.1993 “On the right of Russian citizens to freedom of movement and free choice of place of sojourn or residence in the

Russian Federation”, every Russian citizen enjoys the right to freedom of movement and free choice of place of sojourn or residence in the Russian Federation.

Under Articles 27-1 and 35-2 of the RF Constitution, everyone staying lawfully on the Russian territory shall have the right to freedom of movement and free choice of the place to stay or reside, to have property in one’s ownership, to possess, use and manage it either individually or jointly with other persons.

Under Article 76-5 of the RF Constitution, laws and other normative legal acts of the RF constituent entities cannot contravene federal laws. In the event of a contradiction between a federal law and any other act issued in the RF, the federal law shall apply.

The rejection of Ms Akayeva’s application for registration of her sale-and-purchase agreement, based on which she acquired Apartment No.1 at 121, Malbakhova str. is a violation of her right to free choice of place of sojourn or residence in the Russian Federation and the right to have the said property in her ownership.

Nevertheless, human and civil rights and liberties may be restricted by the federal law only to the extent required for the protection of the constitutional system, morality, health, rights and lawful interests of other persons and ensuring national defense and state security (see Article 55-3 of the RF Constitution).

Therefore, restriction of Ms. Akayeva’s constitutional rights in this particular case is unlawful and her complaint is subject to just satisfaction.

For these reasons and being guided by Articles 239-1-239-7 of the RSFSR Civil Procedural Code, the Court

#### **HAS RULED AS FOLLOWS:**

The complaint filed by Ms L. Akayeva shall be found sound and valid and subject to just satisfaction, while the negative decision of the Justice Department for State Registration of the Right of Real Estate Possession and Real Estate Transactions on the territory of Kabardino-Balkariya (KBR) denying the applicant registration of her sale-and-purchase agreement, based on which she acquired Apartment No.1 at 121, Malbakhova str. shall be found illegal.

The Justice Department for State Registration of the Right of Real Estate Possession and Real Estate Transactions shall be obligated to register the purchase-and-sale agreement with regard to Apartment No.1 at 121, Malbakhova str., the city of Nalchik concluded between Ms L. Akayeva and Mr O. Yefimov on April 25, 2002.

An appeal against the decision can be filed with the KBR Supreme Court within the next 10 days.

Judge  
L.M. Tleuzheva