

საქართველოს ახალგაზრდა იურისტთა ასოციაცია GEORGIAN YOUNG LAWYERS' ASSOCIATION



Successful Cases of GYLA - June 2012

With the assistance of GYLA, a 79-year old woman was released from fine and penalty imposed by the Interior Ministry's Patrol Police

Lawyer of GYLA's office in Tbilisi was providing legal aid to a 79-year old M.K. who was fined with GEL 700 by Main Division of the Patrol Police in Mereti, Ministry of Interior Affairs of Georgia, under paragraph 41 of Article 116 of the Code of Administrative Offences of Georgia (handing over a motor vehicle to a person under influence of alcohol, knowingly and repeatedly, throughout the year, when an individual operating the motor vehicle does not have a driving license). For her failure to pay the fine M.K.

was also imposed with a penalty in the amount of GEL 500.

With the involvement of GYLA, court found Ms. M.K. not guilty during the trial. Subsequently, it was proved that in the process of issuing the impugned individual administrative-legal acts, circumstances of the case were poorly examined. M.K. had alienated her motor vehicle based on a verbal agreement of purchase and sale in 1996 and afterwards, she had nothing to do with the said motor vehicle. Following the decision of court, resolutions on imposition of fine and penalty for failure to pay the fine were declared null and void.

With the involvement of GYLA, court issued a restraint order for protection of a victim of domestic violence

On June 5, 2012, Rustavi City Court granted the application filed by D.K., a victim of domestic violence, seeking a restraint order. D.K.'s interests were defended in court by GYLA's lawyer. During the trial the court established facts of psychological harassment against D.K. by members of her family – M.K. and T.I. Rustavi City Court made a decision to issue a restraint order against the perpetrators, prohibiting them from verbal, physical and psychological harassment against D.K. The restraint order was issued for the period of 15 days. Decision of Rustavi City Court was filed by the respondent in Tbilisi Appellate Court.

On July 3, 2012, Tbilisi Appellate Court upheld the decision of the first instance court. The appellate court's ruling is final and may not be appealed.

With the assistance of GYLA, treatment costs for a beneficiary of state insurance program will be reimbursed

Following a car crash J.Z. sustained grave health injuries and was transported by ambulance to Imereti District Clinical Hospital LLC. Upon admission to the hospital, the patient was in a critical condition and in need of an urgent surgery. The medical establishment concluded an agreement on medical service with spouse of the patient accompanying him to the hospital. According to the agreement, the spouse assumed full guarantee to reimburse treatment costs for the patient. J.Z. was insured by the insurance company Alfa under the auspices of a state program, which refused to reimburse treatment costs. Imereti District Clinical Hospital LLC filed in Kutaisi City

Court against J.Z. seeking payment of treatment costs. During the trial the respondent motioned for inclusion of the insurance company Alfa in the proceedings as a co-respondent. The motion was granted.

Under the decision of Kutaisi City Court, insurance company Alfa was ordered to pay costs for J.Z.'s treatment – GEL 3 912.

A motor vehicle deemed as an object of crime by the prosecution was returned to the beneficiary of GYLA's legal aid

On May 11, 2012, investigation against G.K. and G.J. was instituted in MIA's Dusheti District Division under Article 19 and para.3 of Article 177 of the Criminal Code of Georgia – stealing perpetrated by a group's conspiracy - on charges of stealing two sacks of sand. GYLA's lawyer was defending interests of an underage G.K. As defendants clarified, the sand had been scattered in the street, unattended, and for completing rehabilitation works of their home they attempted to take the sand publicly, during the daylight. Under the decision of Mtskheta District Court, a plea bargain was concluded between the prosecutor and the defendants, whereas the motor vehicle that belonged to the underage G.K.'s family and had been seized as an object of crime was transferred into the ownership of the state free of charge.

Plea bargain was the initiative of the defendants, whereas seizure of the motor vehicle was deemed as unlawful by GYLA's lawyer since the crime was prevented at the time of stuffing sacks with the sand and the defendants had not used the motor vehicle for committing the crime. Photo material, witness statements and other evidence indisputably established the fact that the motor vehicle was absent from the crime scene.

The prosecution supported the defense's demand and seized motor vehicle was returned to the family of G.K.

G.V. managed to receive inheritance with GYLA's assistance

GYLA's branch in Kutaisi provided legal aid to G.V. who factually took ownership of inheritance following his father's death, without applying to the notary for certificate of inheritance or registering the inherited property in Public Register. Later, in May 2012, he learned that under the September 19, 2008 decision of Imereti Arbitration Chamber, N.V. and G.V. were recognized as owners of the property left by his father.

With GYLA's assistance G.V. applied to Kutaisi Appellate Court, chamber of civil cases, seeking recognition of the September 19, 2008 decision of Imereti Arbitration Chamber as null and void.

Under the June 30, 2012 decision of Kutaisi Appellate Court's Chamber of Civil Cases, G.V.'s claim was granted and the September 19, 2008 decision of Imereti Arbitration Chamber was declared null and void. Based on the decision, G.V. will now be able to register in the Public Register the property left by his father under his name and with ownership right.

With the assistance of GYLA, N.Kh. could maintain property right over the portion of the land plot he had occupied, thus avoiding illegal dismantling of the house

GYLA's branch in Adjara provided legal aid to N.Kh., whose certificate of ownership issued for the 4 000 sq.m. of land plot he had occupied arbitrarily was abolished by the Commission for Recognition of the Right to Ownership under the Kobuleti Municipality Sakrebulo. Further, due to the construction works carried out on the land plot, Supervision Service of Kobuleti Municipality Gamgeoba imposed fine in the amount of GEL 2000 on N.Kh. on the grounds that he was allegedly building a house on the land plot owned by the state, and was ordered to dismantle the house under construction. Lawyers of GYLA's branch in Kutaisi filed in court against both allegations. Lawyers filed in Batumi City Court against the administrative act on abolishment of property rights as unsubstantiated and groundless. The court upheld arguments of the applicant and granted the claim in part. Specifically, it declared the impugned administrative-legal act as void and referred the case back to the Commission for further review. Following administrative proceedings the Commission annulled the certificate of ownership right again. The decision was appealed in Batumi City Court. Although the claim was substantiated, the court turned did not uphold any of the significant factual or legal circumstances and rejected N.Kh.'s claim. We filed an appeal in Kutaisi Appellate Court which paid due attention to factual and legal circumstances in the case and ordered parties to discuss settlement. The litigation in Kutaisi Appellate Court was terminated based on settlement between the parties. According to the settlement, N.Kh.'s ownership right to the 2 000 sq.m. land plot was restored. After the disputed land plot remained under the ownership of N.Kh. pursuant to the said decision, another claim of N.Kh. was also granted and the act on dismantling of the construction and imposition of fine was declared null and void. It

allowed N.Kh. to continue building the house.

With the assistance of GYLA the legal entity of public law, National Bureau of Enforcement deposited GEL 13 667 on the account of O.M.T LLC

Lawyer of GYLA's office in Adjara provided legal aid to O.M.T. LLC. The National Bureau of Enforcement was refusing to transfer GEL 13 776 to the company deposited by Tbilisi City Hall in favor of the company. The company applied to the Bureau a number of times, requesting transfer of the money, but to no avail. GYLA filed against the Enforcement Bureau's failure to act in higher administrative agency and afterwards, in Batumi City Court, requesting the National Bureau of Enforcement to be ordered to transfer the money. The case was concluded with a settlement and the Bureau deposited the full amount – GEL 13 667 – on the account of O.M.T. LLC within two weeks after the court's ruling was submitted to it.

With the assistance of GYLA, G.Sh.'s movable property was released from impoundment

GYLA's branch in Adjara provided legal assistance to G.Sh. whose movable property had been impounded by the Enforcement Bureau of Guria in order to enforce court's verdict delivered against his former spouse, M.G.

The applicant filed a civil lawsuit in Batumi City Court against the Ministry of Finance and M.G., seeking release of the movable property from impoundment. Later, the chief prosecutor of Georgia got involved in the case instead of the Ministry of Finance, whose interests were protected by the legal entity of public law, the National Bureau of Enforcement through delegation of power.

Batumi City Court upheld arguments of the applicant contending that M.G. was not the owner of the impounded property and granted G.Sh's claim in full. The property was released from impoundment.

Mother's parenting right was restricted in favor of underage A.V.'s

With the assistance of GYLA's office in Gori, parenting right of a mother of an underage A.V. was restricting for violating the child's rights and legal interests. In 2010 the mother abandoned her child and left him with the father whose only income was welfare allowance for IDPs. Having abandoned her child, the mother moved to another city and started working. For almost two years she refused to take care of the

child. To the contrary, she received monthly allowance for IDPs, leaving her child without the source of income. The court took into account the factual circumstances as well as the findings of a social worker about the necessity to restrict the mother's parenting right and granted the claim. For her failure to fulfill her duties related to upbringing of the child, the mother's parenting right - authorized representation - was restricted. Further, she was ordered to pay monthly alimony in the amount of GEL 80 in favor of the underage child.

With the assistance of GYLA, place of residence of K.K.'s mother was determined as K.K.'s place of residence

With the assistance of GYLA's office in Gori, based on the act of settlement, place of residence of K.K.'s mother was determined as K.K.'s place of residence.

K.K.'s parents have been divorced since 2010. The underage child was left to live with her father. On April 11, 2012, K.K. willingly left her father and moved in with her mother. The child categorically refused to return to his father and informed a social worker that she had been subject to inhumane treatment by his father and his close relatives. In view of changed circumstances, the mother had to apply to court with the request of changing the place of her child's residence. Evidence submitted by GYLA's lawyer proved facts of violation of rights of the child, which was further reinforced by testimonies of a social worker and a psychologist questioned on the basis of a motion filed by GYLA's lawyers. During the trial the respondent offered to settle. Based on the act of settlement, applicant's claim was granted and the place of residence of K.K.'s mother was determined as K.K.'s place of residence. Father of the child was allowed to take the child to his home once every two weeks - from Friday through Sunday, and for a week during the winter and summer breaks.

With the assistance of GYLA's lawyers, juveniles were granted with alimony

GYLA's office in Gori was litigating four cases before court, for protection of interests of juveniles. As a result, the court awarded 9 children - A.T., G.T., M.Ch., G.Ch, A.Ch, Sh.Sh., G.T., L.T. and G.T. with alimonies in the amount of GEL 100 each. The court upheld applicant's position in full, contending that respondents - fathers of the children - failed to provide adequate care and necessary living conditions in frames of their financial capability.

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