



COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

SECOND SECTION

CASE OF CASTIGLIONI v. ITALY

(Application no. 30877/96)

JUDGMENT
(Friendly settlement)

STRASBOURG

1 March 2001

In the case of Castiglioni v. Italy,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,

Mr A.B. BAKA,

Mr B. CONFORTI,

Mr P. LORENZEN,

Mrs M. TSATSA-NIKOLOVSKA,

Mr E. LEVITS,

Mr A. KOVLER, *judges*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 8 February 2001,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 30877/96) against Italy lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two Italian nationals, Mrs Enrica Castiglioni and Mr Carlo Castiglioni (“the applicants”), on 8 March 1996.

2. The applicants were represented by Mrs R. Bentivoglio, a lawyer practising in Legnano (Milan). The Italian Government (“the Government”) were represented by their Agent, Mr U. Leanza, and by their co-agent, Mr V. Esposito.

3. The applicants complained about their prolonged inability - through lack of police assistance - to recover possession of their apartment and about the duration of the eviction proceedings.

4. On 30 May 2000, after obtaining the parties’ observations, the Court declared the application admissible.

5. On 5 December 2000 and on 20 December 2000, the applicants and the Agent of the Government respectively submitted formal declarations proposing a friendly settlement of the case.

THE FACTS

6. The applicants are the owners of an apartment in Milan, which they had let to V.V.. In a registered letter of 13 December 1989, the applicants informed the tenant that they intended to terminate the lease on expiry of the term on 30 June 1990 and asked her to vacate the premises by that date.

In a writ served on the tenant on 25 January 1990, the applicants reiterated their intention to terminate the lease and summoned the tenant to appear before the Milan Magistrate.

7. By a decision of 8 March 1990, which was made enforceable on 14 March 1990, the Milan Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 30 April 1991.

8. On 10 May 1991, the applicants served notice on the tenant requiring her to vacate the premises. On 6 June 1991, they served notice on the tenant informing her that the order for possession would be enforced by a bailiff on 29 June 1991.

9. Between 29 June 1991 and 8 February 1994, the bailiff made 11 attempts to recover possession. Each attempt proved unsuccessful, as, under the statutory provisions providing for the staggering of evictions, the applicants were not entitled to police assistance in enforcing the order for possession.

10. On 15 April 1994, the applicants made a statutory declaration that they urgently required the premises as accommodation for their ascendants.

11. Between 29 April 1994 and 9 October 1997, the bailiff made 11 attempts to recover possession. Each attempt proved unsuccessful, as the applicants were never granted the assistance of the police in enforcing the order for possession.

12. In a registered letter of 26 November 1997, the tenant informed the applicants that she had vacated the premises.

THE LAW

13. On 20 December 2000, the Court received the following declaration from the Government:

I declare that the Government of Italy offer to pay 20,000,000 ITL to Mrs Enrica CASTIGLIONI and Mr Carlo CASTIGLIONI with a view to securing a friendly settlement of the application registered under no. 30877/96. This sum shall cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable immediately after the notification of the judgment delivered by the Court pursuant to Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

This declaration does not entail any acknowledgement by the Government of a violation of the European Convention on Human Rights in the present case.

The Government further undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention.

14. On 5 December 2000 the Court received the following declaration signed by the applicants:

I note that the Government of Italy are prepared to pay a sum totalling 20,000,000 ITL covering both pecuniary and non-pecuniary damage and costs to Mrs Enrica CASTIGLIONI and Mr Carlo CASTIGLIONI with a view to securing a friendly settlement of application no. 30877/96 pending before the Court.

I accept the proposal and waive any further claims in respect of Italy relating to the facts of this application. I declare that the case is definitely settled.

This declaration is made in the context of a friendly settlement which the Government and the applicants have reached.

I further undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court's judgment.

15. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

16. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list;
2. *Takes note* of the parties' undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 1 March 2001 pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President