



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

SECOND SECTION

CASE OF D.L. and M.A. v. ITALY

(Application no. 31926/96)

JUDGMENT
(Friendly settlement)

STRASBOURG

19 April 2001

In the case of D.L. and M.A. 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 G. BONELLO,

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 5 April 2001,

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

PROCEDURE

1. The case originated in an application (no. 31926/96) 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 D.L. and Mr M.A. (“the applicants”), on 19 December 1995.

2. The applicants acted in person. 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 22 June 2000, after obtaining the parties’ observations, the Court declared the application admissible.

5. On 26 February 2001 and on 5 March 2001, 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 Florence, which they had let to G.M. In a registered letter of 11 June 1987, the applicants informed the tenant that they intended to terminate the lease on expiry of the term on 31 December 1987 and asked him to vacate the premises by that date.

7. On 13 June 1987, they served a notice to quit on the tenant, but he refused to leave.

8. In a writ served on the tenant on 19 September 1987, the applicants reiterated their intention to terminate the lease and summoned the tenant to appear before the Florence Magistrate.

9. By a decision of 26 November 1987, which was made enforceable on 4 December 1987, the Florence Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 31 December 1988.

10. On an unspecified date, the applicants served notice on the tenant requiring him to vacate the premises.

11. Between 25 July 1989 and 9 March 1993, the bailiff made 8 attempts to recover possession.

12. On 21 April 1993, the applicants made a statutory declaration that they urgently required the premises as accommodation for themselves.

13. On 30 June 1993, the applicants served notice on the tenant requiring him to vacate the premises.

14. On 30 July 1993, they served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 9 September 1993.

15. Between 9 September 1993 and 15 October 1997, the bailiff made 9 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.

16. In January 1998, the tenant left the apartment and the applicants repossessed it.

THE LAW

17. On 5 March 2001, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 35,000,000 ITL (17,500,000 ITL for each applicant) to Mrs D.L. and Mr M.A. with a view to securing a friendly settlement of the application registered under no. 31926/96. 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.”

18. On 26 February 2001, the Court received the following declaration signed by the applicants:

“We note that the Government of Italy are prepared to pay a sum totalling 35,000,000 ITL (17,500,000 ITL for each applicant) covering both pecuniary and non-pecuniary damage and costs to Mrs D.L. and Mr M.A. with a view to securing a friendly settlement of application no. 31926/96 pending before the Court.

We 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.

We 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.”

19. 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).

20. 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 19 April 2001 pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President