



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

SECOND SECTION

CASE OF ČAPČÍKOVÁ v. SLOVAKIA

(Application no. 38853/97)

JUDGMENT

STRASBOURG

19 April 2001

In the case of Čapčíková v. Slovakia,

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,

Mrs V. STRÁŽNICKÁ,

Mr P. LORENZEN,

Mr M. FISCHBACH,

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. 38853/97) against the Slovak Republic 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 a Slovak national, Mrs Eleonóra Čapčíková (“the applicant”), on 14 October 1997.

2. The Slovak Government (“the Government”) were represented by their Agent, Mr R. Fico to whom Mr P. Vršanský later succeeded in the exercise of this function.

3. The applicant complained under Article 6 § 1 of the Convention about the length of two sets of civil proceedings and about a judicial decision on procedural costs.

4. The case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention.

5. On 6 April 2000, after obtaining the parties’ observations, the Court declared the application admissible.

6. On 4 May 2000, after an exchange of correspondence, the Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 14 February 2001 and on 12 March 2001 the applicant and the Agent of the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

1. Proceedings concerning the estate of the applicant's mother

7. On 17 May 1994 the applicant's sister initiated proceedings concerning distribution of her mother's estate.

8. By decision which was served on 27 April 1999 the District Court determined the shares of the estate.

9. On 11 May 1999 the applicant's sister appealed.

10. On 24 August 1999 the Banská Bystrica Regional Court (*Krajský súd*) quashed the decisions complained of and sent the case back to the District Court. The Regional Court's decisions were served on the applicant on 9 and 12 November 1999 respectively.

11. On 7 March 2000 the Zvolen District Court determined the estate. On 14 November 2000 the Banská Bystrica Regional Court upheld this decision.

2. Proceedings concerning the estate of the applicant's father

12. On 9 July 1992 proceedings were brought before the Levice District Court with a view to determining the estate of the applicant's father.

13. On 25 February 1999 the clerk determined the estate. On 12 March 1999 the Levice District Court delivered a formal decision to this effect.

14. On 1 April 1999 the applicant's sister appealed. On 31 May 1999 the Nitra Regional Court quashed the District Court's decision of 12 March 1999.

15. On 29 January 2001 the Levice District Court determined and distributed the estate.

3. Proceedings concerning the ownership of the house of the applicant's parents

16. The applicant considered that her sister had unlawfully taken out a mortgage on a house which had been built by her late parents. On 4 November 1996 the applicant lodged an action with the Zvolen District Court claiming that the house formed part of her parents' estate and that she should be granted the costs of the proceedings.

17. On 14 January 1997 the Zvolen District Court decided that half of the house was to be included in the estate of the applicant's father and the other half in the estate of her mother. It further ordered the defendant to reimburse the court fees the applicant had paid in advance and also the fees of the applicant's lawyer.

18. On 11 February 1997 the applicant's sister appealed. She claimed that the fees of the applicant's lawyer had not been determined in

accordance with the relevant provisions of the Lawyers' Fees Regulation of 1990.

19. On 27 March 1997 the Banská Bystrica Regional Court modified the first instance judgment in that it refused reimbursement of the procedural costs to the applicant. On 27 October 1997 the Supreme Court rejected the applicant's appeal on points of law against this decision as such a remedy was not available.

THE LAW

20. On 12 March 2001 the Court received the following declaration from the Agent of the Government:

"I declare that the Government of the Slovak Republic offer to pay 200,000 (two hundred thousand) Slovak korunas to Ms Eleonóra Čapčíková with a view to securing a friendly settlement of her application registered under No. 38853/97. This sum shall cover any damage and 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.

The present declaration does not entail any acknowledgment by the Government of the Slovak Republic of a violation of the European Convention on Human Rights in the present case.

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

21. On 14 February 2001 the Court received the following declaration signed by the applicant:

"I note that the Government of the Slovak Republic are prepared to pay 200,000 (two hundred thousand) Slovak korunas (covering both damage and costs) with a view to securing a friendly settlement of my application No. 38853/97 pending before the Court.

I accept the proposal and waive any further claims in respect of the Slovak Republic related to the facts of the aforesaid application until the delivery by the Court of a judgment pursuant to Article 39 of the European Convention on Human Rights. I declare that the case is definitely settled.

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

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

22. 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).

23. 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