



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

SECOND SECTION

CASE OF IMMOBILIARE ANBA v. ITALY

(Application no. 31916/96)

JUDGMENT
(Friendly Settlement)

STRASBOURG

4 October 2001

In the case of Immobiliare Anba 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,

Mrs M. TSATSA-NIKOLOVSKA,

Mr E. LEVITS,

Mr A. KOVLER, *judges*,

Mr G. RAIMONDI, *ad hoc judge*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 13 September 2001,

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

PROCEDURE

1. The case originated in an application (no. 31916/96) 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 an Italian company, Immobiliare Anba (“the applicant”), on 20 February 1996.

2. The applicant was represented by Mrs G. Minoli, a lawyer practising in Milan. The Italian Government (“the Government”) were represented by their Agent, Mr U. Leanza, and by their co-agent, Mr V. Esposito.

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

4. On 22 March 2001, after obtaining the parties’ observations, the Court declared the application admissible.

5. On 25 June 2001 and on 21 June 2001, the applicant and the Agent of the Government respectively submitted formal declarations proposing a friendly settlement of the case.

THE FACTS

6. The applicant is the owner of an apartment in Milan, which it had let to N.S.H.R.

7. In a writ served on the tenant on 19 February 1987, the applicant communicated its intention to terminate the lease and summoned the tenant to appear before the Milan Magistrate.

8. By a decision of 25 July 1987, the Magistrate refused to uphold the validity of the notice to quit and declined jurisdiction on account of the value of the case and indicated that the Milan District Court had jurisdiction to hear it.

9. On 15 September 1987, the applicant resumed the proceedings before the Milan District Court.

10. The court deliberated on 10 January 1989 and in a judgment of the same date, the text of which was deposited with the registry on 20 February 1989, allowed the applicant's claim and ordered that the premises be vacated within six months as from the date on which the judgment would become enforceable. On 31 May 1989, the Milan District Court judgment became enforceable.

11. On 11 November 1989, the applicant served notice on the tenant requiring him to vacate the premises.

12. Between 20 December 1989 and 13 March 1999, the bailiff made forty-two attempts to recover possession. Each attempt proved unsuccessful, as the applicant was not entitled to police assistance in enforcing the order for possession.

13. On 26 April 1999, the applicant recovered possession of the premises with the assistance of the police.

THE LAW

14. On 21 June 2001, the Court received the following declaration from the Government:

"I declare that the Government of Italy offer to pay 35,000,000 ITL to Immobiliare Anba with a view to securing a friendly settlement of the application registered under no. 31916/96. This sum shall cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable within three months starting from 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."

15. On 25 June 2001, the Court received the following declaration signed by the applicant's representative:

"I note that the Government of Italy are prepared to pay a sum totalling 35,000,000 ITL covering both pecuniary and non-pecuniary damage and costs to Immobiliare Anba with a view to securing a friendly settlement of application no. 31916/96 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 applicant company 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."

16. 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).

17. 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 4 October 2001 pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President