



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

SECOND SECTION

CASE OF CASTELLO v. ITALY

(Application no. 32645/96)

JUDGMENT
(Friendly Settlement)

STRASBOURG

4 October 2001

In the case of Castello v. Italy,

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

Mr C.L. ROZAKIS, *President*,

Mr G. BONELLO,

Mrs V. STRÁŽNICKÁ,

Mr M. FISCHBACH,

Mrs M. TSATSA-NIKOLOVSKA,

Mr E. LEVITS, *judges*,

Mr G. RAIMONDI, *ad hoc judge*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 20 September 2001,

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

PROCEDURE

1. The case originated in an application (no.32645/96) 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 national, Mr Massimo Castello (“the applicant”), on 11 March 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 his prolonged inability - through lack of police assistance - to recover possession of his apartment and about the duration of the eviction proceedings.

4. The applicant died on 14 April 1997. The applicant’s heirs, namely MM. Giorgio Castello, Sergio Castello, Nicolò Vintani, Duilio Vintani and Vittoria Veronesi, expressed the wish to continue the proceedings before the Court.

5. On 5 April 2001, after obtaining the parties’ observations, the Court declared the application admissible.

6. On 5 July 2001 and on 25 June 2001, the applicant’s heirs and the Agent of the Government respectively submitted formal declarations proposing a friendly settlement of the case.

THE FACTS

7. In 1986, the applicant became the owner of an apartment, which had previously been let to A.F.

8. In a registered letter of 23 April 1990, the applicant informed the tenant that he intended to terminate the lease on expiry of the term on 31 December 1990 and asked him to vacate the premises by that date.

9. In a writ served on the tenant on 23 May 1990, the applicant reiterated his intention to terminate the lease and summoned the tenant to appear before the Milan Magistrate.

10. By a decision of 12 June 1990, which was made enforceable on 21 June 1990, the Milan Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 31 December 1991.

11. On 9 December 1991, the applicant served notice on the tenant requiring him to vacate the premises.

12. On 13 January 1992, he served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 14 February 1992.

13. Between 14 February 1992 and 25 March 1999, the bailiff made twenty-five attempts to recover possession. Each attempt proved unsuccessful as, under the statutory provisions providing for the staggering of evictions, the applicant was not entitled to police assistance in enforcing the order for possession.

14. On 27 July 1999, pursuant to Section 6 of Law No. 431/98, the tenant asked the Milan District Court to set a new date for the enforcement of the order for possession. The date was set for 2 April 2001.

THE LAW

15. On 27 June 2001, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay a total of 50,000,000 ITL (10,000,000 ITL for each applicant) to Mr Massimo Castello’s heirs, namely Mr Giorgio Castello, Mr Sergio Castello, Mr Nicolò Vintani, Mr Dulio Vintani and Mrs Vittoria Silvia Veronesi, with a view to securing a friendly settlement of the application registered under no. 32645/96. 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.”

16. On 12 July 2001, the Court received the following declaration signed by the applicant’s heirs:

“I note that the Government of Italy are prepared to pay a sum totalling 50,000,000 ITL (10,000,000 ITL for each applicant) covering both pecuniary and non-pecuniary damage and costs to Mr Massimo Castello’s heirs, namely Mr Giorgio Castello, Mr Sergio Castello, Mr Nicolò Vintani, Mr Dulio Vintani and Mrs Vittoria Silvia Veronesi, with a view to securing a friendly settlement of application no. 32645/96 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 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.”

17. 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).

18. 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