



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

FIRST SECTION

CASE OF SARTORELLI v. ITALY

(Application no. 47895/99)

JUDGMENT
(Friendly settlement)

STRASBOURG

24 October 2002

This judgment is final but it may be subject to editorial revision

In the case of Sartorelli v. Italy,

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

Mr C.L. ROZAKIS, *President*,

Mrs F. TULKENS,

Mr P. LORENZEN,

Mrs N. VAJIĆ,

Mr E. LEVITS,

Mr A. KOVLER,

Mr V. ZAGREBELSKY, *judges*,

and Mr E. FRIBERGH, *Section Registrar*,

Having deliberated in private on 10 October 2002,

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

PROCEDURE

1. The case originated in an application (no. 47895/99) against the Italian 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 an Italian national, Mrs Mariantonia Sartorelli (“the applicant”), on 16 June 1998.

2. The applicant was represented by Mr M. Corradi, a lawyer practising in Piacenza. 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 her prolonged inability - through lack of police assistance - to recover possession of her apartment and about the duration of the eviction proceedings.

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 14 March 2002, having obtained the parties' observations, the Court declared the application admissible.

6. On 10 September and on 17 September 2002 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

7. The applicant is the owner of an apartment in Milan, which she had let to F.G.

8. In a registered letter of 18 December 1985, the applicant informed the tenant that she intended to terminate the lease on expiry of the term on 28 June 1986 and asked him to vacate the premises by that date.

9. In a writ served on the tenant on 22 October 1986, the applicant reiterated her intention to terminate the lease and summoned the tenant to appear before the Milan Magistrate.

10. By a decision of 17 December 1986, which was made enforceable on 26 January 1987, the Milan Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 18 December 1987.

11. On 23 November 1987, the applicant served notice on the tenant requiring him to vacate the premises.

12. On 12 January 1988 she served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 12 February 1988.

13. Between 12 February 1988 and 27 January 2000, the bailiff made forty-five attempts to recover possession.

14. Each attempt proved unsuccessful as, under the statutory provisions providing for the suspension, the applicant was not entitled to police assistance in enforcing the order for possession.

15. On 4 April 2000, the applicant recovered possession of the apartment.

THE LAW

16. On 17 September 2002 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 12,000 (twelve thousand) Euros to Mrs Mariantonio Sartorelli with a view to securing a friendly settlement of the application registered under no. 47895/99. 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 referral of the case to the Grand Chamber under Article 43 § 1 of the Convention.”

17. On 10 September 2002 the Court received the following declaration signed by the applicant:

“I note that the Government of Italy are prepared to pay a sum totalling 12,000 (twelve thousand) Euros covering both pecuniary and non-pecuniary damage and costs to Mrs Mariantonia Sartorelli with a view to securing a friendly settlement of application no. 47895/99 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 referral of the case to the Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court's judgment.”

18. 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).

19. 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 24 October 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Erik FRIBERGH
Registrar

Christos ROZAKIS
President