



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

FOURTH SECTION

CASE OF GÓRKA v. POLAND

(Application no. 55106/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

5 November 2002

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

In the case of Górka v. Poland,

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

Sir Nicolas BRATZA, *President*,

Mr M. PELLONPÄÄ,

Mr A. PASTOR RIDRUEJO,

Mrs V. STRÁŽNICKÁ,

Mr R. MARUSTE,

Mr S. PAVLOVSCHI,

Mr L. GARLICKI, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 8 October 2002,

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

PROCEDURE

1. The case originated in an application (no. 55106/00) against the Republic of Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Polish national, Mrs Janina Górka ("the applicant"), on 1 February 1999.

2. The applicant was represented by Mr Z. Sobiech, a lawyer practising in Warsaw, Poland. The Polish Government ("the Government") were represented by their Agent, Mr K. Drzewicki, of the Ministry of Foreign Affairs.

3. The applicant complained under Article 6 § 1 of the Convention about the length of civil proceedings.

4. On 29 January 2002, after obtaining the parties' observations, the Court declared the application admissible.

5. On 8 August 2002 the Government submitted their and the applicant's formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1915 and lives in Kraków, Poland.

7. The proceedings in question, which concerned the distribution of an inheritance, began on 10 September 1986. On that date the applicant's sister-in-law, Z.S.-G. filed with the Warsaw District Court (*Sąd Rejonowy*) an application for distribution of the estate left by the applicant's deceased brother.

8. Between 10 September 1986 and 11 June 1991 the court held seven hearings (of which two were adjourned) and obtained four expert reports.

9. On 11 June 1991 the District Court gave a partial decision (*postanowienie częściowe*). On 14 April 1992 that decision was quashed on appeal by the Warsaw Regional Court (*Sąd Wojewódzki*). The case was remitted to the District Court.

10. In the course of the subsequent proceedings the District Court held a number of hearings and obtained several expert reports.

11. On 18 November 1998 the District Court gave its second partial decision, determining the assets which constituted the estate left by the applicant's brother. It further proceeded to the sharing out of the property in the estate. In that connection, it needed to obtain fresh evidence from experts.

12. On 28 May 2001 the Warsaw District Court gave a decision. On 26 June 2001 E.D., one of the parties to the proceedings, appealed. The applicant appealed on 28 June 2001. On 6 August 2001 the District Court refused to proceed with her appeal as she had failed to comply with a number of procedural requirements.

It appears that the proceedings are pending.

THE LAW

13. On 13 August 2002 the Court received from the Government two declarations signed by the parties. The applicant's declaration was made on 17 July 2002 and read as follows:

"I note that the Government of Poland are prepared to pay me the sum of 10,000 Polish zlotys covering pecuniary and non-pecuniary damage and costs with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

I accept the proposal and waive any further claims against Poland in respect of the facts of this application. I declare that this constitutes a final settlement of the case.

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

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

14. The Government's declaration, which was made on 7 August 2002, read:

"I declare that the Government of the Republic of Poland offer to pay to Ms Janina Górka the sum of 10,000 Polish zlotys with a view to securing a friendly settlement of the application no. 55106/00 pending before the European Court of Human Rights in Strasbourg. This sum is to cover any pecuniary and non-pecuniary damage as well as

costs, and it will be payable to the applicant after signing the declarations by the parties concerned, however not later than three months after the notification of the decision delivered by the Court pursuant to the Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

I declare at the same time that the offer of the above-mentioned amount has been made in connection with duration of the proceedings in the applicant's case before the organs of the Polish judiciary.

This declaration does not entail any acknowledgement by the Government of a violation of the European Convention on Human Rights in the present case.

I further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the European Convention.

[Signed:] Krzysztof Drzewicki Agent of the Government of Poland.”

15. 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).

16. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT

1. *Decides* unanimously 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 5 November 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President