



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

FIRST SECTION

CASE OF A.M.M. v. ITALY

(Application no. 34742/97)

JUDGMENT
(Friendly settlement)

STRASBOURG

28 November 2002

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

In the case of A.M.M. 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 L. FERRARI BRAVO,

Mr G. BONELLO,

Mr P. LORENZEN,

Mrs N. VAJIĆ,

Mr E. LEVITS, *judges*,

and Mr S. NIELSEN, *Deputy Section Registrar*,

Having deliberated in private on 7 November 2002,

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

PROCEDURE

1. The case originated in an application (no. 34742/97) 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 A.M.M. (“the applicant”), on 7 December 1996.

2. The applicant was represented by Mr F.C. Bianca, a lawyer practising in Rome. The Italian Government (“the Government”) were represented by their Agent, Mr U. Leanza, and by their co-agent, Mr V. Esposito. The President of the Chamber acceded to the applicant's request not to have her name disclosed (Rule 47 § 3 of the Rules of Court).

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. On 15 November 2001, having obtained the parties' observations, the Court declared the application admissible.

5. On 18 September 2002 and on 27 September 2002 the Government and the applicant respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant's father was the owner of an apartment in Rome, which he had let to M.G.

7. In a writ served on the tenant on 9 March 1990, he communicated his intention to terminate the lease and summoned the tenant to appear before the Rome Magistrate.

8. By a decision of 20 June 1990, which was made enforceable on the same day, the Rome Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 30 July 1991.

9. On 17 October 1991, the applicant's father served notice on the tenant requiring him to vacate the premises.

10. On 15 November 1991, he served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 17 December 1991.

11. Between 17 December 1991 and 17 February 1995, the bailiff made fifteen attempts to recover possession. In the meantime, on 10 March 1992, the applicant's father died and the applicant inherited the apartment.

12. On 6 December 1993 and 28 April 1995, the applicant made a statutory declaration that she urgently required the premises as accommodation for her daughters.

13. Between 28 April 1995 and 15 September 1999, the bailiff made seventeen attempts to recover possession. Each attempt proved unsuccessful, as the applicant was never granted the assistance of the police in enforcing the order for possession.

14. On 3 April 2000, the applicant recovered the apartment because the tenant vacated the premises spontaneously.

THE LAW

15. On 18 September 2002 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 14,700 (fourteen thousand and seven hundred) Euros to Mrs A.M.M. with a view to securing a friendly settlement of the application registered under no. 34742/97. 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.”

16. On 27 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 14,700 (fourteen thousand and seven hundred) Euros covering both pecuniary and non-pecuniary damage and costs to Mrs A.M.M. with a view to securing a friendly settlement of application no. 34742/97 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.”

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 28 November 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President