



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

FIRST SECTION

CASE OF FIORENTINI VIZZINI v. ITALY

(Application no. 39451/98)

JUDGMENT
(Friendly settlement)

STRASBOURG

19 December 2002

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

In the case of Fiorentini Vizzini 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,

Mrs S. BOTOUCHAROVA,

Mr V. ZAGREBELSKY, *judges*,

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

Having deliberated in private on 28 November 2002,

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

PROCEDURE

1. The case originated in an application (no. 39451/98) 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 Giovanna Fiorentini Vizzini (“the applicant”), on 17 June 1997.

2. The applicant acted in person. 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. On 13 December 2001, having obtained the parties' observations, the Court declared the application admissible.

5. On 10 October 2002 and on 24 October 2002 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant is the owner of an apartment in Milan, which she had let to V.C.

7. The tenant fell in rent arrears.

8. In a writ served on the tenant on 29 May 1984, the applicant informed the tenant of her intention to terminate the lease and summoned the tenant to appear before the Milan Magistrate.

9. By a decision of 5 June 1984, which was made enforceable on 5 July 1984, the Milan Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 5 June 1985.

10. On an unspecified date, the applicant served notice on the tenant requiring him to vacate the premises.

11. On an unspecified date the applicant served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 29 July 1986.

12. Between 29 July 1986 and 20 September 1993 the bailiff made twenty-five attempts to recover possession.

13. Each attempt proved unsuccessful, as the applicant was never granted the assistance of the police in enforcing the order for possession.

14. On 25 November 1993, the applicant recovered possession of the apartment.

THE LAW

15. On 24 October 2002 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 6,000 (six thousand) Euros to Mrs Giovanna Fiorentini Vizzini with a view to securing a friendly settlement of the application registered under no. 39451/98. 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. The Court received the following declaration signed by the applicant:

“I note that the Government of Italy are prepared to pay me a sum totalling 6,000 (six thousand) Euros covering both pecuniary and non-pecuniary damage and costs to with a view to securing a friendly settlement of application no. 39451/98 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 I 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 19 December 2002, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President