



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

FIRST SECTION

CASE OF GRAMICCIA v. ITALY

(Application no. 57636/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

6 February 2003

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

In the case of Gramiccia 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 S. NIELSEN, *Deputy Section Registrar*,

Having deliberated in private on 16 January 2003,

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

PROCEDURE

1. The case originated in an application (no. 57636/00) against the Italian Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two Italian nationals, Mrs Valeria Gramiccia and Mrs Anna Gramiccia (“the applicants”), on 23 April 2000.

2. The applicants were represented by Mr A. Botti, a lawyer practising in Rome. The Italian Government (“the Government”) were represented by their Agent, Mr U. Leanza, and by their co-agent, Mr F. Crisafulli.

3. The applicants complained about their prolonged inability – through lack of police assistance – to recover possession of their apartment and about the duration of the eviction proceedings.

4. On 26 March 2002, having obtained the parties' observations, the Court declared the application admissible.

5. On 19 November 2002 and on 6 December 2002, the applicants and the Agent of the Government respectively submitted formal declarations proposing a friendly settlement of the case.

THE FACTS

6. The applicants are the owners of an apartment in Rome, which they had let to G.R.

7. In a registered letter of 15 October 1990, the applicants informed the tenant that they intended to terminate the lease on expiry of the term on 31 December 1991 and asked him to vacate the premises by that date. The tenant told the applicants that he would not leave.

8. In a writ served on the tenant on 2 February 1991, the applicants reiterated their intention to terminate the lease and summoned the tenant to appear before the Rome Magistrate.

9. By a decision of 23 May 1991, 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 31 December 1992.

10. On 8 January 1993, the applicants served notice on the tenant requiring him to vacate the premises.

11. On 29 January 1993, they served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 25 February 1993.

12. Between 25 February 1993 and 29 January 2000 the bailiff made thirty-seven attempts to recover possession. Each attempt proved unsuccessful, as the applicants were not entitled to police assistance in enforcing the order for possession.

13. On 26 January 2000, the applicants recovered possession of the apartment.

THE LAW

14. On 6 December 2002, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay a sum totalling 4,085 (four thousand eighty-five) Euros to Mrs Anna Gramiccia and Mrs Valeria Gramiccia (2,042.50 Euros to each applicant) with a view to securing a friendly settlement of the application registered under no. 57636/00. 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.”

15. On 19 November 2002, the Court received from the applicants' representative the following declaration signed by the applicants:

“I note that the Government of Italy are prepared to pay a sum totalling totalling 4,085 (four thousand eighty-five) Euros (2,042.50 Euros to each applicant) covering both pecuniary and non-pecuniary damage and costs to Mrs Anna Gramiccia and Mrs Valeria Gramiccia with a view to securing a friendly settlement of application no. 57636/00 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 applicants 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.”

16. 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).

17. 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 6 February 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President