



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

FIRST SECTION

CASE OF G.G. v. ITALY

(Application no. 42414/98)

JUDGMENT
(Friendly settlement)

STRASBOURG

20 February 2003

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

In the case of G.G. v. Italy,

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

Mr C. ROZAKIS, *President*,

Mr P. LORENZEN,

Mrs N. VAJIĆ,

Mr E. LEVITS,

Mrs S. BOTOUCHAROVA,

Mr V. ZAGREBELSKY

Mrs E. STEINER, *judges*,

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

Having deliberated in private on 30 January 2003,

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

PROCEDURE

1. The case originated in an application (no. 42414/98) 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 an Italian national, Mrs G.G. (“the applicant”), on 10 February 1998.

2. The applicant was represented by Mr E. Baldi, a lawyer practising in Naples. The Italian Government (“the Government”) were represented by their Agent, Mr U. Leanza, and by their co-agent, Mr F. Crisafulli. 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.

5. On 7 May 2002, after obtaining the parties' observations, the Court declared the application admissible.

6. On 4 December 2002 and on 17 December 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 Naples, which she had let to E.F and then to his widow L.D'A.

8. In a writ of 7 November 1981, the applicant informed the tenant that she intended to terminate the lease on expiry of the term on 3 May 1982. She asked the tenant to vacate the premises by that date and summoned him to appear before the Naples Magistrate.

9. By a decision of 13 October 1983, the Naples Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 3 May 1984.

10. On 25 November 1983, E.F. opposed alleging the expiry of the lease on another date.

11. By a decision of 23 November 1984, the Naples District Court rejected the appeal of E.F. and served him notice that the order for possession would be enforced on 17 May 1990.

12. On 22 February 1990, the applicant served notice on the tenant informing her that the order for possession would be enforced by a bailiff on 17 May 1990.

13. Between 17 May 1990 and 15 December 1998, the bailiff made twenty-six attempts to recover possession.

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

15. According to law no. 431/98, the Naples Magistrate suspended the eviction proceedings until 15 May 1999.

16. On 1 June 1999, the applicant served notice on the tenant informing her that the order for possession would be enforced by a bailiff on 15 June 1999.

17. Between 15 June 1999 and 16 November 1999, the bailiff made six attempts to recover possession.

18. Each attempt proved unsuccessful, as the applicant was not entitled to police assistance in enforcing the order for possession.

19. On an unspecified date of 2001, the tenant died and the applicant recovered possession of the apartment.

THE LAW

20. On 17 December 2002 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 5,085 (five thousand eighty-five) Euros to Mrs G.G. with a view to securing a friendly settlement of the application registered under no. 42414/98. 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.”

21. On 4 December 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 5,085 (five thousand eighty-five) Euros covering both pecuniary and non-pecuniary damage and costs to Mrs G.G. with a view to securing a friendly settlement of application no. 42414/98 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 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.”

22. 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).

23. 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 20 February 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President