



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

FIRST SECTION

CASE OF SAVARESE v. ITALY

(Application no. 55673/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

20 February 2003

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

In the case of Savarese 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 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. 55673/00) 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, Mr Gerardo Savarese and Mr Raffaele Savarese (“the applicants”), on 29 February 2000

2. The applicants were represented by Mr V. Savarese, a lawyer practising in Nocera Inferiore (Salerno). 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, after obtaining the parties' observations, the Court declared the application admissible.

5. On 29 November 2002 and on 17 December 2002 the applicants and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

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

7. In a writ served on the tenant on 24 December 1983, the applicants informed the tenant of their intention to terminate the lease and summoned him to appear before the Nocera Inferiore Magistrate.

8. By a decision of 12 April 1984, which was made enforceable on the same day, the Nocera Inferiore Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 30 July 1985.

9. On 13 September 1985, 21 January 1988 and 11 January 1990, the applicants served notice on the tenant requiring him to vacate the premises.

10. On 12 March 1990, they served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 6 April 1990.

11. Between 6 April 1990 and 25 June 1990 the bailiff made two attempts to recover possession. Each attempt proved unsuccessful as, under the statutory provisions providing for the suspension, the applicants were not entitled to police assistance in enforcing the order for possession.

12. On 9 September 1999, they served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 6 October 1999.

13. Between 6 October 1999 and 17 January 2000, the bailiff made three attempts to recover possession. Each attempt proved unsuccessful, as the applicants were never granted the assistance of the police in enforcing the order for possession.

14. On 17 January 2000, the applicants recovered possession of the apartment.

THE LAW

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

“I declare that the Government of Italy offer to pay a sum totalling 2,500 (two thousand five hundred) Euros to Mr Gerardo Savarese and Mr Raffaele Savarese (1,250 Euros to each applicant) with a view to securing a friendly settlement of the application registered under no. 55673/00. 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.”

16. On 29 November 2002 the Court received the following declaration signed by the applicants' representative:

“I note that the Government of Italy are prepared to pay a sum totalling totalling 2,500 (two thousand five hundred) Euros (1,250 Euros to each applicant) covering both pecuniary and non-pecuniary damage and costs to Mr Gerardo Savarese and Mr Raffaele Savarese with a view to securing a friendly settlement of application no. 55673/00 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.”

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

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President