



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

FIRST SECTION

CASE OF ZITO and CORSI v. ITALY

(Application no. 54612/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

10 April 2003

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

In the case of Zito and Corsi 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 20 March 2003,

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

PROCEDURE

1. The case originated in an application (no. 54612/00) 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 Mauro Zito and Mrs Paola Corsi (“the applicants”), on 13 January 2000.

2. The applicants were represented by Mr E. Vannini, a lawyer practising in Florence. 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 7 March 2002, after obtaining the parties’ observations, the Court declared the application admissible.

5. On 3 February 2003 and on 7 February 2003 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 Florence, which they had let to M.N.

7. In a writ served on the tenant on 15 February 1986, the applicants informed the tenant of their intention to terminate the lease and summoned her to appear before the Florence Magistrate.

8. By a decision of 13 March 1986, which was made enforceable on 24 March 1986, the Florence Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 31 December 1988.

9. On 13 April 1989, the applicants made a statutory declaration that they urgently required the premises as accommodation for their son.

10. On 13 May 1989, the applicants served notice on the tenant requiring her to vacate the premises.

11. On 14 June 1989, they served notice on the tenant informing her that the order for possession would be enforced by a bailiff on 9 August 1989.

12. Between 9 August 1989 and 1 December 1998, the bailiff made nineteen 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.

13. Pursuant to Law no. 431/98, the enforcement proceedings were suspended until 3 November 1999.

14. By a decision of 3 July 2000, which was made enforceable on 6 September 2000, the Florence Magistrate ordered that the premises be vacated by 15 March 2001.

15. On 1 March 2001, the applicants served notice on the tenant informing her that the order for possession would be enforced by a bailiff on 15 March 2001.

16. Pursuant to Law no. 388/00 and then to Legislative Decree no. 247/01 the enforcement proceedings were suspended until 28 March 2002.

THE LAW

17. On 7 February 2003 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay a sum totalling 6,085 (six thousand eighty-five) Euros to Mr Mauro Zito and Mrs Paola Corsi (3,042.50 Euros to each applicant) with a view to securing a friendly settlement of the application registered under no. 54612/00. 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.”

18. On 3 February 2003 the Court received the following declaration signed by the applicants:

“I note that the Government of Italy are prepared to pay a sum totalling 6,085 (six thousand eighty-five) Euros to Mr Mauro Zito and Mrs Paola Corsi (3,042.50 Euros to each applicant) covering both pecuniary and non-pecuniary damage and costs with a view to securing a friendly settlement of application no. 54612/00 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.”

19. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). In this connection the Court considers that it has already specified the nature and extent of the obligations which arise for the respondent Government in cases concerning eviction of tenants (see *Immobiliare Saffi v. Italy* [GC], no. 22774/93, ECHR 1999-V), and the implementation thereof is currently pending before the Committee of Ministers. Therefore, a continuation of the examination of the present application is not required. In these circumstances the Court accepts 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).

20. 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 10 April 2003 pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President