



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

FOURTH SECTION

CASE OF SAGAN v. POLAND

(Application no. 6901/02)

JUDGMENT
(Friendly settlement)

STRASBOURG

24 June 2003

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

In the case of Sagan v. Poland,

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

Sir Nicolas BRATZA, *President*,
Mr M. PELLONPÄÄ,
Mrs V. STRÁŽNICKÁ,
Mr R. MARUSTE,
Mr S. PAVLOVSKI,
Mr L. GARLICKI,
Mr J. BORRERO BORRERO, *judges*,
and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 3 June 2003,

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

PROCEDURE

1. The case originated in an application (no. 6901/02) against the Republic of Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Polish national, Krystyna Sagan ("the applicant"), on 6 September 2001.

2. The Polish Government ("the Government") were represented by their Agent, Mr K. Drzewicki, of the Ministry of Foreign Affairs.

3. The applicant complained, *inter alia*, under Article 6 § 1 of the Convention about the length of a set of civil proceedings.

4. On 14 May 2002 the Court decided to communicate the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

5. On 6 December 2002, after an exchange of correspondence, the Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention. On 25 February and 12 March 2003 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1928 and lives in Namysłów, Poland.

7. In 1979 the applicant's sister and her husband filed with the Kluczbork District Court (*sąd rejonowy*) an action in which they requested

that the co-ownership of the house shared by them with the applicant be dissolved. They sought to be granted the sole ownership of the house on payment of a compensation to the applicant.

8. In 1981 the District Court dismissed the action.

9. In 1982 the Opole Regional Court (*sąd wojewódzki*) quashed that judgment and remitted the case for re-examination.

10. In 1983, having re-examined the case, the District Court granted the plaintiffs' claim. In 1984 the Regional Court amended that judgment.

11. Subsequently, the General Prosecutor filed an extraordinary appeal against the judgments of both courts.

12. In 1985 the Supreme Court quashed them and remitted the case for re-examination.

13. In 1988 the District Court after the re-examination again granted the plaintiffs' claim.

14. In October 1988 the Regional Court dismissed the applicant's appeal against that judgment. The First President of the Supreme Court filed an extraordinary appeal.

15. In 1991 the Supreme Court again quashed the judgments of both courts and remitted the case for re-examination.

16. On 27 October 1997 the Kluczbork District Court gave judgment. It dissolved the co-ownership and awarded the ownership of separate parts of the house to the parties. The applicant and the plaintiffs appealed.

17. On 5 August 1998 the Opole Regional Court dismissed both appeals. The applicant filed a cassation appeal with the Supreme Court.

18. On 12 June 2001 the Supreme Court refused to entertain that appeal.

THE LAW

19. The applicant complained under Article 6 § 1 of the Convention that the proceedings in her case had exceeded a reasonable time. She further complained under Articles 6 and 8 about the outcome of the proceedings.

A. Admissibility

20. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. The Court will therefore declare it admissible.

B. Solution reached

21. On 12 March 2003 the Court received the following declaration from the Government:

“I declare that, with a view to securing a friendly settlement of the above-mentioned case, the Government of Poland offer to pay 17,500 zlotys (PLN) to Krystyna Sagan. This sum (PLN 17,500) is to cover any pecuniary and non-pecuniary damage as well as costs, and it will be paid, free of any taxes that may be applicable, within three months from the notification of the decision taken by the Court pursuant to Article 37 § 1 of the Convention. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.”

22. On 25 February 2003 the Court had already received the following declaration signed by the applicant:

“I note that the Government of Poland are prepared to pay me the sum of 17,500 zlotys (PLN) covering pecuniary and non-pecuniary damage and costs with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum (PLN 17,500) will be paid, free of any taxes that may be applicable, within three months from the notification of the decision taken by the Court pursuant to Article 37 § 1 of the Convention. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

I accept the proposal and waive any further claims against Poland in respect of the facts of this application. I declare that this constitutes a final settlement of the case.

This declaration is made in the context of a friendly settlement which the Government and I have reached.”

23. The Court takes note of the agreement reached between the parties. 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 and 4 of the Rules of Court).

24. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Decides* to strike the case out of the list.

Done in English, and notified in writing on 24 June 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President