



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

FIRST SECTION

CASE OF L.B. AND OTHERS v. ITALY

(Application no. 46471/99)

JUDGMENT
(Friendly settlement)

STRASBOURG

31 July 2003

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

In the case of L.B. and Others v. Italy,

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

Mr C.L. ROZAKIS, *President*,

Mr P. LORENZEN,

Mrs F. TULKENS,

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 8 July 2003,

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

PROCEDURE

1. The case originated in an application (no. 46471/99) 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 three Italian nationals, Mr L.B., Mrs G.B. and Mrs T.B.P. (“the applicants”), on 2 October 1998.

2. The applicants are represented by MM. G. and R. Vitucci Righini di Sant’Albino, lawyers practising in Turin. The Italian Government (“the Government”) were represented by their successive Agents, respectively Mr U. Leanza and Mr I. M. Braguglia, and by their successive co-agents, respectively Mr V. Esposito and Mr F. Crisafulli.

3. The applicants complained under Article 1 of Protocol No. 1 to the Convention that their inability to recover possession of their apartment amounted to a violation of the right to property.

The applicants further complained under Article 6 of the Convention 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 11 June 2003 and on 10 June 2003 the applicants and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicants were born in 1908, 1929 and 1935 and live respectively one in Turin and the others in Tronzano Vercellese.

7. They are the owners of a flat in Turin, which they had let to M.M.

8. In a writ served on the tenant on 8 January 1992, the applicants informed the tenant of their intention to terminate the lease and summoned him to appear before the Turin Magistrate.

9. By a decision of 19 February 1992, which was made enforceable on the same day, the Turin Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 19 February 1993.

10. On 22 February 1993, the applicants served notice on the tenant requiring him to vacate the premises.

11. On 18 March 1993 they served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 2 April 1993.

12. Between 2 April 1993 and 13 January 1999, the bailiff made fourteen attempts to recover possession. Each attempt proved unsuccessful, as the applicants were not entitled to police assistance in enforcing the order for possession.

13. Pursuant to article no. 6 of Law no. 431/98, the evictions proceedings were suspended until 20 January 2000.

14. On 27 January 2000, the applicants recovered possession of the flat.

THE LAW

15. On 10 June 2003 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay a sum totalling 4,585 (four thousand five hundred eighty-five) Euros to Mr L.B., Mrs G.B. and Mrs T.B.P. (1,528.34 Euros to Mr L.B., 1,528.33 Euros to Mrs G.B. and 1,528.33 Euros to Mrs T.B.P.) with a view to securing a friendly settlement of the application registered under no. 46471/99. 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 11 June 2003 the Court received the following declaration signed by Mr L.B.:

“I note that the Government of Italy are prepared to pay a sum totalling 4,585 (four thousand five hundred eighty-five) Euros to Mr L.B., Mrs G.B. and Mrs T.B.P. (1,528.34 Euros to Mr L.B., 1,528.33 Euros to Mrs G.B. and 1,528.33 Euros to Mrs T.B.P.) covering both pecuniary and non-pecuniary damage and costs with a view to securing a friendly settlement of application no. 46471/99 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). 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 question of the performance of those obligations 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).

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 31 July 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President