



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

FIRST SECTION

CASE OF SARTORELLI v. ITALY

(Application no. 42357/98)

JUDGMENT
(Friendly settlement)

STRASBOURG

9 October 2003

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

In the case of Sartorelli 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 V. ZAGREBELSKY,

Mrs E. STEINER, *judges*,

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

Having deliberated in private on 18 September 2003,

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

PROCEDURE

1. The case originated in an application (no. 42357/98) against the Italian Republic lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by an Italian national, Mrs Mariantonio Sartorelli (“the applicant”), on 15 June 1998.

2. The applicant was represented by Mr Marco Corradi, a lawyer practising in Piacenza. 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. Invoking Article 6 § 1 of the Convention, the applicant complained about the length of the eviction proceedings. The Court also examined the case under Article 1 of Protocol No. 1.

4. Following communication of the application to the Government by the Commission, the case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention. On 14 November 2002, having obtained the parties' observations, the Court declared the application admissible.

5. On 4 June 2003 and on 10 June 2003, the applicant and the Agent of the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1931 and lives in Milan.

7. She is the owner of a flat in Milan, which she had let to W.V.

8. In a registered letter of 10 September 1991, the applicant informed the tenant that she intended to terminate the lease on expiry of the term on 23 March 1992 and asked him to vacate the premises by that date.

9. In a writ served on the tenant on 17 November 1992, the applicant reiterated her intention to terminate the lease and summoned the tenant to appear before the Milan Magistrate.

10. By a decision of 14 December 1992, which was made enforceable on 8 January 1993, the Milan Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 14 December 1993.

11. On 21 November 1994, the applicant served notice on the tenant requiring him to vacate the premises.

12. On 11 January 1995, she served notice on the tenant informing him that the order for possession would be enforced by a bailiff on 10 February 1995.

13. Between 10 February 1995 and 10 December 2001, the bailiff made twenty-seven attempts to recover possession. Each attempt proved unsuccessful, as the applicant was not entitled to police assistance in enforcing the order for possession.

14. On 10 January 2002, following the voluntary surrender of the tenant, the applicant recovered possession of her 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 8,600 (eight thousand six hundred) Euros to Mrs Mariantonia SARTORELLI with a view to securing a friendly settlement of the application registered under no. 42357/98. 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.”

16. On 4 June 2003 the Court received the following declaration signed by the applicant:

“I note that the Government of Italy are prepared to pay a sum totalling 8,600 (eight thousand six hundred) Euros covering both pecuniary and non-pecuniary damage and costs to Mrs Mariantonia SARTORELLI with a view to securing a friendly settlement of application no. 42357/98 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.”

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 9 October 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President