



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

FIRST SECTION

CASE OF DELLA ROCCA v. ITALY

(Application no. 59452/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

27 November 2003

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

In the case of Della Rocca v. Italy,

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

Mr C.L. ROZAKIS, *President*,

Mr P. LORENZEN,

Mr G. BONELLO,

Mr A. KOVLER,

Mr V. ZAGREBELSKY,

Mrs E. STEINER,

Mr K. HAJIYEV, *judges*,

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

Having deliberated in private on 6 November 2003,

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

PROCEDURE

1. The case originated in an application (no. 59452/00) 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 an Italian national, Mrs Mirella Della Rocca (“the applicant”), on 12 August 1999.

2. The applicant was represented by Mr P. d'Alessio, a lawyer practising in Naples. The Italian Government (“the Government”) were represented by their successive Agents, respectively Mr U. Leanza and Mr I.M. Braguglia, and by their co-Agents, respectively Mr V. Esposito and Mr F. Crisafulli.

3. The applicant complained under Article 1 of Protocol No. 1 that she had been unable to recover possession of her flat within a reasonable time. Invoking Article 6 § 1 of the Convention, she further complained about the length of the eviction proceedings.

4. On 13 June 2002, after obtaining the parties' observations, the Court declared the application admissible.

5. On 17 September 2003 and on 27 September 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 1947 and lives in Naples.

7. She is the owner of a flat in Casoria (Naples), which she had let to A.I.

8. In a writ served on the tenant on 14 December 1987, the applicant informed the tenant of her intention to terminate the lease and summoned the tenant to appear before the Casoria Magistrate.

9. By a decision of 22 January 1988, which was made enforceable on 31 September 1988, the Casoria Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 22 February 1989.

10. On 15 January 1990, the applicant served notice on the tenant requiring him to vacate the premises.

11. On 3 April 1990, she informed the tenant that the order for possession would be enforced by a bailiff on 12 April 1990.

12. Between 12 April 1990 and 30 November 1999, the bailiff made twenty-one attempts to recover possession. Each attempt proved unsuccessful, as the applicant was not entitled to police assistance in enforcing the order for possession.

13. On 6 December 1999, the applicant recovered possession of the flat.

THE LAW

14. On 27 September 2003 the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 5,085 (five thousand and eighty-five) Euros to Mirella Della Rocca with a view to securing a friendly settlement of the application registered under no. 59452/00. 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.”

15. On 17 September 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 5,085 (five thousand and eighty-five) Euros covering both pecuniary and non-pecuniary damage and costs to Mirella Della Rocca with a view to securing a friendly settlement of application no. 59452/00 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 applicant has 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.”

16. 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).

17. 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 27 November 2003 pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Deputy Registrar

Christos ROZAKIS
President