



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

FOURTH SECTION

CASE OF TRENČIANSKÝ v. SLOVAKIA

(Application no. 62175/00)

JUDGMENT

STRASBOURG

2 December 2003

FINAL

02/03/2004

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Trenčianský v. Slovakia,

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

Mr M. PELLONPÄÄ, *President*,

Mrs V. STRÁŽNICKÁ,

Mr M. FISCHBACH,

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 13 November 2003,

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

PROCEDURE

1. The case originated in an application (no. 62175/00) against the Slovak Republic lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Slovakian national, Mr Štefan Trenčianský ("the applicant"), on 26 June 2000.

2. The Slovakian Government ("the Government") were represented by their Agent, Mr P. Vršanský, succeeded by Mr P. Kresák as from 1 April 2003.

3. On 4 March 2003 the Court declared the application partly inadmissible and decided to communicate the complaint concerning the length of the proceedings 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.

THE FACTS

4. The applicant was born in 1928 and lives in Bratislava.

5. On 5 January 1983 the applicant and his wife purchased a house situated in Michalovce from the applicant's parents-in-law. The purchase contract was registered with the State Notary's Office in Michalovce.

6. On 5 March 1990 the applicant's mother-in-law filed an action with the Michalovce District Court claiming that the contract should be declared void. She alleged that the applicant and his wife had not paid the purchase price and that they had forced her and her late husband to conclude the contract.

7. On 21 November 1990 the Michalovce District Court declared the contract void. It found, with reference to witness statements and documentary evidence, that the vendors had concluded it under pressure.

8. On 14 January 1991 and on 8 May 1991 the applicant and his wife appealed. They challenged the conclusions of the District Court with reference to documentary evidence.

9. On 13 May 1991 the Košice Regional Court quashed the first instance judgment as it did not specify what kind of pressure the defendants had allegedly exercised on the vendors, and because it was not clear whether the contract corresponded to the genuine will of the parties. The Regional Court therefore instructed the District Court to hear the State Notary who had registered the contract and to establish whether the purchase price had been determined correctly.

10. On 6 December 1991 the Michalovce District Court again declared the contract void. After having taken further evidence, the District Court established that the applicant and his wife had exercised pressure on the vendors in that they had repeatedly pointed to their age and to their health problems, and that they had offered to take care of them subject to the transfer of the house. The court noted that there existed no evidence as to whether the applicant and his wife had paid the purchase price as alleged by them. It therefore relied on the argument of the applicant's mother-in-law according to which the purchase contract had been concluded formally with a view to reducing the costs of the transfer. The District Court concluded that the contract did not correspond to the genuine will of the parties and that it was therefore void within the meaning of Article 37 of the Civil Code.

11. On 19 December 1991 the applicant and his wife appealed. On 11 and 13 May 1992 they made further written submissions to the Regional Court.

12. On 31 June 1992 the Košice Regional Court quashed the District Court's judgment of 6 December 1991. The appellate court found that the evidence available did not suffice to conclude that the claimant and her late husband had been put under pressure by the defendants or that the contract in question was invalid. In its judgment the Regional Court instructed the District Court to hear the claimant thoroughly with a view to assessing the validity of the contract in the light of Article 37 of the Civil Code, that is whether the parties had concluded it of their own free will, with a serious intention to do so and in an unequivocal manner.

13. A hearing before the District Court was held on 17 November 1992. On 2 February 1992 the District Court appointed an expert in psychiatry. The latter submitted the opinion on 7 June 2003.

14. A hearing scheduled for 25 June 2003 was adjourned as the applicant's mother-in-law was ill. She died on 3 July 1993. On 31 August

and on 3 September 1993 the defendants and the plaintiff's legal representative provided the court with the names of the plaintiff's heirs.

15. On 24 June 1994 the District Court decided on the expert's fees. On 27 December 1993 the defendants appealed against this decision.

16. On 3 May 1994 the District Court allowed two legal successors of the applicant's mother-in-law to join the proceedings as plaintiffs. On the same day it delivered its third judgment on the case concluding that the purchase contract was void. The judgment referred to detailed statements by the applicant's mother-in-law according to which the applicant's wife had insistently incited her parents to transfer the house to her and the applicant. The applicant's mother-in-law further stated before the court that she had accepted the proposal because she was an invalid and her health had deteriorated. She feared that she might not be properly looked after in the future. Her husband agreed to the transfer as he shared her anxiety.

17. The District Court had also regard to the opinion of a psychiatrist according to whom the applicant's mother-in-law had suffered from constant stress due to a lasting deterioration of her health. The expert expressed the view that, in 1983, her reaction to stress could have brought about a mental state which gave rise to great pressure on her to sign the contract. The District Court concluded that the vendors had not concluded the contract of their free will as required by Article 37 of the Civil Code.

18. On 3 August 1994 the applicant and his wife appealed. They also challenged the District Court judge on the ground that he had been the classmate of one of the claimants at the elementary school. One of the defendants submitted observations on the appeal on 2 September 1994.

19. The case-file was submitted to the Košice Regional Court on 13 October 1994. At the hearing held on 22 March 1995 the applicant and his wife reiterated that they considered the District Court judge to be biased. On 28 March 1995 the file was returned to the District Court and the judge was asked to comment on the applicant's objection to his person. On 8 May 1995 the Košice Regional Court dismissed the request for exclusion of the District Court judge.

20. On 28 November 1995 the Regional Court quashed the District Court's judgment of 3 May 1994. The decision was served on the applicant's lawyer on 12 March 1996. It stated that the District Court had repeatedly failed to establish the relevant facts of the case and that it had not followed the views expressed in the Regional Court's decision of 31 June 1992. The appellate court instructed the District Court to take further evidence.

21. On 17 April 1996 the applicant submitted further information at the District Court's request. On 1 August 1996 the District Court scheduled the next hearing for 3 September 1996. On the latter date it admitted a change of the plaintiffs. On 31 July 1997 the District Court scheduled the next hearing for 21 August 1997.

22. On 27 August 1997 the applicant challenged the District Court judge. On 29 October 1997 the Košice Regional Court found that the District Court judge was not biased.

23. On 18 December 1997 the Michalovce District Court delivered its fourth judgment declaring the contract void. The court held that the applicant's mother-in-law had agreed to transfer the property as she had feared not to be looked after in an appropriate manner in the future. The court also noted that the applicant's mother-in-law had alleged that the contract had been concluded formally and that she and her husband had not asked the applicant and his wife to pay the price.

24. On 23 February 1998 the applicant and his wife appealed. On 25 March 1998 the plaintiffs submitted their observations on the appeal. The file was transmitted to the Regional Court on 7 April 1998. On 4 May 1998 the applicant's lawyer submitted further reasons for the appeal.

25. On 8 December 1998 the Košice Regional Court upheld the first instance judgment. The judgment stated that the evidence available was not sufficient to conclude that the vendors had signed the contract under pressure. However, it indicated that the vendors had not expected the applicant and his wife to pay the price to them and that they had agreed to formally conclude a purchase contract with a view to reducing the transfer costs.

26. On 18 February 1999 the applicant and his wife filed an appeal on points of law. On 22 April 1999 they paid the court fees at the court's request of 7 April 1999.

27. In the meantime, on 24 February 1999 the District Court decided on expert's fees. On 15 March 1999 the defendants appealed. On 20 September 1999 the Regional Court quashed the decision on the expert's fees.

28. On 8 November 1999 the file was transferred to the Supreme Court. On 10 December 1999 it was returned to the District Court on the ground that the fees paid by the applicant and his wife had not been determined correctly. The supplementary fees were paid on 29 December 1999. On 10 March 2000 the Supreme Court dismissed the appeal on points of law.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

29. The applicant complained that the length of the proceedings had been incompatible with the “reasonable time” requirement, provided in Article 6 § 1 of the Convention, which reads as follows:

“In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal...”

30. The Government contested that argument.

31. The period to be taken into consideration began only on 18 March 1992, when the recognition by the Czech and Slovak Federal Republic, of which Slovakia is one of the successor States, of the right of individual petition took effect. However, in assessing the reasonableness of the time that elapsed after that date, account must be taken of the state of proceedings at the time.

The period in question ended on 10 March 2000. It thus lasted eight years less eight days.

A. Admissibility

32. The Court notes that this complaint 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. It must therefore be declared admissible.

B. Merits

33. The Government argued that the case was complex as it related to facts which had occurred seven years before the proceedings were brought. The courts experienced difficulties in establishing the relevant facts as there existed no direct witnesses and the applicant's mother-in-law died in the course of the proceedings. In the Government's view, neither the courts nor the parties contributed to the length of the proceedings. They concluded that the overall length of the period under consideration was not excessive given the complex character of the case.

34. The applicant contended that the case was not particularly complex and that the length of the proceedings was mainly due to the conduct of the District Court.

35. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the criteria established by its case-law, particularly the

complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII).

36. The Court accepts that certain difficulties arose in determining the case due to the fact that the relevant facts had occurred several years before the introduction of the proceedings and that the applicant's mother-in-law, the original plaintiff, died in the course of the proceedings.

It was common ground that by their conduct the parties did not contribute to the length of the proceedings in a substantial manner.

As to the conduct of the domestic authorities, the Court has noted that on 28 November 1995 the Košice Regional Court quashed the third judgment which the Michalovce District Court had delivered on the case. In its decision the Regional Court expressly stated that the first instance court had repeatedly failed to establish the relevant facts of the case and that it had not followed the views expressed in the appellate court's decision of 31 June 1992. Such conduct of the first instance court clearly resulted in undue delays of the proceedings.

In addition, several periods of inactivity prolonged the proceedings during the period under consideration. Thus, the District Court apparently failed to proceed with the merits of the case between 3 September 1993 and 3 May 1994, that is for eight months. More than six months elapsed between 8 May 1995, when the Regional Court decided that the District Court judge dealing with the case was not biased, and 28 November 1995 when it quashed the first instance judgment of 3 May 1994. The decision of 28 November 1995 was served on the applicant's lawyer on 12 March 1996, that is more than three months after its delivery. Finally, there was no apparent progress in the case between 3 September 1996 and 21 August 1997, that is for more than eleven months. That delay occurred at a time when the proceedings were pending for more than six years.

Consequently, an overall period of almost eight years could not, in the particular circumstances of the case, be deemed to satisfy the “reasonable time” requirement in Article 6 § 1 of the Convention.

37. The foregoing considerations are sufficient to enable the Court to conclude that the applicant's case was not heard within a reasonable time. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

38. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

A. Damage

39. The applicant claimed the global sum of 3,000,000 Slovakian korunas (SKK) in respect of pecuniary and non-pecuniary damage as well as the costs and expenses.

40. The Government maintained that there was no causal link between the alleged violation of the applicant's right under Article 6 § 1 of the Convention to a hearing within a reasonable time and the pecuniary damages claimed. As to the claim for non-pecuniary damages, the Government argued that the applicant could have obtained redress by means of a claim for protection of his personal rights pursuant to Article 11 et seq. of the Civil Code.

41. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim.

As to the Government's objection relating to the applicant's claim in respect of non-pecuniary damage and based on Article 11 et seq. of the Civil Code, the Court recalls that it has not required applicants complaining under Article 6 § 1 of the Convention about undue delays in the proceedings to use that remedy for the purpose of Article 35 of the Convention. Similarly, the applicant was not required to use this remedy for the purpose of Article 41 of the Convention (see, *mutatis mutandis*, *De Wilde, Ooms and Versyp v. Belgium*, judgment (just satisfaction) of 10 March 1972, Series A no. 14, § 16). Making its own assessment on an equitable basis, the Court awards the applicant 3,000 euros (EUR) in respect of non-pecuniary damage.

B. Costs and expenses

42. The applicant alleged that it was impossible to exactly determine the amount of costs and expenses which he had incurred in the context of the proceedings complained of.

43. The Government contended that the applicant's claim was unsubstantiated.

44. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that they have been incurred to seek the prevention or rectification of the

violation of the Convention established by the Court. It must also be shown that the costs were actually and necessarily incurred and that they are reasonable as to quantum (see *Venema v. the Netherlands*, no. 35731/97, §§ 116-117, ECHR 2002-X).

In the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 100 in respect of the proceedings before it.

C. Default interest

45. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 3,000 (three thousand euros) in respect of non-pecuniary damage and EUR 100 (one hundred euros) in respect of costs and expenses, the above sums to be converted into Slovakian korunas at the rate applicable at the date of settlement, plus any tax that may be chargeable;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

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

Michael O'BOYLE
Registrar

Matti PELLONPÄÄ
President