



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

FOURTH SECTION

CASE OF STAŃCZYK v. POLAND

(Application no. 50511/99)

JUDGMENT
(Friendly settlement)

STRASBOURG

2 December 2003

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

In the case of Stańczyk v. Poland,

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 J. CASADEVALL,
Mr R. MARUSTE,
Mr L. GARLICKI,
Mrs E. FURA-SANDSTRÖM, *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. 50511/99) 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, Janina Stańczyk (“the applicant”), on 21 November 1998.

2. The Polish Government (“the Government”) were represented by their Agent, Ms S. Jaczewska, 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 4 March 2003, after obtaining the parties' observations, the application was declared admissible.

5. On 18 September 2003, 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 26 September 2003 and on 30 September 2003 the Government and the applicant respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1934 and lives in Warsaw.

7. In 1986 the applicant lodged a motion with the court claiming the inheritance of her late mother's estate. On 30 January 1990 the Warsaw District Court issued a decision awarding to her one third of the estate. Consequently, she became the owner of one-sixth of the property, half of

the estate having belonged to the applicant's late mother's second husband F.S.

8. On 2 May 1990 F.S. lodged a motion with the court, claiming physical division of the estate, which comprised certain plots of land in the municipality of Izabelin.

9. Expert reports as to the manner in which the estate could be divided were submitted to the court in April 1990, in July 1991, 20 March and December 1992, but no decision was given by the court.

10. In January 1993 one of the parties to the proceedings, J.G., lodged an objection to the proposal for division submitted in the last expert report. Apparently the court subsequently called a new expert and ordered him to submit a new proposal as to the division.

11. On 17 September 1993 a hearing was held. The parties unsuccessfully tried to reach a friendly settlement. The court ordered the preparation of a new expert opinion.

12. On 7 March 1994 the expert appointed by the court submitted his report.

13. On 21 September 1994 J.G. complained to the court that the proceedings were not progressing and that hearings were held only once or twice a year.

14. The next hearing was held on 2 December 1994. The applicant did not agree that the case be decided by establishing co-ownership of the estate, instead of its physical division.

15. On 25 February 1995 a new expert opinion was submitted to court. This report was subsequently submitted to the Izabelin Municipal Office for approval.

16. On 23 March 1995 the Izabelin Municipal Office informed the court that it had not approved the proposal of the division of the estate as submitted by the expert, since it was incompatible with the general land-use plan of the municipality in that it did not take into account the public road to be constructed on the property concerned.

17. On 25 April 1995 A.K., a new expert appointed by the court, submitted a new proposal for the division of the estate.

18. On 24 July 1995 the Office of the Municipality of Izabelin again refused its approval for the division plan submitted by A.K., considering that it was incompatible with the current land-use plan in that the proposed plots were smaller than 1,000 square metres.

19. On 20 September 1995 the expert submitted a supplementary report.

20. On 24 September 1995 a meeting of the parties to the proceedings and the expert with the local planning authority was held. The parties were informed that the latest division proposal was incompatible with the current land-use plan, and that a new plan was being prepared. The proposal devised by the expert had been transmitted for consideration by the

authority working on the new land-use plan. The new plan was to be adopted by the end of 1996.

21. On 24 May 1996 the Izabelin Municipal Office requested the same expert, A.K., to submit a new division proposal.

22. On 20 September 1996 A.K. informed the court that after consultation with the parties to the proceedings he did not see any possibility of devising a new plan to take into account the interests and demands of all the parties.

23. On 7 November 1996 the Izabelin Municipal Office informed the court that the new proposal for the division of the property, which had apparently meanwhile been submitted by A.K., was incompatible with the current land-use plan.

24. On 18 March 1997 the Izabelin Municipal Office informed the Warsaw District Court that a new land use plan was being prepared.

25. On 19 March 1998 the Izabelin Municipal Office informed the court that the land-use plan of 1989 was still valid and legally binding.

26. By a decision of 30 March 1998 the Warsaw District Court stayed the division proceedings until the establishment of a new general land-use plan by the local authorities of Izabelin. The court considered that under the current land-use plan the proposals of division submitted so far by the experts could not be adopted, whereas a new plan was being prepared.

27. In December 1998 the municipal authorities informed the public that the outline of the new land-use plan was available for inspection and comments.

28. On 2 July 1999 the applicant complained to the local municipality that the new plan had yet not been adopted and that the proceedings remained stayed. She submitted that the property concerned was deteriorating as it was improperly used and poorly-maintained by its owners. On 6 July 1999 the municipality requested the applicant to submit to the local planning authorities a new proposal concerning the division of property.

29. On 20 July 1999 the applicant lodged a motion with the Warsaw District Court for the resumption of the proceedings. On 28 June 2000 the Warsaw District Court resumed the proceedings. A hearing was held on 29 November 2000. The parties requested the court to appoint a new expert in order to prepare a new proposal for the division of the property.

30. On 30 January 2001 a further hearing was held.

31. On 20 March 2001 A.K., the expert, submitted his opinion as to the division of the property.

32. The proceedings are pending.

THE LAW

33. 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 Article 1 of Protocol No.1 to the Convention about a violation of her property rights due to the length of proceedings.

34. On 26 September 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 22,500 Polish zlotys to Janina Stańczyk. This sum is to cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable within three months from the date of delivery of the judgment by the Court pursuant to the Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

The Government further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention.”

35. On 30 September 2003 the Court received the following declaration signed by the applicant:

“I note that the Government of Poland are prepared to pay me the sum of 22,500 Polish zlotys 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.

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.

I further undertake not to request that the case be referred to the Grand Chamber under Article 43 § 1 of the Convention after delivery of the Court's judgment.”

36. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). 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 of the Rules of Court).

37. 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 2 December 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Matti PELLONPÄÄ
President