



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

THIRD SECTION

CASE OF ACCARDO v. ITALY

(Application no. 62913/00)

JUDGMENT
(Friendly settlement)

STRASBOURG

17 March 2005

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

In the case of Accardo v. Italy,

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

Mr B.M. ZUPANČIČ, *President*,
Mr J. HEDIGAN,
Mr L. CAFLISCH,
Mrs M. TSATSA-NIKOLOVSKA,
Mr V. ZAGREBELSKY,
Mrs A. GYULUMYAN,
Mr DAVID THÓR BJÖRGVINSSON, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 24 February 2005,

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

PROCEDURE

1. The case originated in an application (no. 62913/00) 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 Rosa Accardo (“the applicant”), on 26 August 2000.

2. The applicant was represented before the Court by Mrs C. Ascione, a lawyer practising in Torre Annunziata (Naples). The respondent Government were represented by their Agents, Mr U. Leanza and Mr I.M. Braguglia, and by their successive co-Agents, respectively Mr V. Esposito and Mr F. Crisafulli.

3. The applicant complained under Article 6 § 1 of the Convention about the length of the eviction proceedings. The Court has also examined this complaint under Article 1 of Protocol No. 1 to the Convention.

4. On 8 January 2004, after obtaining the parties' observations, the Court declared the application admissible.

5. On 1 December 2004 and on 10 January 2005, the Government and the applicant respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1936 and lives in Torre del Greco (Naples).

7. She is the owner of a flat in Torre del Greco, which she had let to G.V.

8. In a writ served on the tenant on 2 July 1987, the applicant informed the tenant that she intended to terminate the lease on expiry of the term on 31 December 1988 and summoned him to appear before the Torre del Greco Magistrate.

9. By a decision of 9 October 1987, which was made enforceable on the same day, the Torre del Greco Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by 31 December 1989.

10. On 20 February 1990, the applicant served notice on the tenant requiring him to vacate the premises.

11. On 20 March 1990, she informed him that the order for possession would be enforced by a bailiff on 10 May 1990.

12. Between 10 May 1990 and 13 September 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 3 March 2000, the applicant recovered possession of the flat.

THE LAW

14. On 1 December 2004, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 8,000 euros (eight thousand euros) to Mrs Rosa Accardo with a view to securing a friendly settlement of the application registered under no. 62913/00. 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. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay, until settlement, simple interest on the amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

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 10 January 2005, the Court received the following declaration signed by the applicant's representative:

“I note that the Government of Italy are prepared to pay a sum totalling 8,000 euros (eight thousand euros) covering both pecuniary and non-pecuniary damage and costs to Mrs Rosa Accardo with a view to securing a friendly settlement of application no. 62913/00 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 17 March 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Bostjan M. ZUPANČIČ
President