



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

THIRD SECTION

CASE OF SFERRAZZO AND PAPINI v. ITALY

(Application no. 69308/01)

JUDGMENT
(Friendly settlement)

STRASBOURG

7 April 2005

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

In the case of Sferrazzo and Papini 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 C. BÎRSAN,

Mrs M. TSATSA-NIKOLOVSKA,

Mr V. ZAGREBELSKY,

Mrs A. GYULUMYAN,

Ms R. JAEGER, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 17 March 2005,

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

PROCEDURE

1. The case originated in an application (no. 69308/01) 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 two Italian nationals, Mr Renato Sferrazzo and Mrs Paola Papini (“the applicants”), on 10 March 2001.

2. The applicants were represented by Mr Antonino Arena, a lawyer practising in Florence. The Italian Government (“the 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 applicants complained under Article 1 of Protocol No. 1 that they had been unable to recover possession of their flat within a reasonable time. Invoking Article 6 § 1 of the Convention, they further complained about the length of the eviction proceedings.

4. On 18 March 2004, after obtaining the parties' observations, the Court declared the application admissible.

5. On 5 January 2005 and on 21 January 2005, the applicants and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1948 and lives in Florence.

7. The applicants are the owners of a flat in Florence, which they had let to R. A.

8. In a writ served on the tenant on 4 March 1987, the applicants informed the tenant of their intention to terminate the lease and summoned him to appear before the Florence Magistrate.

9. By a decision of 3 June 1987, which was made enforceable on 12 June 1987, the Florence Magistrate upheld the validity of the notice to quit and ordered that the premises be vacated by February 1990.

10. On 10 March 1990, the applicants served notice on the tenant requiring him to vacate the premises.

11. On 5 April 1990, the applicants made a statutory declaration that they urgently required the premises as accommodation for themselves.

12. On 11 April 1990, they informed the tenant that the order for possession would be enforced by a bailiff on 31 May 1990.

13. Between 31 May 1990 and 4 May 1999, the bailiff made nineteen attempts to recover possession. Each attempt proved unsuccessful, as the applicants were never granted the assistance of the police in enforcing the order for possession.

14. On 26 July 1999, pursuant to Law 431/98, the tenant asked for the suspension of the eviction proceedings.

15. On 30 September 2000, the applicants recovered possession of the flat.

THE LAW

16. On 21 January 2005, the Court received the following declaration from the Government:

“I declare that the Government of Italy offer to pay 10,000 euros (ten thousand euros) to Mr Renato Sferrazzo and Mrs Paola Papini with a view to securing a friendly settlement of the application registered under no. 69308/01. 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.”

17. On 5 January 2005, the Court received the following declaration signed by the applicants:

“I note that the Government of Italy are prepared to pay a sum totalling 10,000 euros (ten thousand euros) covering both pecuniary and non-pecuniary damage and costs to Mr Renato Sferrazzo and Mrs Paola Papini with a view to securing a friendly settlement of application no. 69308/01 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 applicants 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.”

18. 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).

19. 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 7 April 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Boštjan M. ZUPANČIČ
President