



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

FOURTH SECTION

CASE OF MAŽGÚTOVÁ v. SLOVAKIA

(Application no. 65998/01)

JUDGMENT

STRASBOURG

17 May 2005

FINAL

17/08/2005

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 Mažgútová v. Slovakia,

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

Sir Nicolas BRATZA, *President*,

Mr G. BONELLO,

Mr K. TRAJA,

Mr S. PAVLOVSKI,

Mr L. GARLICKI,

Ms L. MIJOVIĆ,

Mr J. ŠIKUTA, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 26 April 2005,

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

PROCEDURE

1. The case originated in an application (no. 65998/01) 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, Ms Helena Mažgútová ("the applicant"), on 4 December 2000.

2. The applicant was represented by Mr V. Klepáč, a lawyer practising in Košice. The Government of the Slovak Republic ("the Government") were represented by their Agent, Mr P. Kresák, succeeded by Ms A. Poláčeková.

3. On 31 March 2004 the Court decided to communicate the application. Applying Article 29 § 3 of the Convention, it decided to rule on the admissibility and merits of the application at the same time.

THE FACTS**THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1923 and lives in Košice.

5. On 8 May 1995 the applicant filed an action with the Poprad District Court. She sued a private company which had constructed a building on her plot of land. The applicant claimed that legal relations between her and the defendant be settled and that easement be imposed in that context.

6. On 30 May 1995 the defendant submitted observations on the applicant's claim. He informed the court that a similar issue was being

determined in a different set of proceedings pending before the appellate court.

7. In July 1995 the parties submitted further information at the court's request. Subsequently the judge dealing with the case sought to obtain the file concerning the other set of proceedings allegedly relating to the same issue. That file was returned from the appellate court on 31 May 1996. On 6 June 1996 the District Court asked the applicant to submit further information. The applicant replied on 15 July 1996. On 14 August 1996 the District Court asked the applicant to pay the court fee.

8. At a hearing held on 13 September 1996 the applicant modified her claim. The defendant submitted observations in reply on 3 October 1996.

9. On 9 March 1998 the District Court scheduled a hearing for 3 April 1998. On the latter date as well as on 4 May 1998 the case was adjourned as the parties had stated that they would attempt to reach a settlement.

10. On 5 June 1998 the District Court decided to obtain further information concerning the value of the land in question. That information was submitted to it on 6 July 1998.

11. On 28 July 1998 the District Court invited the applicant to pay an advance on the expert's costs. The applicant paid the sum on 7 August 1998.

12. On 11 March 1999 the court appointed an expert and asked him to submit an opinion within forty days. The file was submitted to the expert on 16 March 1999. Subsequently the District Court repeatedly urged the expert to submit the opinion. On 24 March 2000 the expert informed the court that the advance payment of his costs should be increased. On 8 August 2000 the applicant objected to the expert's request. On 9 November 2000 the District Court requested that the expert should return the file to it.

13. The applicant filed several complaints about the length of the proceedings. On 10 November 2000 the President of the Poprad District Court dismissed the complaints. The letter stated that the expert opinion had not been submitted due to illness of the expert and that the judge would consider the possibility of appointing a different expert. Reference was further made to the heavy workload of the judges.

14. On 11 January 2001 the District Court appointed a different expert with a view to obtaining an opinion. On 25 January 2001 the second expert informed the court that he was not in a position to elaborate an opinion due to his heavy workload.

15. On 13 March 2001 the District Court appointed a third expert. On 29 March 2001 the latter asked for his appointment to be revoked as he was ill.

16. On 14 March 2001 the applicant informed the court that a settlement of the case was envisaged.

17. On 18 June 2001 the applicant informed the District Court that a settlement had been reached between the parties and that she therefore wished to withdraw her action. On this ground the District Court discontinued the proceedings by a decision of 20 June 2001.

THE LAW

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

18. 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...”

19. The Government admitted that the complaint was not manifestly ill-founded.

20. The period to be taken into consideration began on 8 May 1995 and ended on 20 June 2001. It thus lasted 6 years, 1 month and 12 days for a single level of jurisdiction.

A. Admissibility

21. The Court notes that the application 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

22. 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 following criteria: the complexity of the case, the conduct of the applicant and 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).

23. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present case (see *Frydlender*, cited above).

24. Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or argument capable of

persuading it to reach a different conclusion in the present case. Having regard to its case-law on the subject, the Court considers that in the instant case the length of the proceedings was excessive and failed to meet the “reasonable time” requirement.

There has accordingly been a breach of Article 6 § 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

25. 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

26. The applicant claimed 200,000¹ Slovakian korunas (SKK) in respect of non-pecuniary damage.

27. The Government contested the claim.

28. The Court considers that the applicant must have sustained non-pecuniary damage. Ruling on an equitable basis, it awards her 4,000 euros under that head.

B. Default interest

29. 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 4,000 (four thousand euros) in respect of non-pecuniary damage, to be converted into the currency of

¹ SKK 200,000 is the equivalent of approximately 5,150 euros.

the respondent State 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 amount 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 17 May 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O'BOYLE
Registrar

Nicolas BRATZA
President