



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

SECOND SECTION

CASE OF ZAVECZKY v. HUNGARY

(Application no. 11213/03)

JUDGMENT

STRASBOURG

25 April 2006

FINAL

25/07/2006

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 Zaveczy v. Hungary,

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

Mr J.-P. COSTA, *President*,

Mr A.B. BAKA,

Mr I. CABRAL BARRETO,

Mrs A. MULARONI,

Mrs E. FURA-SANDSTRÖM,

Ms D. JOČIENĚ,

Mr D. POPOVIĆ, *judges*,

and Mrs S. DOLLÉ, *Section Registrar*,

Having deliberated in private on 4 April 2006,

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

PROCEDURE

1. The case originated in an application (no. 11213/03) against the Republic of Hungary lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Hungarian national, Ms Zsuzsanna Zaveczy (“the applicant”), on 17 February 2003.

2. The applicant was represented by Mr E. Petruska, a lawyer practising in Budapest. The Hungarian Government (“the Government”) were represented by their Agent, Mr L. Höltzl, Deputy State-Secretary, Ministry of Justice.

3. On 17 June 2005 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

4. The applicant was born in 1967 and lives in Diósd.

5. On 25 February 1994 the applicant brought an action in the Ráckeve District Court for the division of the common ownership of a house. She requested that the case be given priority.

6. The court held hearings on 28 April, 7 October 1994 and 16 February 1995. On 7 March 1995 it appointed two experts. Further hearings took place on 18 September, 8 December 1995, 25 April and 28 June 1996.

7. On 5 July 1996 the District Court gave judgment.

8. On appeal, the Pest County Regional Court held hearings on 20 February and 9 October 1997. On the latter date it suspended the

proceedings pending the determination of a preliminary question. On 26 May 1998 it quashed the first-instance decision and remitted the case to the District Court, instructing it to arrange for the owner of the real property in question, a minor, to join the proceedings. On 7 October 1998 a guardian *ad litem* was appointed to this end. On 2 December 1998 the owner joined the proceedings.

9. In the resumed proceedings, hearings took place on 25 February and 19 April 1999. On 10 April 2000 the applicant's lawyer urged that a hearing be scheduled. On 13 June 2000 a hearing took place and experts were appointed.

10. On 7 September 2000 several other defendants joined the proceedings. On 12 September 2000 the court held a hearing and ordered an on-site inspection. This took place on 6 November 2000. The expert's opinion reached the court on 4 December 2000.

11. At the hearing on 30 January 2001, an elaboration of the opinion was ordered. Further hearings took place on 13 March, 24 April, 22 May 2001 and 10 January 2002.

12. At the hearing on 25 June 2002 the court decided to appoint another expert. This expert was appointed on 12 July and his opinion obtained on 30 November 2002. The hearing scheduled for 11 February 2003 was adjourned because the expert was indisposed.

13. On 11 March 2003 some of the defendants gave better particulars of their counterclaims. On 3 December 2003 they were instructed further to specify their claims. On 30 January 2004 their motion for bias was dismissed. On 18 February 2004 the court again instructed them further to specify their claims.

14. On 20 April 2004 the court dismissed the counterclaims as unsubstantiated. This decision was quashed by the Regional Court on 23 September 2004.

15. On 1 December 2004 the court partly discontinued the proceedings concerning certain defendants.

16. On 15 February 2005 the court held a hearing and delivered a partial decision concerning an ancillary question. On 22 September 2005 the Regional Court upheld the partial decision.

17. The case, in its part concerning the principal issue of the dispute, is still pending before the first instance court.

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 of 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 contested that argument.

20. The period to be taken into consideration began on 25 February 1994 and is apparently still pending. To date, it has lasted more than twelve years and one month for two levels of jurisdiction.

A. Admissibility

21. 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

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 convincing 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. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

25. The applicant also complained under Article 6 § 1 about the manner in which the courts had so far examined her case. The Court observes that the proceedings are still pending. It finds that this complaint is therefore premature and must be rejected for non-exhaustion of domestic remedies, pursuant to Article 35 §§ 1 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

26. 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

27. The applicant claimed 21,000 euros (EUR) in respect of pecuniary and EUR 10,000 in respect of non-pecuniary damage.

28. The Government contested these claims.

29. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, it considers that the applicant must have sustained some non-pecuniary damage and awards the full sum claimed under that head.

B. Costs and expenses

30. The applicant also claimed EUR 3,200 for the costs and expenses incurred before the Court.

31. The Government contested the claim.

32. 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 these have been actually and necessarily incurred and were reasonable as to quantum. 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 1,500.

C. Default interest

33. 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 complaint concerning the excessive length of the proceedings admissible and the remainder of the application inadmissible;
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 in accordance with Article 44 § 2 of the Convention, EUR 10,000 (ten thousand euros) in respect of non-pecuniary damage and EUR 1,500 (one thousand five hundred euros) in respect of costs and expenses, to be converted into the national currency of 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 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 25 April 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. DOLLÉ
Registrar

J.-P. COSTA
President