



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

SECOND SECTION

CASE OF AJZERT v. HUNGARY

(Application no. 18328/03)

JUDGMENT

STRASBOURG

7 November 2006

FINAL

26/03/2007

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 Ajzert 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. JOČIENĖ,

Mr D. POPOVIĆ, *judges*,

and Mr S. NAISMITH, *Deputy Section Registrar*,

Having deliberated in private on 17 October 2006,

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

PROCEDURE

1. The case originated in an application (no. 18328/03) 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, Mr János Ajzert (“the applicant”), on 8 May 2003.

2. The Hungarian Government (“the Government”) were represented by Mr L. Hölzl, Agent, Ministry of Justice and Law Enforcement.

3. On 13 September 2005 the Court decided to give notice of the application to the Government. 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 1930 and lives in Budapest.

5. On 9 March 1993 the applicant brought an action in the Siófok District Court, claiming his share of the inheritance of his late father’s property (*öröklési igény megállapítása*). The District Court held hearings on 9 September, 23 November and 16 December 1993, and 3 February 1994. On 24 February 1994 a further claim of the applicant, brought under a head of unjustified enrichment (*jogalap nélküli gazdagodás*), was joined to the

case. A further hearing was held on 5 July 1994. On 10 September 1994 a real estate expert submitted his opinion.

6. At the hearing on 20 October 1994, the applicant informed the District Court that the first respondent, his mother, had died on 3 October 1994. Subsequently, on 27 October 1994 the District Court suspended the proceedings, which by then involved several respondents, pending the successor of the first respondent joining the case.

7. After the applicant had identified the successors of his late mother, on 14 March 1995 the District Court suspended the proceedings pending the termination of another case instituted on 21 February 1995, in which the applicant had requested the District Court to declare his mother's will null and void (*végrendelet érvénytelenségének megállapítása*). The court observed that the outcome of those proceedings would be decisive for the procedural succession. On 19 May 1995 the Somogy County Regional Court dismissed the applicant's appeal.

8. On 18 May 1995 the competent bench of the Siófok District Court transferred the case concerning the will's validity to the Budapest XX/XXI/XXIII District Court. That court held hearings on a regular basis until 14 January 2000. On that date, it dismissed the applicant's challenge to the validity of the will and discontinued the proceedings in respect of certain other questions (*a takarékbetétkönyv kifizetése és a szőlő megművelése tárgyában*) still pending before the Siófok District Court. Moreover, on 26 January 2000 it discontinued the proceedings concerning some related compensation claims of the applicant (*gyümölcsös megművelésének elmaradása miatti kárigény*).

9. On 3 October 2000 the Budapest Regional Court upheld in essence the decision of 14 January concerning the will itself. Considering the first-instance decision as a partial judgment, it observed that several secondary claims were not examined, in respect of which the District Court proceedings were to be resumed. Simultaneously, the court quashed the decision of 26 January 2000, as a result of which the District Court was to continue the examination of those compensation claims as well.

10. Meanwhile, the applicant had introduced another claim concerning his statutory share of the estate (*kötelesrész iránti igény*), which was disjoined from the principal question pending before the XX/XXI/XXIII District Court on 14 January 2000 (see paragraph 8 above). On 23 March 2000 the competent bench of this court suspended the examination of the issue pending the outcome of the 1993 inheritance proceedings (see paragraphs 5 to 7 above). On 19 October 2000 the Budapest Regional Court dismissed the applicant's appeal against this order.

11. Parallel to these events, on 18 April 2001 the XX/XXI/XXIII District Court resumed the proceedings concerning the remaining secondary claims (see paragraph 8 above). It held hearings on 26 April and 3 July 2001. On that day, it dismissed part of the applicant's claims and

disjoined some others concerning the restoration of certain buildings (*felépítmények helyreállítására vonatkozó kereseti kérelem*). On 29 January 2002 the Budapest Regional Court dismissed the applicant's appeal. The first instance proceedings concerning the disjoined claims resumed on 28 February 2002 and were suspended on 19 November 2002, pending the proceedings in respect of the statutory share (see paragraph 10 above).

12. After the final dismissal on 3 October 2000 of the applicant's challenge to the will's validity (see paragraph 9 above), the Siófok District Court resumed the 1993 proceedings (see paragraphs 5 to 7 above). It held hearings on 26 April, 28 June and 20 September 2001. On 31 October 2001 the District Court ordered the applicant to submit further evidence for his statements and better particulars of his claims. It held more hearings on 22 November 2001 and 7 February 2002. On 20 February 2002 it dismissed the applicant's motion for bias. On 16 April 2002 the District Court gave judgment, ordering that the applicant's ownership be registered in respect of part of the real properties belonging to the estate. It rejected the remainder of the claims. On 31 October 2002 the Somogy County Regional Court amended this decision.

13. Following the delivery of the above final decision (see paragraph 12) concerning the 1993 case, the XX/XXI/XXIII District Court resumed the proceedings concerning the applicant's statutory share of the estate on 18 June 2003 (see paragraph 10 above). On 8 July 2003 it discontinued the proceedings. On a procedural appeal, they were resumed on 20 April 2004. On that date, the District Court dismissed the applicant's claim. On appeal, on 23 November 2004 the Budapest Regional Court changed the first-instance decision and awarded 33,348 Hungarian forints (HUF) to the applicant.

THE LAW

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

14. 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..."

15. The Government contested that argument.

16. The period to be taken into consideration began on 9 March 1993 and ended on 23 November 2004. It thus lasted over eleven years and eight months for two levels of jurisdiction.

A. Admissibility

17. 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

18. 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).

19. 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).

20. 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

21. The applicant also complained about the outcome of the proceedings. He relied on Articles 6, 8, 13 and 14 of the Convention and Article 1 of Protocol No. 1 to the Convention.

22. In so far as the applicant’s complaint may be understood to concern the assessment of the evidence and the result of the proceedings before the domestic courts, the Court reiterates that, according to Article 19 of the Convention, its duty is to ensure the observance of the engagements undertaken by the Contracting Parties to the Convention. In particular, it is not its function to deal with errors of fact or law allegedly committed by a national court unless and in so far as they may have infringed rights and freedoms protected by the Convention. Moreover, while Article 6 of the Convention guarantees the right to a fair hearing, it does not lay down any rules on the admissibility of evidence or the way it should be assessed, which are therefore primarily matters for regulation by national law and the national courts (*García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I.).

23. In the present case, the Court is satisfied that there is nothing in the case file indicating that the courts lacked impartiality or that the proceedings were otherwise unfair. Moreover, the decisions of the domestic courts, devoid of any sign of arbitrariness, served to adjudicate a civil-law dispute between private persons and cannot be regarded as deprivation of property by a State authority. The Court therefore considers that the applicant's submissions do not disclose any appearance of a violation of his rights under the Convention or its Protocols. It follows that this complaint is manifestly ill-founded within the meaning of Article 35 § 3 and must be rejected, pursuant to Article 35 § 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

24. 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

25. The applicant claimed HUF 18,527,320¹ in respect of pecuniary damage and HUF 500,000² in respect of non-pecuniary damage.

26. The Government contested the claim concerning pecuniary damage.

27. 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 him the full sum claimed in this connection, 1,815 euros (EUR).

B. Costs and expenses

28. No claim was made under this head.

C. 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.

¹ Approximately EUR 67,200

² Approximately EUR 1,815

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 1,815 (one thousand eight hundred and fifteen euros) in respect of non-pecuniary damage, 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 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 7 November 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

S. NAISMITH
Deputy Registrar

J.-P. COSTA
President