



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

1959 · 50 · 2009

SECOND SECTION

CASE OF SCHWARTZ v. HUNGARY

(Application no. 25073/05)

JUDGMENT

STRASBOURG

3 November 2009

FINAL

03/02/2010

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 Schwartz v. Hungary,

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

Françoise Tulkens, *President*,

Vladimiro Zagrebelsky,

Danutė Jočienė,

Dragoljub Popović,

András Sajó,

Nona Tsotsoria,

Kristina Pardalos, *judges*,

and Sally Dollé, *Section Registrar*,

Having deliberated in private on 13 October 2009,

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

PROCEDURE

1. The case originated in an application (no. 25073/05) 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, Mrs Lászlóné Schwartz (“the applicant”), on 11 May 2005.

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

3. On 4 February 2009 the President of the Second Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3).

THE FACTS**THE CIRCUMSTANCES OF THE CASE**

4. The applicant was born in 1944 and lives in Pilisvörösvár.

5. On 13 July 1998 a Mr M. and other plaintiffs brought an action against the applicant and Mr M. Wieszt, with a view to terminating common ownership of a property. The Buda Surroundings District Court gave judgment on 27 October 1999.

6. Following appeals and proceedings concerning the successions of deceased parties – which involved stays of the case between 1 December 2001 and 11 March 2003, as well as between 6 December 2003 and

1 September 2004 – the Pest County Regional Court quashed this decision and remitted the case on 17 February 2005.

7. The resumed first-instance proceedings were subsequently stayed again because Mr Wieszt had died on 5 January 2006. The proceedings resumed before the District Court on 26 September 2006. According to the information available in the case file, the case is still pending at first instance.

THE LAW

8. The applicant complained that the length of the proceedings had been incompatible with the “reasonable time” requirement of Article 6 § 1 of the Convention. The Government contested that argument.

9. The Court observes that the period to be taken into consideration has so far lasted over eleven years and three months. Of this time, two years and nine months corresponding to the staying of the proceedings on various occasions, not imputable to the State, must be deducted. However, the remaining period still exceeds eight and a half years for two levels of jurisdiction. In view of such lengthy proceedings, this complaint must be declared admissible.

10. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present application (see *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII). 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 circumstances. Having regard to its case-law on the subject, the Court considers that 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.

11. Relying on Article 41 of the Convention, the applicant claimed pecuniary and non-pecuniary damage of unspecified amounts. (She made no claim for costs and expenses.) In support of her damages claim, she submitted that, because of the litigation, she had had to take out a 4-million-Hungarian-forint¹ (HUF) mortgage, lost HUF 12.8 million² in outstanding rents, taken a HUF-6-million³ private loan and spent HUF 10 to 15 million⁴ on renovation. The Government contested these claims. The Court does not discern any causal link between the violation found and the pecuniary

¹ Approximately 14,700 euros (EUR)

² Approximately EUR 47,000

³ Approximately EUR 22,000

⁴ Approximately EUR 36,700-55,100

damage alleged; it therefore rejects this claim. However, it considers that the applicant must have sustained some non-pecuniary damage. Ruling on an equitable basis, it awards her EUR 5,600 under that head. Furthermore, having regard to the fact that the proceedings in question are still pending before the domestic courts, the Court considers that the most appropriate form of redress would be to bring them to a conclusion as soon as possible, by conducting them in accordance with the requirements of Article 6 § 1 of the Convention (see, *Uğuz v. Turkey*, no. 31932/03, § 30, 13 December 2007).

12. 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 in accordance with Article 44 § 2 of the Convention, EUR 5,600 (five thousand six hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into Hungarian forints at the rate applicable at the date of settlement;
 - (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 3 November 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President