

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

SECOND SECTION

DECISION

Application no. 35223/09
Imre BARANYAI and Imréné BARANYAI
against Hungary

The European Court of Human Rights (Second Section), sitting on 15 January 2013 as a Committee composed of:

Peer Lorenzen, *President,*
András Sajó,
Nebojša Vučinić, *judges,*

and Françoise Elens-Passos, *Deputy Section Registrar,*

Having regard to the above application lodged on 24 June 2009,

Having deliberated, decides as follows:

THE FACTS

The applicants, Mr and Mrs Imre Baranyai, are Hungarian nationals, who were born in 1942 and 1948 respectively and live in Szombathely. They are represented before the Court by Mr A. Cech, a lawyer practising in Budapest.

The facts of the case, as submitted by the applicants, may be summarised as follows.

In 1976 the applicants, a married couple, purchased a holiday cottage nearby Lake Balaton. At that time the cottage could be approached conveniently on public roads by all types of vehicles.

On 7 September 1999 the local Building and Construction Authority authorised the relocation of some public roads. As a consequence, on 15 November 1999 the local municipality entered into agreement with the owners of the neighbouring plots with a view to relocating the road that led

to the applicants' property. This agreement was entered into the land register on 28 February 2000.

The new road which was meant to provide access to the applicants' cottage is so narrow that it cannot be passed by larger vehicles, like ambulances, fire engines, sewage suction cars or trucks. The applicants claim that they have to pay for using their neighbour's land whenever they need fully viable access to their property.

The first applicant turned to several authorities in search of a remedy. On 5 September 2000 the County Administration informed him that although the authorisation of relocation of the road was not in compliance with law, its repeal would infringe rights acquired by others and exercised by them in good faith. On 4 April 2001 the Public Prosecutor's Office informed him that the registration of the relocation agreement had also been unlawful; nevertheless his protest lodged in this context with the Land Registry was rejected. Moreover, on 3 September 2001 the Circuit Notary rejected his request to protect his possession rights. In addition, on 30 November 2001 the Regional Traffic Supervisory Authority advised the Regional Office to order new proceedings, but to no avail.

Subsequently, the first applicant brought a nullity action before the Tapolca District Court against the parties of the road relocation agreement, claiming that it should be regarded invalid under the Civil Code.

On 22 December 2005 the District Court, relying on expert evidence and a site inspection, observed that the property in question had indeed become inaccessible for larger vehicles and held that therefore the first applicant had legal interest in seeking the nullity of the road-relocation agreement. The court declared the agreement null and void and ordered the local municipality to restore the original road conditions.

On appeal, the Veszprém County Regional Court remitted the case for reconsideration of the existence of a legal interest on the first applicant's side, a prerequisite for a nullity action. The Regional Court expressed the view that in case the grievances could be redressed by other means, there was no entitlement to sue for the invalidity of an agreement concluded between third parties.

In the resumed proceedings, on 26 April 2007 the District Court delivered a partial judgment, ruling that the first applicant had legal capacity in suing for nullity, since no other legal remedies were available in the circumstances.

On appeal, on 5 February 2008 the Regional Court reversed the first-instance decision and dismissed the action. It was of the opinion that a motion to the Notary for the protection of property rights served as an alternative remedy; therefore the first applicant did not have a right to sue for nullity.

On 10 February 2009 the Supreme Court affirmed the second-instance judgment. In its view the expert evidence and the site inspection referred to

by the first-instance court proved that the applicants' property could be in fact reached by larger vehicles, although with some manoeuvring. As a consequence, it found that the respondents' interest attached to the road-relocation agreement had outweighed the interest of the first applicant; therefore the latter had no right to challenge the validity of that agreement.

COMPLAINTS

The applicants complained under Article 6 § 1 of the Convention about the outcome and unfairness of the above proceedings. In particular, they submitted that the Supreme Court had wrongfully assessed the evidence and mistakenly found their cottage fully accessible.

They also complained that the restricted access to their property amounted to an unjustified interference with their right to the peaceful enjoyment of their possessions in breach of Article 1 of Protocol No. 1 to the Convention.

Finally, they invoked Article 13 for want of effective domestic remedy against the above violations.

THE LAW

As regards the applicants' complaint about the fairness and the outcome of, as well as the assessment of the evidence in, the case, 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 (see *García Ruiz v. Spain* [GC], no. 30544/96, § 28, ECHR 1999-I). In the present case, there is no appearance that the courts lacked impartiality or that the proceedings were otherwise unfair.

Moreover, concerning the applicants' submissions about the enjoyment of their possession, the Court notes the Supreme Court's observation according to which their property remained accessible for all types of vehicles, if only with some manoeuvring. In these circumstances, it is satisfied that there has been no interference with their property rights.

It follows that the complaints under Article 6 of the Convention and Article 1 of Protocol No. 1 to the Convention are manifestly ill-founded within the meaning of Article 35 § 3 (a) and must be rejected, pursuant to Article 35 § 4 of the Convention.

Lastly, Article 13 having no independent existence and in the absence of an arguable claim under the Articles examined above, the applicants' related complaint is manifestly ill-founded within the meaning of Article 35 § 3 (a) and must be rejected, pursuant to Article 35 § 4 of the Convention.

For these reasons, the Court unanimously

Declares the application inadmissible.

Françoise Elens-Passos	Peer Lorenzen
Deputy Registrar	President