

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

FIRST SECTION

CASE OF RYAZANTSEV v. RUSSIA

(Application no. 21774/06)

JUDGMENT

STRASBOURG

10 March 2011

This judgment is final but it may be subject to editorial revision.



In the case of Ryazantsev v. Russia**,**

The European Court of Human Rights (First Section), sitting as a committee composed of:

George Nicolaou, *President,*
Anatoly Kovler,
Mirjana Lazarova Trajkovska, *judges,*

and André Wampach, *Deputy Section Registrar,*

Having deliberated in private on 17 February 2011,

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

PROCEDURE

1. The case originated in an application (no. 21774/06) against the Russian Federation lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Russian national, Mr Valeriy Mitrofanovich Ryazantsev ("the applicant"), on 27 April 2006.

2. The Russian Government ("the Government") were represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

3. On 15 June 2009 the President of the First Section decided to give notice of the application to the Government.

THE FACTS

THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1940 and lives in Tver.

A. Proceedings against a private company

5. On 4 November 2002 the applicant brought proceedings against a private housing construction company in the Zavolzhskiy District Court of Tver ("the District Court"), seeking conclusion of a co-investment agreement and registration of his property title to a flat.

6. The court scheduled the first hearing for 4 January 2003.

7. On 18 March 2003 the respondent filed its objections to the claim.

8. The hearing of 2 April 2003 did not take place following the respondent's failure to appear.

9. On 8 July 2003 the applicant informed the court that he would be out of town until September 2003.

10. It appears that the next hearing was scheduled by the court for 13 October 2004. The applicant did not appear at this hearing, following which it was adjourned. According to the applicant, he had not been notified of the hearing. The parties did not supply any evidence to support their accounts of the event.

11. The hearing of 27 December 2004 did not take place as the judge was ill.

12. On 29 April 2005 the case was handed over to a different judge.

13. On 26 May 2005 the court adjourned the hearing in view of the insufficiency of evidence. According to the applicant, at the same hearing he learned that the respondent had filed objections to his claim on 18 March 2003.

14. On 30 May 2005 the applicant requested a certified copy of the respondent's objections.

15. On 4 July 2005 the respondent supplemented its observations on the claim. The applicant received a copy of the supplementary observations on 20 October 2005.

16. On 9 August 2005 the applicant replied to the objections of 18 March 2003.

17. The hearing of 12 August 2005 did not take place as the judge was on vacation.

18. The hearing of 11 October 2005 had to be postponed following the respondent's failure to appear.

19. On 2 and 21 December 2005 the applicant specified and supplemented his claim. The hearing of 21 December 2005 could not proceed as the respondent's representative produced an expired power of attorney.

20. On 27 January and 21 March 2006 the applicant effectively requested that the hearings be adjourned due to his failure to obtain certain evidence from a municipal agency.

21. On 3 May 2006 the court adjourned examination of the case till September 2006 having required the applicant to supply the documents concerning registration of his property title to the disputed flat.

22. The hearing of 3 September 2006 was adjourned to enable the court to make an inquiry for some additional evidence on behalf of the applicant.

23. The hearings of 13 and 14 September 2006 took place as scheduled.

24. On 18 September 2006 the court sent an inquiry seeking to obtain the materials of the applicant's another civil action.

25. The hearings of 19 and 21 September 2006 had to be adjourned as the sought materials had not arrived to the court.

26. The hearing of 16 October 2006 did not take place as the applicant was ill.

27. On 23 November 2006 the District Court disallowed the claims. At the time only the operative part of the judgment was read out.

28. On 1 December 2006 the applicant filed an appeal.

29. On 4 and 8 December and 9 January 2007 the applicant requested a copy of the reasoned judgment.

30. At the appeal hearing of 23 January 2007 the applicant filed a supplement to his appeal challenging the reasoning of the first-instance judgment in a detailed manner, following which the court returned the case to the first instance for extension of the time-limit for the supplementary appeal.

31. On 1 and 14 March 2007 the trial court sent the applicant a copy of the reasoned judgment of 23 November 2006.

32. On 16 March 2007 the time-limit for the supplementary appeal was extended. In its decision the District Court cited the applicant as saying that he had read the reasoned judgment at the appeal court on 12 January 2007.

33. The appeal hearing of 24 April 2007 could not proceed as the respondent had not received a copy of the applicant's supplementary appeal.

34. The next hearing of 15 May 2007 was adjourned to enable the parties to conclude a friendly settlement. However, on 22 May 2007 the applicant informed the court that the respondent was not undertaking any steps to reach such settlement.

35. On 29 May 2007 the Tver Regional Court upheld the judgment of 23 November 2006 on appeal.

B. Other proceedings

36. In separate proceedings, the applicant sued the Tver town administration seeking a housing certificate. By a judgment of 26 March 2004, the Tsentralniy District Court of Tver granted his claim. On 27 April 2004 the Tver Regional Court quashed the judgment and issued a new judgment rejecting the claim.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION ON ACCOUNT OF UNDUE LENGTH OF THE PROCEEDINGS

37. The applicant complained that the length of the proceedings in his case had been in breach of the "reasonable time" requirement as provided in Article 6 § 1 of the Convention, the relevant part of 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 ..."

A. Admissibility

38. 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

39. The Government stated that the applicant had not complained about the length of the proceedings to the Judicial Qualifications Board or to the president of the court. They further alleged that the length of the proceedings was the result of the applicant's own actions including requests for adjournment, defaults in appearance and procedural motions.

40. The applicant maintained his complaint.

41. The Court observes that the proceedings in the applicant's case commenced on 4 November 2002 and ended on 29 May 2007. Their approximate length thus amounts to four years and six months, during which period the domestic courts examined the claims at two levels of jurisdiction.

42. 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).

43. The Court considers that the present case was not particularly difficult to determine.

44. Turning to the applicant's behaviour in the proceedings, it notes that no hearings could be held between January and September 2006 due to the applicant's failure to obtain certain evidence. The Court is also cognisant of the applicant's unavailability for hearings during two summer months in 2003, an absence at a hearing linked to his illness and his failure to appear at the hearing of 13 October 2004. However, it is of the opinion that the delay that resulted from the above circumstances, apart from the nine-month gap in 2006, was negligible.

45. Having regard to the conduct of the authorities, the Court firstly observes that the proceedings lasted for over four years at the first instance and, in particular, that the trial court held only one hearing in both 2003 and 2005 and no hearings in 2004. It further notes a particularly substantial gap between the scheduled hearings that occurred between September 2003 and

October 2004. In addition, it takes into account that an appeal hearing had to be adjourned following the courts' failure to timely serve the applicant's supplementary appeal on the respondent, and the judges' absence on two occasions.

46. Regard being had to the infrequency of the hearings scheduled by the trial court in the course of the proceedings, the significant overall length of the proceedings and the applicant's negligible contribution to it, the Court considers that the "reasonable time" requirement has been breached in the present case.

47. There has accordingly been a violation of Article 6 § 1 of the Convention on this account.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION ON ACCOUNT TO ACCESS TO COURT

48. The applicant complained that the trial court had delayed giving him access to the reasoned judgment of 23 November 2006, which allegedly interfered with his right to appeal. He relied on Article 6 of the Convention, the relevant part of which reads as follows:

> "In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by [a] ... tribunal ..."

49. The Government argued that the applicant had had access to the full text of the reasoned judgment at the appeal hearing of 23 January 2007 which considered admissibility of the appeal and supplement to it. They further noted that in any event the applicant had received the full judgment shortly thereafter.

50. The applicant maintained his complaint.

51. The Court reiterates that Article 6 § 1 secures to everyone the right to have any claim relating to his civil rights and obligations brought before a court or tribunal. In this way it embodies the "right to a court", of which the right of access, that is the right to institute proceedings before courts in civil matters, constitutes one aspect (see *Golder v. the United Kingdom*, 21 February 1975, §§ 35-36, Series A no. 18).

52. The Court further reiterates that, whilst the Convention does not provide any right to an appeal in civil cases, if a right of appeal is provided in domestic law, Article 6 § 1 applies to such appellate procedures (see *Delcourt v. Belgium*, 17 January 1970, § 25, Series A no. 11). The right of access to an appeal court is not absolute and the State, which is permitted to place limitations on the right of appeal, enjoys a certain margin of appreciation in relation to such limitations (see *Brualla Gomez de la Torre v. Spain*, 19 December 1997, § 33, *Reports of Judgments and Decisions* 1997-VIII, and *De Ponte Nascimento v. the United Kingdom*, (*dec.*), no. 55331/00, 31 January 2002). The Court reiterates, however, that the

limitations in question must pursue a legitimate aim and there must be a reasonable relationship of proportionality between the means employed and the aim sought to be achieved (see *Levages Prestations Services v. France*, 23 October 1996, § 40, *Reports* 1996-V).

53. In addition, the right to the effective protection of the courts entails that the parties to civil proceedings must be able to avail themselves of the right to lodge an appeal from the moment they can effectively apprise themselves of court decisions which may infringe their legitimate rights or interests (see *Miragall Escolano and Others v. Spain*, nos. 38366/97, 38688/97, 40777/98, 40843/98, 41015/98, 41400/98, 41446/98, 41484/98, 41487/98 and 41509/98, § 37, ECHR 2000-I).

54. Turning to the circumstances of the present case, the Court accepts that the applicant did not have access to a reasoned judgment within the ten-day time-limit envisaged by the domestic law and lodged his appeal without seeing it. At the same time, it is cognisant of the applicant's admission that he read the text of the reasoned judgment on 12 January 2007 while studying the case at the Tver Regional Court (see paragraph 32 above) and takes into account the fact that the applicant's supplementary appeal was written after he had read the reasoned judgment. The Court also recalls that the appeal court admitted the supplementary appeal for consideration.

55. In these circumstances the Court takes the view that the applicant was able to effectively appeal the first-instance judgment and his right of access to court was not impaired.

56. Therefore, this complaint is manifestly ill-founded and should be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION ON ACCOUNT OF VIOLATION OF A RIGHT TO AN ADVERSARIAL TRIAL

57. The applicant further complained under Article 6 of the Convention that he had not been provided with a copy of the respondent's objections to his claim, as well as other various submissions made by the respondent in the course of the proceedings.

58. The Government stated that the complaint had no merit as the fact that the applicant had replied to the respondent's objections of 18 March 2003 in August 2005 was sufficient evidence that he had read them by that moment. They further noted that the applicant had also confirmed receipt of the observations of 4 July 2005.

59. The applicant maintained his complaint.

60. According to the Court's case-law, the principle of equality of arms requires that each party must be afforded a reasonable opportunity to present his case under conditions that do not place him at a substantial

disadvantage *vis-à-vis* his opponent (see, among other authorities, *De Haes and Gijsels v. Belgium*, 24 February 1997, § 53, *Reports* 1997-I).

61. In the circumstances of the present case, the evidence presented by the parties demonstrates that on 9 August 2005 the applicant indeed made a detailed reply to the respondent's objections filed on 18 March 2003. The applicant did not essentially challenge this assertion put forward by the Government, nor did he dispute receipt of the respondent's observations of 4 July 2005. In so far as he may be understood to complain that the trial court had not provided him with a certified hard copy of the observations of 18 March 2003, even if this allegation was true, the applicant did not explain how this had impaired his right to an adversarial trial.

62. It follows, accordingly, that this complaint is manifestly ill-founded and should be rejected under Article 35 §§ 3 and 4 of the Convention.

IV. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

63. The applicant also complained under Article 6 of the Convention that the trial judge sitting in the first set of proceedings had been biased. He also complained under Article 6 and Article 1 of Protocol No. 1 about the outcome of both sets of proceedings.

64. Having regard to all the materials in its possession, and in so far as this complaint falls within its competence, the Court finds that there is no appearance of a violation of the rights and freedoms set out in these provisions in that respect. It follows that this part of the application must be rejected as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

65. 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

66. The applicant claimed 166,000 euros (EUR) in respect of non-pecuniary damage.

67. The Government rejected the claimed amount as excessive and unsupported by any evidence.

68. Referring to its established case-law, the Court accepts that the applicant suffered some distress and frustration caused by the unreasonable

length of the proceedings. Deciding on an equitable basis, the Court awards EUR 1,500.

B. Costs and expenses

69. The applicant also claimed 8963.67 Russian roubles (RUB) (approximately EUR 211) for the costs and expenses incurred both before the domestic courts and in Strasbourg proceedings. In particular, the claimed amount was designed to cover the cost of photocopying and information services, the court fees and other State fees, postal expenses and travel costs.

70. The Government accepted the amount of RUB 3,018 (approximately EUR 71) incurred as postal expenses to Strasbourg as justified and rejected the rest of the claim either because it was not supported by documents or because it was not connected to Strasbourg proceedings.

71. According to the Court's case-law, an applicant is entitled to the reimbursement of 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.

72. Regard being had to the documents in its possession and to its case-law, the Court considers it reasonable to award the sum of EUR 71 covering the costs incurred in the proceedings before the Court.

C. Default interest

73. 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 unreasonable 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, the following amounts, to be converted into Russian roubles at the rate applicable at the date of settlement:

(i) EUR 1,500 (one thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
(ii) EUR 71 (seventy-one euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses;

(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 10 March 2011, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

André Wampach
Deputy Registrar

George Nicolaou
President