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

THIRD SECTION

DECISION

Application no. 42571/06
Antal LAZAROV and Irena LAZAROV
against Serbia

The European Court of Human Rights (Third Section), sitting on 3 May 2016 as a Chamber composed of:

Luis López Guerra, *President,*
Helena Jäderblom,
Helen Keller,
Johannes Silvis,
Branko Lubarda,
Pere Pastor Vilanova,
Alena Poláčková, *judges,*
and Stephen Phillips, *Section Registrar,*

Having regard to the above application lodged on 23 October 2006,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

THE FACTS AND PROCEDURE

1. The applicants, Mr Antal Lazarov and Ms Irena Lazarov, were Serbian nationals, who were born in 1928 and 1929 respectively and lived in Pančevo. They were represented before the Court by Ms M. Bosilj, a lawyer practising in Pančevo. Mr and Ms Lazarov died on 3 April 2011 and 9 December 2011 respectively.

2. On 3 August 2012 the applicants' daughter, Ms Elizabeta Đurić, informed the Registry that she wished to pursue the case before the Court. She also informed the Court that she wished to be represented by Ms M. Bosilj and submitted a power of attorney to that effect.

3. The Government did not contest that request.

4. Given the fact that Ms Elizabeta Đurić has a "definite pecuniary interest" in the proceedings in issue (see, *mutatis mutandis*, *Mijanović v. Montenegro*, no. 19580/06, § 55, 17 September 2013, and *Marčić and Others v. Serbia*, no. 17556/05, §§ 35-39, 30 October 2007), the Court finds that she has standing to proceed in her parents' stead. Although Ms Đurić is therefore now the applicant, the Court will continue to refer to the late Mr and Ms Lazarov as the applicants.

5. The Serbian Government ("the Government") were represented by their Agent at the time, Mr S. Carić.

A. The facts of the case as submitted by the applicants

6. The facts of the case, as submitted by the applicants in their application form, and as they appear from the documents which the applicants submitted, may be summarised as follows.

7. The applicants owned a house in Pančevo measuring 78.41 square metres and a plot of land next to it.

8. On 14 October 1976 the applicants entered into an agreement (*sporazum*) with the Municipality of Pančevo ("the Municipality"). Under the agreement, they agreed to the expropriation of their house and the adjacent plot of land, while the Municipality undertook to provide them with a comfortable flat with two separate rooms (*dvosoban komforan stan*) in the Tesla neighbourhood of Pančevo and 635,000 Serbian dinars (RSD). RSD 555,000 was paid immediately, while another RSD 80,000 was to be paid after the Municipality took possession of the house.

9. On 14 December 1976 the Municipal Secretariat for Housing and Communal Affairs and Urbanism issued a decision expropriating the house and transferring it into social ownership[1]. The applicants continued to live in the house while the adjacent plot of land was used for the construction of an apartment building.

10. As the Municipality had failed to provide them with an appropriate flat, on 24 March 1979 the applicants filed a civil action against it, requesting to have an appropriate flat allocated to them or to be paid compensation for their house.

11. By 1982 an apartment building had been built next to the applicants' house. On an unspecified date in 1982 the Municipality offered them a flat in the complex, which measured 52.25 square metres. The applicants refused to move into the apartment, as they considered it unsuitable.

12. On 13 October 1982 an expert appointed by the Municipality found that both the house in which the applicants were living and the flat which

[1] For more information on the concept of socially owned property, see *R. Kačapor and Others v. Serbia*, nos. 2269/06, 3041/06, 3042/06, 3043/06, 3045/06 and 3046/06, §§ 71-73, 15 January 2008.

the Municipality was offering were comfortable, but that the house, being bigger, was a more suitable home.

13. The Municipality does not appear to have ever suggested any other form of compensation.

14. The applicants continued to live in the house. The change of ownership was not registered with the land registry.

B. The facts of the case as submitted by the Government

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

16. On 9 May 1979 the applicants withdrew their civil action against the Municipality, and the proceedings formally ended on 14 May 1979.

17. On 9 February 1995 the applicants filed another civil action against the Municipality, requesting the RSD 80,000 and that a sixty-square-metre flat with two separate rooms be allocated to them.

18. On 21 February 1996 the applicants withdrew their civil action again.

19. On 9 March 1998 the applicants entered into a new agreement with the Municipality. Under this agreement, the applicants were registered as the occupiers of the house in which they lived, and the Municipality was registered as the sole occupier of the plot of land on which the apartment building had been constructed.

20. The Government submitted that this agreement had settled the dispute between the applicants and the Municipality, and that the 1976 expropriation order was no longer effective.

COMPLAINT

21. The applicants complained under Article 6 and Article 1 of Protocol No. 1 to the Convention of the continuing failure of the respondent State to compensate for the expropriated property.

THE LAW

22. The Government asked the Court to declare the application inadmissible as an abuse of the right of petition. They submitted that the applicants had omitted to inform the Court that both sets of civil proceedings had been terminated at their request.

23. The applicants neither disputed having withdrawn their civil actions, nor provided any explanation for their failure to inform the Court about

having done so. Regarding the agreement of 9 March 1998, the applicants stated that the document merely noted the factual situation regarding the occupation of the house and the adjacent plot. This document, in their view, did not constitute a settlement, much less a document which would invalidate the expropriation order.

24. The Court reiterates that an application may be rejected as an abuse of the right of individual application within the meaning of Article 35 § 3 (a) of the Convention if, among other reasons, it was knowingly based on false information (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014, and *S.A.S. v. France* [GC], no. 43835/11, § 67, ECHR 2014) or if significant information and documents were deliberately omitted, either where they were known from the outset or where new significant developments occurred during the proceedings (see *Predescu v. Romania*, no. 21447/03, §§ 25-27, 2 December 2008, and *Tatalović and Dekić v. Serbia* (dec.), no. 15433/07, 29 May 2012). Incomplete and therefore misleading information may amount to an abuse of the right of application, especially if the information in question concerns the very core of the case and no sufficient explanation is given for the failure to disclose that information (see *Predescu*, cited above, §§ 25-26, and *Komatinović v. Serbia* (dec.), no. 75381/10, 29 January 2013).

25. In the instant case, the Court notes that the applicants complained of a failure on the part of the respondent State to compensate for the expropriated property. However, the applicants themselves withdrew their actions in two sets of civil proceedings concerning the expropriation.

26. In the Court's view, the applicants' complete silence with regard to the termination of the civil proceedings cannot be interpreted as anything but a failure to disclose information concerning the very core of the application.

27. Having regard to the importance of the applicants' failure to disclose information relevant to the proper determination of the case, the Court finds that such conduct was contrary to the purpose of the right of individual petition, as provided for in Article 34 of the Convention (see *Gross v. Switzerland* [GC], no. 67810/10, § 28, ECHR 2014).

28. In view of the above, it is appropriate to reject the application as an abuse of the right of individual application, pursuant to Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 26 May 2016.

Stephen Phillips
Registrar

Luis López Guerra
President