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

THIRD SECTION

DECISION

Application no. 59935/10
Viktoriya Valeryevna OZHEGOVA and Danila Aleksandrovich OZHEGOV
against Russia

The European Court of Human Rights (Third Section), sitting on 13 June 2017 as a Committee composed of:

Luis López Guerra, *President,*
Dmitry Dedov,
Jolien Schukking, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*

Having regard to the above application lodged on 11 October 2010,

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

The applicants, Ms Viktoriya Valeryevna Ozhegova and Mr Danila Aleksandrovich Ozhegov, are Russian nationals, who were born in 1988 and 2006 respectively and live in St-Petersburg. The applicants are mother and son. They were represented before the Court by Mr P.D. Komarov, a lawyer practising in St Petersburg.

The Russian Government ("the Government") were represented initially by Mr G. Matyushkin, the Representative of the Russian Federation to the European Court of Human Rights, and then by his successor in that office, Mr M. Galperin.

The facts of the case, as submitted by the parties, may be summarized as follows.

On an unspecified date the applicants moved into the flat no. 4 at 36 Ulitsa Kazanskaya, St Petersburg, and resided there. They were also registered as living in that flat.

In 2008 the housing authorities refused to sign a social tenancy agreement with the applicants in respect of that flat.

On an unspecified date the administration of the Admiralteyskiy District of St Petersburg ("the district administration") brought a court action seeking the applicants' eviction from the flat. The applicants brought a counter-claim seeking to recognise their right to reside in the flat.

On 7 June 2010 the District Court ordered the applicants' eviction from the flat and dismissed their counter-claims in full.

On 4 August 2010 the St Petersburg City Court upheld the judgment of 7 June 2010 on appeal.

On 1 November 2010 the bailiffs instituted the enforcement proceedings. However, the eviction order was not enforced and the applicants continued living in the flat.

On 1 February 2012 the enforcement proceedings were terminated.

On 16 June 2012 the first applicant gave birth to her second child, Aleksey Igorevich Ozhegov.

In 2014 the first applicant was placed on the housing list.

On 7 October 2014 the district administration asked the bailiffs' service to enforce the eviction order of 7 June 2010.

On an unspecified date the enforcement proceedings were re-opened.

On 23 October 2014 the district administration provided the first applicant and her family (the second applicant and his brother) with flat no. 4 at 36 Ulitsa Kazanskaya, St Petersburg.

On 28 December 2014 the first applicant gave birth to her third child, Ilya Igorevich Ozhegov.

On 11 February 2015 the first applicant's second son, Aleksey Igorevich Ozhegov, acquired the property rights to flat no. 4 at 36 Ulitsa Kazanskaya, St Petersburg, by way of privatisation. The first applicant and her three sons were registered as living in that flat.

On 18 March 2015 the bailiffs discontinued the enforcement proceedings.

COMPLAINTS

The applicants complained under Article 8 of the Convention of a violation of their right to respect for their home.

THE LAW

Alleged violation of Article 8 of the Convention

The applicants complained under Article 8 of the Convention about their eviction from flat no. 4 at 36 Ulitsa Kazanskaya, St Petersburg. Article 8 of the Convention provides as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

The Government submitted that the eviction order of 7 June 2010 had never been enforced and the applicants had not been evicted from the flat. Furthermore, the authorities provided the applicants with the same flat, which was subsequently transferred into the property of the first applicant's second son and in which the applicants live at present. The Government concluded that the applicants' rights had not been violated.

The applicants confirmed that the authorities provided them with the flat. However, they considered that the provision of the flat had not erased the violations of their rights which had already taken place. In particular, the enforcement proceedings coincided with the first applicant's second pregnancy and delivery of her second child. The pregnancy and the delivery were accompanied by complications and as a result her second child was born with a disability. The applicant also submitted that the enforcement proceedings which were terminated in March 2015 were again reopened later in 2015, but they have not provided any decision on the reopening of those proceedings.

The Court reiterates that, under Article 37 § 1 (b) of the Convention, it may "at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to the conclusion that ... the matter has been resolved... ". To be able to conclude that this provision applies to the instant case, the Court must answer two questions in turn: firstly, it must ask whether the circumstances complained of directly by the applicant still obtain and, secondly, whether the effects of a possible violation of the Convention on account of those circumstances have also been redressed (see *Pisano v. Italy* [GC] (striking out), no. 36732/97, § 42, 24 October 2002).

As regard the first question, the Court notes that, as matters stand, the material facts complained of by the applicants have ceased to exist. The applicants do not face any real and imminent risk of eviction. The enforcement proceedings in respect of the judgment delivered in the favour

of the district administration were closed, the applicants were provided with the flat in question and the title to the flat was transferred to the first applicant's second child.

As to the second question, the Court observes that the applicants were never de facto evicted from the flat. It is true that from 1 November 2010, when the enforcement proceedings were instituted and until 18 March 2015, when they were discontinued, the applicants experienced uncertainty as regards their housing situation. Nevertheless, the Court does not consider that this fact alone, in the circumstances of the case, makes the measures taken by the authorities to resolve the applicants' housing problem inadequate. Regard being had to the circumstances of the case, the Court accepts that the authorities' decision to provide the applicants with the flat constituted an adequate and sufficient remedy for their grievances.

In the light of the above, the Court concludes that both conditions for the application of Article 37 § 1 (b) of the Convention are met in the instant case. The Court considers that the matter giving rise to the applicants' complaint has been resolved within the meaning of Article 37 § 1 (b) of the Convention and that respect for human rights as defined in the Convention and its Protocols does not require it to continue the examination of the application under Article 37 § 1 *in fine*.

Accordingly, the application should be struck out of the list.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases.

Done in English and notified in writing on 6 July 2017.

Fatoş Aracı
Deputy Registrar

Luis López Guerra
President