CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

DECISION

Application no. 31711/02
by Barbara RÉTHELYI and Karola RÉTHELYI
against Hungary

The European Court of Human Rights (Second Section), sitting on 25 January 2005 as a Chamber composed of:

Mr J.-P. COSTA, *President*,
Mr A.B. BAKA,
Mr R. TÜRMEN,
Mr K. JUNGWIERT,
Mr M. UGREKHELIDZE,
Mrs A. MULARONI,
Mrs E. FURA-SANDSTRÖM, *judges*,
and Mrs S. DOLLÉ, *Section Registrar*,

Having regard to the above application lodged on 2 July 2002,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together;

Having regard to the parties' formal declarations accepting a friendly settlement of the case;

Having deliberated, decides as follows:

THE FACTS

The applicants, Ms Barbara Réthelyi and Ms Karola Réthelyi, are Hungarian nationals who were born in 1969 and 1971 respectively and live in Biatorbágy, Hungary. They were represented before the Court by Mr Sz. Szabó, a lawyer practising in Budapest.

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

On 4 January 1988 the applicants brought an action in trespass against Mr P., a co-owner of their real property.

On 16 March 1988 the Buda Surroundings District Court held a hearing. On 30 September 1988 it appointed a surveyor to prepare an expert report. On 12 October 1989 the expert was heard. On 30 March and 12 October 1990 the court held hearings.

On 13 February 1991 the applicants complained to the President of the District Court of the protraction of the proceedings.

On 4 April 1991 the District Court held a hearing. On 16 April 1991 it delivered a partial decision. The applicants appealed.

On 14 November 1991 the Pest County Regional Court quashed the District Court's partial decision and remitted the case to the first-instance court. Subsequently, the applicants extended their action to another co-owner.

In the resumed proceedings, on 30 November 1993, 22 November 1995 and 1 February 1996 the District Court held hearings. On the latter date it stayed the proceedings pending the outcome of other civil litigation concerning the division of the co-owned property.

A hearing scheduled for 15 January 1997 was re-scheduled.

On 5 February and 23 April 1997 the District Court held hearings.

On 11 November 1997 the District Court appointed a real-estate expert and a surveyor.

A hearing scheduled to 10 June 1998 was re-scheduled on the applicants' request.

On 7 September 1998 the District Court held a hearing and ordered the surveyor to complete his opinion.

On 8 September 1999 the defendants did not appear at the hearing since the District Court had failed to summon them in accordance with the procedural rules.

On 13 October 1999 the District Court delivered a judgment, dismissing the applicants' claim. This decision was served on 21 January 2000.

On 3 February 2000 the applicants appealed.

On 9 May, 20 June, 4 July, 10 October and 28 November 2000, the Regional Court held hearings. On 20 December 2000 it appointed another real-estate expert.

On 29 May and 18 September 2001 the Regional Court held further hearings. On the latter date it heard the real-estate expert.

A hearing scheduled to 30 October 2001 was re-scheduled.

On 13 November 2001 the Regional Court upheld the first-instance decision. This decision was served on 30 January 2002.

THE LAW

On 23 August 2004 the Court received the following declaration from the Government:

> "I declare that the Government of Hungary offer to pay EUR 8,000 (eight thousand euros) to Ms Barbara Réthelyi and Ms Karola Réthelyi, jointly, with a view to securing a resolution of the application registered under no. 31711/02. This sum shall cover any pecuniary and non-pecuniary damage as well as costs and expenses, and will be payable within three months from the date of notification of the decision by the Court pursuant to Article 37 § 1 (b) of the European Convention on Human Rights.
>
> This sum shall be paid to a bank account named by the applicant, free of any taxes and charges that may be applicable.
>
> Simple interest at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points shall be payable from the expiry of the above-mentioned three months until settlement.
>
> The payment will constitute the final resolution of the case."

On 20 September 2004 the Court received the following declaration signed by the applicants:

> "I note that the Government of Hungary are prepared to pay us, jointly, the sum of EUR 8,000 (eight thousand euros) covering pecuniary and non-pecuniary damage as well as costs and expenses, plus interest if payment is delayed, with a view to securing a resolution of application no. 31711/02 pending before the Court.
>
> I accept the proposal and waive any further claims against Hungary in respect of the facts of this application. I declare that this payment constitutes a final resolution of the case."

The Court takes note of the agreement reached between the parties and considers that the matter has been resolved (Article 37 § 1 (b) of the Convention). Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the further examination of the application. Accordingly, the application to the case of Article 29 § 3 of the Convention should be discontinued, and the case struck out of the list.

For these reasons, the Court unanimously

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

S. DOLLÉ
Registrar

J.-P. COSTA
President