



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

FIRST SECTION

Application no. 17657/06
Zinaida Sergeyevna KHRUSTALEVA
against Russia
lodged on 22 March 2006

STATEMENT OF FACTS

The applicant, Ms Zinaida Sergeyevna Khrustaleva, is a Russian national, who was born in 1952 and lives in Moscow.

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

On 21 October 1987 the Executive Committee of the Moskvoretskiy District Council of People's Deputies of Moscow authorised an assignment of a three-roomed flat to the applicant's family of four persons. At the time the applicant and her family resided in a room in a shared flat. The assignment was granted "on a temporary basis pending the capital refurbishment of the building". In view of that circumstance, the flat was not recognised as the official residence of the applicant's family. The Executive Committee did not issue an official order authorising the assignment of the flat to the applicant's family.

On 21 June 2005 the Zamoskvoretskiy District Court of Moscow granted the City Housing Department's claim against the applicant and her two sons and ordered their eviction from the flat. The court reasoned as follows:

"The court established that [the applicant's family] is registered in [a room in a shared flat].

According to decision no. 3-918 of the Moskvoretskiy Executive Committee of 21 October 1987 ... , [the applicant's family] was allowed to reside in [a three-roomed flat] without a right to be registered there.

According to decision no. 1532 of the Moskvoretskiy Executive Committee of 22 April 1987 the registration of the residence and issuance of residence authorisation orders in the [relevant] block of flats were suspended pending the capital refurbishment of the building.

According to the [financial documentation] in respect of the [flat], [the applicant's family] resides there without registration.

On 26 July and 18 August 2004 [the housing management directorate] asked [the applicant's family] to vacate [the flat].

According to the minutes of the meeting of the housing committee of 25 June 2004, [the applicant's family] was refused an application for assignment of [the flat].

...

Having regard to the evidence submitted in its entirety, the court finds that the [City Housing Department's] claim should be granted

The court established that [the applicant's family] had moved into [the flat] without a right to be registered there pursuant to decision no. 3-918 of the Moskvoretskiy Executive Committee of 21 October 1987 which cannot be, as a matter of law, regarded as a ground for housing provision.

...

Accordingly, the order for [the flat] was not issued to [the applicant's family]; the decision concerning the assignment of the flat in question to them was not taken in accordance with the procedure prescribed by law.

The [applicant's] argument that the decision to provide them with the flat under dispute was taken in the absence of the order cannot be taken by the court into consideration The procedure for assignment of housing as provided for in applicable legislation in force at the relevant time was not complied with.

The [applicant's] argument that the flat was assigned to [her family] with a view to upgrading their housing conditions and that at the time the registration of residents was suspended pending the capital refurbishment of the block of flats is without merit The housing legislation does not provide and did not provide for assignment of housing without registration.

The court cannot accept the [applicant's] argument that the payment by her of the utilities' bills and the acceptance of such payment by the [City] confirms the *de facto* conclusion of the social housing agreement and that it is for the landlord to prepare and execute the social housing agreement. The procedure for the assignment of the housing under dispute as provided for by housing legislation of the Russian Federation was not observed. Accordingly, the occupation of the flat by [the applicant's family] lacks a legal basis.

...

Regard being had to the fact that [the applicant's family] moved into [the flat] without a legal ground, they are to be evicted

Granting the claim lodged by [the City Housing Department], the court relies on the provisions set out in Article 209 of the Civil Code of the Russian Federation setting forth that the owner of the property has the right of possession, use and disposition of the property.

The owner of the flat under dispute is the City of Moscow represented by [the City Housing Department]."

On 11 October 2005 the Moscow City Court upheld the judgment of 21 June 2005 on appeal.

COMPLAINTS

The applicant complains that the domestic courts' decisions ordering her family eviction from a city-owned flat contravened Articles 6 and 8 of the Convention.

QUESTIONS TO THE PARTIES

1. Has there been an interference with the applicant's right to respect for her home, within the meaning of Article 8 § 1 of the Convention?

2. If so, was that interference in accordance with the law and necessary in terms of Article 8 § 2 (see, for example, *Paulić v. Croatia*, no. 3572/06, §§ 29-45, 22 October 2009, and *Orlić v. Croatia*, no. 48833/07, §§ 49-72, 21 June 2011)?