



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

FIRST SECTION

Application no. 44876/12

Yelena Mikhaylovna SYDEYEVA and Yuliya Nikolayevna SYDEYEVA
against Russia
lodged on 28 June 2012

STATEMENT OF FACTS

The applicants, Ms Yelena Mikhaylovna Sydeyeva and Ms Yuliya Nikolayevna Sydeyeva, are Russian nationals, who were born in 1972 and 1993 respectively and live in the town of Ulan-Ude in the Buryatiya Republic. They are represented before the Court by Ms M. Batarova, a lawyer practising in Ulan-Ude.

A. The circumstances of the case

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

The applicants are mother and daughter. Since her early childhood the second applicant has been suffering from arthritis and has disability status.

In the 1970s Ms Ch. signed a social tenancy agreement for a municipal flat with the Administration of the Oktyabrskiy District of Ulan-Ude. She moved away in 1983. Her daughter Ms K. and her nephew Mr R. continued to live in the flat.

In 1986 Ms K. got married and moved to another town. Mr R. continued to live in the flat. A new tenancy agreement was concluded in 1990 between Ms K. and the Oktyabrskiy District Administration.

In 1998 the applicants moved in with Mr R. In 2006 the first applicant and Mr R. got married. In 2011 Mr R. died.

On 22 July 2011 the applicants applied to the Oktyabrskiy District Court of Ulan-Ude for a confirmation of their right to continue living in the municipal flat and for an injunction to the Oktyabrskiy District Administration to conclude a tenancy agreement with them. The Oktyabrskiy District Administration lodged a counterclaim, suing the applicants for eviction.

On 7 September 2011 the Oktyabrskiy District Court of Ulan-Ude rejected the applicants' claims and ordered their eviction.

On 19 October 2011 the judges Ms Sh., Ms N. and Ms E. of the Supreme Court of the Buryatiya Republic quashed the judgment on appeal. The court found, in particular, that the tenancy agreement with Ms K. was still valid, that Ms K. had agreed to the applicants' living in the flat and that the owner's consent was not required under domestic law. It remitted the case before the Oktyabrskiy District Court for a new examination.

On 12 March 2012 the Oktyabrskiy District Court again rejected the applicants' claims. The court found that by the judgment of 23 November 2011, confirmed on appeal on 27 December 2011, the tenancy agreement between Ms K. and the Oktyabrskiy District Administration had been terminated at the District Administration's request and on the ground that Ms K. no longer lived in the flat. The applicants had never lived in the flat together with Ms K. Although they had indeed lived in the flat together with Mr R., that fact had not entitled them to continue living there. Moreover, the applicants had shares in two other flats in Ulan-Ude. Their arguments that they could not live in those flats because five persons were already living in one of them and the other was about to be sold by the owner of the majority of the shares were irrelevant. The court ordered the applicants' eviction.

On 4 June 2012 the judges Ms Sh., Ms N. and Ms K. of the Supreme Court of the Buryatiya Republic upheld the judgment on appeal, finding that it had been lawful, well-reasoned and justified.

On 16 August 2012 the bailiffs' service opened enforcement proceedings and ordered that the applicants should move out of the flat within five days.

COMPLAINTS

1. The applicants complain under Article 6 of the Convention that two judges, Ms Sh. and Ms N., examined their appeal twice on 19 October 2011 and 4 June 2012 and made opposite decisions. They further complain that the appeal court rejected their request for additional witnesses to be questioned.

2. The applicants complain under Article 8 of the Convention that their eviction did not pursue any legitimate aim and was not "necessary in a democratic society".

3. The applicants complain under Article 13 of the Convention that their claims were rejected by domestic courts.

QUESTION TO THE PARTIES

Has there been an interference with the applicants' right to respect for their home, within the meaning of Article 8 § 1 of the Convention? If so, was that interference in accordance with the law, did it pursue a legitimate aim and was it necessary in terms of Article 8 § 2?