



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

FIRST SECTION

Application no. 15643/06
Yelena Nikolayevna RUBINSKAYA
against Russia
lodged on 25 January 2006

STATEMENT OF FACTS

THE FACTS

The applicant, Ms Yelena Nikolayevna Rubinskaya, is a Russian national, who was born in 1969 and lives in Kursk.

A. The circumstances of the case

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

1. Background information

At the material time the applicant owned a part of a house situated in the Promyshlenniy district in Kursk. The house was to be demolished and the applicant gave her permission for the housebreaking.

On 1 September 2004 the applicant called her permission off. However, on 19 October 2004 the Kursk town administration situated in the Leninskiy District in Kursk, issued decision no. 1658-pa ordering the demolition of the house.

2. The applicant's attempts to bring a civil action against the Kursk town administration

On an unspecified date in October 2004 the applicant appealed the decision of the Kursk town administration of 19 October 2004 to the Promyshlenniy District Court in Kursk, in the district where the property to be demolished was located.

On 26 October 2004 the Promyshlenniy District Court refused to examine the complaint. The court's decision stated that it had no territorial jurisdiction over the matter as the claim should be lodged with the court of the defendant's legal address. Therefore, it was suggested that the applicant should complain to the Leninskiy District Court in Kursk.

On an unspecified date in November 2004 the applicant lodged her complaint with the Leninskiy District Court, enclosing a copy of the decision of the Promyshlenniy District Court.

On 5 November 2004 the Leninskiy District Court also refused to examine the matter for lack of territorial jurisdiction. The decision stated that the complaint should be lodged within the court where the property to be demolished was located. Therefore, the court suggested that the applicant should lodge her complaint with the Promyshlenniy District Court.

The applicant appealed the refusal of the Leninskiy District Court to the Kursk Regional Court. On 9 December 2004 the latter overruled the decision and forwarded the complaint for new examination to the Leninskiy District Court.

On 26 January 2005 the Leninskiy District Court examined the applicant's complaint on the merits and rejected it. The applicant appealed against the decision.

On 24 March 2005 the Kursk Regional Court overruled the District Court's decision on procedural grounds stating that the applicant's complaint concerned a civil right and therefore should not have been examined on the merits. The court refused to examine the appeal on the merits and suggested that the applicant should lodge a civil claim instead.

On an unspecified date in 2005 the applicant lodged a civil claim with the Promyshlenniy District Court. On 17 November 2005 the latter yet again stated that it had no territorial jurisdiction over the matter as a civil claim should be examined at the defendant's legal address that is by the Leninskiy District Court.

In November or December 2005 the applicant again complained to the Leninskiy District Court. On 6 December 2005 the latter stated that it had no territorial jurisdiction over the matter as the claim should have been brought at the property's location that is to the Promyshlenniy District Court.

B. Relevant domestic regulations

Article 28 of the Civil Procedure Code (the Code) stipulates that a civil action against a legal entity should be brought at the court in the area of its legal address.

According to Article 30 of the Code, real estate claims, including those concerning dwellings, should be brought at the property's location.

Article 135 of the Code provides that the court leaves a claim without examination if it has no jurisdiction over the matter.

Article 247 of the Code stipulates that the appeals against actions or decisions of public authorities should be examined by the court; if the appeal concerns a civil right, such an appeal should be lodged as a civil claim in accordance, *inter alia*, with provisions of Article 28 of the Code.

COMPLAINTS

The applicant complains under Article 6 § 1 of the Convention about a violation of her right of access to court. Under Article 13 of the Convention she alleges that there are no effective remedies against the violation of her rights.

QUESTION

As regards the refusals of the domestic courts to examine the applicant's action against the Kursk town administration, was there a violation of the applicant's right of access to a court as guaranteed by Article 6 § 1 of the Convention?