



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

FIRST SECTION

DECISION

Application no. 15643/06
Yelena Nikolayevna RUBINSKAYA
against Russia

The European Court of Human Rights (First Section), sitting on 17 September 2013 as a Committee composed of:

Khanlar Hajiyev, *President*,

Julia Laffranque,

Dmitry Dedov, *judges*,

and André Wampach, *Deputy Section Registrar*,

Having regard to the above application lodged on 25 January 2006,

Having deliberated, decides as follows:

THE FACTS

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

The Russian Government (“the Government”) are represented by Mr G. Matyushkin, Representative of the Russian Federation at the European Court of Human Rights.

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

The circumstances of the case

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.

COMPLAINTS

The applicant complains under Article 6 § 1 of the Convention of 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.

THE LAW

The Court refers to Article 37 of the Convention, which, in the relevant part, reads as follows:

“1. The Court 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

(a) the applicant does not intend to pursue his application;

...

However, the Court shall continue the examination of the application if respect for human rights as defined in the Convention and the Protocols thereto so requires.”

The Court observes that, by a letter of 21 February 2013, the Government’s observations were sent to the applicant, who was requested to submit her observations together with any claims for just satisfaction in reply by 25 April 2013.

By a letter dated 31 May 2013 sent by registered post, the applicant was notified that the period allowed for the submission of her observations had expired and that no extension had been requested. The applicant’s attention was drawn to Article 37 § 1 (a) of the Convention, which provides that the Court may strike a case out of its list of cases where the circumstances lead to the conclusion that the applicant does not intend to pursue the application.

The applicant has not responded the Court’s letters. From the postal service delivery notes it follows that she does not reside at the address provided by her to the Court. No other address has been given, no change of address has been submitted to the Court either.

In these circumstances, the Court considers that, for the purposes of Article 37 § 1 (a) of the Convention, the applicant may be regarded as no longer wishing to pursue her application. 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 continued examination of the case. In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court unanimously

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

André Wampach
Deputy Registrar

Khanlar Hajiyeu
President