



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

Communicated on 7 January 2014

FIRST SECTION

Application no. 31788/06
Svetlana Aleksandrovna ALENTSEVA against Russia
and 9 other applications
(see list appended)

STATEMENT OF FACTS

The applicants are Russian nationals. They were owners of flats in Moscow or St Petersburg. The State authorities reclaimed the flats, and the applicants' title to the real property in question was annulled. To date, some of the applicants have been evicted from the property. In other cases the eviction proceedings are still pending.

A. The circumstances of the cases

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

1. Application no. 31788/06, lodged on 24 May 2006

The applicant in this case is Svetlana Aleksandrovna Alentseva, who was born on 12 January 1974 and lives in Moscow. She is represented before the Court by Ms A. Smolenskaya and Mr A. Akopov, lawyers practising in Moscow.

(a) Privatisation of and subsequent transactions in respect of the flat later purchased by the applicant

Prior to its privatisation, the 38.3 square metre flat at 10-3-34 Bolshoy Rogozhskiy Pereulok, Moscow had been owned by the City of Moscow. R. had resided there as a tenant under the social housing agreement with the city. On an unspecified date title to the flat was transferred to R. under a privatisation scheme.

On 12 August 1996 R. died.

On 2 June 2000 Yar. was recognised as R.'s heir and the flat's owner.

On 13 July 2000 Yar. sold the flat to the applicant, who moved in and resided there with her daughter.

On 6 June 2001 the Taganskiy District Court of Moscow found Yar. guilty of fraud and sentenced him to five years' imprisonment. In particular,

the court established that Yar. had acquired R.'s flat fraudulently and sold it to the applicant. The judgment became final on 25 July 2001.

(b) Annulment of the applicant's title to the flat and eviction proceedings

On an unspecified date the prosecutor brought a civil claim on behalf of the Department for Housing of the City of Moscow (the "Housing Department") seeking (1) the annulment of R.'s will and of the applicant's title to the flat; (2) the applicant's eviction; (3) restitution of the flat to the City of Moscow; and (4) annulment of the purchase agreement between Yar. and the applicant, and the reimbursement by Yar. of the amount the applicant paid for the flat.

On 16 December 2003 the District Court examined the case in the applicant's absence and granted the prosecutor's claims in full. The applicant appealed.

On 16 June 2004 the Moscow City Court noted that the District Court had failed to duly inform the applicant of the date and time of the hearing. It quashed the judgment of 16 December 2003 and remitted the case for fresh consideration.

In the new set of proceedings the applicant brought a counterclaim against the City of Moscow, seeking to be recognised as a *bona fide* purchaser of the flat.

On 14 November 2005 the District Court granted the prosecutor's claims in full. It annulled R.'s will and Yar.'s title to the flat, and ordered the applicant's eviction and restitution of the flat to the City of Moscow. The court dismissed the remainder of the prosecutor's claims concerning the annulment of the purchase agreement between Yar. and the applicant and the former's obligation to return the sum paid by the applicant to her. Lastly, the court recognised that the applicant had bought the flat in good faith. However, it found that Yar., having fraudulently acquired R.'s flat, had prevented the City of Moscow from inheriting it from R., who had died intestate.

On 24 January 2006 the City Court upheld the judgment of 14 November 2005 on appeal.

On 23 March 2006 the district bailiff's service instituted enforcement proceedings in respect of the judgment of 14 November 2005. The bailiff scheduled the applicant's eviction for 25 April 2006. The applicant did not inform the Court of the outcome of the proceedings.

2. Application no. 41511/06, lodged on 19 June 2006

The applicant in this case is Yuliya Vladimirovna Artemyeva, who was born on 24 April 1973 and lives in St Petersburg. She is represented before the court by Mr B. Margveli, a lawyer practising in St Petersburg.

(a) Privatisation of and subsequent transactions in respect of the flat later purchased by the applicant

Prior to its privatisation, the flat at 53-16 Shkolnaya Ulitsa, St Petersburg, it had been owned by the City of St Petersburg. B. and her son Um. had resided there as tenants under the social housing agreement with the city.

On 24 December 1998 Um. was transferred to a psychiatric nursing home, where he has resided ever since.

On 8 February 1999 his registration as a tenant in the said flat was cancelled.

On 29 February 2000 ownership of the flat was transferred to B. under a privatisation scheme. On 26 January 2001 B. signed a will indicating that K. would inherit the flat. On 22 June 2003 B. died. On 3 February 2004 K. was recognised as B.'s heir and the owner of the flat.

On 17 February 2004 K. sold the flat to S.

On 3 July 2004 S. sold the flat to the applicant.

(b) Annulment of the applicant's title to the flat and eviction proceedings

On an unspecified date the prosecutor brought a civil claim on Um.'s behalf seeking (1) the annulment of all transactions in respect of the flat; (2) the applicant's eviction; and (3) restitution of Um.'s tenancy rights.

On 19 May 2005 the Pushkinskiy District Court of St Petersburg dismissed the prosecutor's claims on the ground that the applicant was a *bona fide* purchaser of the flat.

On 25 October 2005 the St Petersburg City Court quashed the judgment of 19 May 2005 on appeal and remitted the matter to the District Court for fresh consideration.

On 5 December 2005 the District Court granted the prosecutor's claims in full. The court ruled that Um.'s tenancy rights took precedence over the fact that the applicant was a *bona fide* purchaser of the flat.

On 4 May 2006 the City Court upheld the judgment of 5 December 2005 on appeal.

The applicant did not inform the Court of the outcome of the eviction proceedings, if any.

3. Application no. 47724/07, lodged on 19 September 2007

The applicant in this case is Mariya Nikolayevna Pchelintseva, who was born on 15 June 1979 and lives in Moscow.

(a) Privatisation of and subsequent transactions in respect of the flat later purchased by the applicant

Prior to its privatisation, the 31.2 square metre flat at 4-78 Angarskaya Ulitsa, Moscow had been owned by the City of Moscow. Kor. had resided there as a tenant under the social housing agreement with the city.

On 22 February 2002 Kor. signed a power of attorney authorising G., *inter alia*, to conduct transactions on her behalf in respect of the said flat.

On 29 May 2002 title to the flat was transferred to Kor. under a privatisation scheme.

On 2 June 2002 Kor. died.

On 6 September 2002, acting by virtue of the power of attorney, G. sold the flat to A.

On 12 November 2002 A. exchanged the flat for one measuring 38.8 square metres located at 20-2-144 Angarskaya Ulitsa, Moscow, owned by the Housing Department.

On 21 November 2002 A. sold the 38.8 square metre flat at 20-2-144 Angarskaya Ulitsa, Moscow, to the applicant.

On 29 March 2006 the prosecutor's office opened a criminal investigation into the above-mentioned property transactions.

(b) Annulment of the applicant's title to the flat and eviction proceedings

On an unspecified date the prosecutor lodged civil claims on behalf of the City of Moscow, seeking: (1) invalidation of the power of attorney allegedly signed by Kor.; (2) invalidation of all of the above-mentioned property transactions; and (3) the applicant's eviction.

On 29 November 2006 the Timiryazevskiy District Court of Moscow granted the prosecutor's claims in full. The court conceded that the applicant was a *bona fide* purchaser of the flat. However, it ruled that the case fell under one of the two exceptions to the protection of a *bona fide* purchaser's title, which required that precedence be given to the previous owner. The applicant's title to the flat was annulled and the title was transferred to the City of Moscow. The court also ordered the applicant's eviction. The applicant appealed.

On 20 March 2007 the City Court upheld the judgment of 29 November 2006 on appeal.

According to the applicant, she was evicted from the flat in 2010.

4. Application no. 14618/08, lodged on 21 January 2008

The applicants in this case are Aleksandr Viktorovich Ananyev, who was born on 14 February 1969, Tatyana Anatolyevna Ananyeva, born on 3 October 1971, and Artem Aleksandrovich Ananyev, born on 23 June 1993. The applicants live in Moscow.

(a) Transactions in respect of the flat later purchased by the first applicant

On 27 August 2002 K. and T. signed an agreement pursuant to which they exchanged the flats in which they had been residing under respective tenancy agreements. The exchange, which was approved by the Moscow housing authorities, meant that K. moved into T.'s flat in the Tver Region and T. moved into K.'s flat at 8/14-113, Pronskaya Ulitsa, Moscow.

On 23 January 2003 title to the flat in Moscow was transferred to T. under the privatisation scheme.

On 2 April 2003 T. sold the flat to the first applicant, who then resided there with his wife and son (the second and third applicants respectively).

(b) Annulment of the first applicant's title to the flat and eviction proceedings

On an unspecified date the prosecutor's office, acting on behalf of the Moscow Housing Department, lodged a civil claim seeking, *inter alia*: (1) invalidation of the agreement between K. and T. to exchange flats; (2) eviction of the first and third applicants; and (3) restitution of the flat to the City of Moscow. The prosecutor alleged that T. had fraudulently moved into K.'s flat, as the flat in the Tver Region did not exist. According to the prosecutor, K.'s whereabouts were unknown and, therefore, the civil proceedings had been instituted only in the interests of the City of Moscow.

On 12 October 2005 the Kuzminskiy District Court of Moscow dismissed the prosecutor's claims. It found that the first applicant had been a *bona fide* purchaser and could not be deprived of his real property. The

court also took into account the fact that the Moscow housing authorities had approved the exchange of flats, and found without merit the prosecutor's argument that the City of Moscow did not intend to divest itself of the flat.

On 16 February 2006 the Moscow City Court granted an appeal lodged by the prosecutor, quashed the judgment of 12 October 2005 and remitted the matter for fresh consideration.

On 14 June 2006 the District Court granted the prosecutor's claims. It invalidated all the transactions in respect of the flat in Moscow, as well as the first applicant's title to the flat, and ordered the first and third applicants' eviction.

On 22 August 2006 the City Court quashed the judgment of 14 June 2006 on appeal and remitted the matter for fresh consideration. The court noted that the case had been examined in the second applicant's absence.

On 6 April 2007 the District Court granted the prosecutor's claims. The court conceded that the applicants had purchased the flat in good faith. However, the court established that the flat, having been fraudulently exchanged, had left the possession of the City of Moscow without the latter having had the intention to divest itself of it. Accordingly, the case fell under one of the two exceptions to the protection of a *bona fide* purchaser's title, which required that precedence be given to the previous owner. The applicants' title to the flat was annulled and title was transferred to the City of Moscow. The court also ordered the applicants' eviction. The applicants appealed.

On 24 July 2007 the City Court upheld the judgment of 6 April 2007 on appeal.

The applicants did not inform the Court as to the status of the eviction proceedings.

5. Application no. 58677/11, lodged on 2 August 2011

The applicant in this case is Tatyana Stanislavovna Dedik, who was born on 22 April 1973 and lives in the Moscow Region.

Privatisation of and subsequent transactions in respect of the flat later purchased by the applicant

Prior to its privatisation, the flat at 14-73 Ulitsa Grishina, Moscow, had been owned by the City of Moscow. Ye. had resided there as a tenant under the social housing agreement with the city. On 2 July 2008 Ye. died.

On an unspecified date An. pasted her photograph in Ye.'s passport and applied for the privatisation of the flat where Ye. used to live. Her request was granted and title to the flat was transferred to Ye.

On 12 January 2008 An., posing as Ye., sold the flat to the applicant.

On an unspecified date the Housing Department brought a civil claim seeking restitution of the flat. In their opinion, the flat belonged to the City of Moscow and the applicant should be divested of her ownership rights in respect of it.

On 30 November 2010 the Kuntsevskiy District Court of Moscow granted the authorities' claims in full. The court conceded that the applicant was a *bona fide* purchaser of the flat. However, it ruled that the case fell under one of the two exceptions to the protection of a *bona fide* purchaser's

title, which required that precedence be given to the previous owner. The applicant's title to the flat was annulled and title was transferred to the City of Moscow. The court also ordered the applicant's eviction. The applicant appealed.

On 14 March 2011 the Moscow City Court upheld the judgment of 30 November 2010 on appeal.

The applicant did not inform the Court of the status of the eviction proceedings, if any.

6. Application no. 63508/11, lodged on 6 October 2011

The applicants in this case are Natalya Sergeevna Ponyayeva, who was born on 7 July 1978, and her two daughters, Svetlana Aleksandrovna Oleneva, born on 18 March 2006, and Anastasiya Aleksandrovna Oleneva, born on 11 July 2000. The applicants live in Moscow. They are represented before the Court by Ms Ye. Nakhimova, Ms M. Samorodkina and Ms O. Makarkina, lawyers practising in Moscow.

(a) Privatisation of and subsequent transactions in respect of the flat later purchased by the first applicant

Prior to its privatisation, the 45.1 square metre flat at 83-3-4 Ulitsa Svobody, Moscow, had been owned by the City of Moscow. Ol. had resided there as a tenant under the social housing agreement with the city.

In 2003 Ol. was committed to a psychiatric hospital, where he is undergoing treatment to date.

On 9 March 2004 title to the flat was transferred to Ol. under a privatisation scheme.

On 1 April 2004 Ol. sold the flat to B. and K.

On 12 January 2005 the Tushinskiy District Court of Moscow granted a claim lodged by B. against Ol. In particular, the court found that the latter had forfeited to right to reside in the flat and annulled his residence registration.

On 10 March 2006 B. and K. sold the flat to the first applicant.

(b) Annulment of the first applicant's title to the flat and eviction proceedings

On 31 January 2006 the prosecutor's office received a complaint from N., an acquaintance of Ol., in which she alleged that the latter had been fraudulently deprived of the flat. On 14 March 2006 the district department of the interior opened a criminal investigation into the matter.

On an unspecified date the inter-district prosecutor brought a civil claim on Ol.'s behalf seeking invalidation of all the transactions in respect of the flat and its restitution to Ol.

On 2 July 2010 the District Court granted the prosecutor's claim. In particular, it established that Ol.'s signatures on the power of attorney authorising third parties to act on his behalf in respect of the flat and his signature on other related documents had been forged. The court conceded that the applicant was a *bona fide* purchaser of the flat. However, it ruled that the case fell under one of the two exceptions to the protection of a *bona fide* purchaser's title, which required that precedence be given to the previous owner, in this case the City of Moscow. The first applicant's title to the flat was annulled and title was transferred to the City of Moscow. The

court further recognised Ol.'s right to reside in the flat. Lastly, the court ordered the eviction of the applicants. The first applicant appealed.

On 6 April 2011 the Moscow City Court upheld the judgment of 2 July 2010, in substance, on appeal.

The applicants did not inform the Court of the status of the eviction proceedings, if any.

7. Application no. 2920/13, lodged on 25 December 2012

The applicants in this case are Oksana Aleksandrovna Polevoda, who was born on 14 June 1974, and her two children, Yuriy Aleksandrovich Polevoda, born on 11 February 1999, and Natalya Aleksandrovna Polevoda, born on 28 November 2002. The applicants live in Moscow.

(a) Transactions with the flat later purchased by the first applicant

Prior to its privatisation the flat at 27-3-50 Kastanayevskaya Ulitsa, Moscow, had been owned by the City of Moscow. V. had resided there as a tenant under the social housing agreement with the city. On 1 November 2001 V. died.

On 10 September 2002 the local housing authorities authorised an exchange of flats between V. (whom it presumed was still alive) and S. The latter moved into the flat.

On 24 December 2002 the local housing authorities authorised another exchange of flats between S. and K. On 16 April 2003 the city housing authorities transferred title to the flat to K. under the privatisation scheme.

On 8 May 2003 K. sold the flat to the first applicant.

(b) Annulment of the first applicant's title to the flat and eviction proceedings

On an unspecified date the Housing Department brought a civil action against the applicants. The housing authorities alleged that, in view of the fraudulent nature of the first transaction in respect of the flat, the first applicant's title to the flat should be annulled and the flat should be repossessed by the city.

On 24 December 2010 the Dorogomilovskiy District Court of Moscow dismissed the city's claims.

On 26 August 2011 the Moscow City Court quashed the judgment of 24 December 2010 and remitted the matter for fresh consideration.

On 13 December 2011 the District Court granted the claims against the applicants. It recognised the city's title to the flat and ordered the applicants' eviction. The court conceded that the first applicant was a *bona fide* purchaser of the flat. However, it ruled that the case fell under one of the two exceptions to the protection of a *bona fide* purchaser's title, which required that precedence be given to the City of Moscow as the previous owner of the flat.

On 26 October 2012 the City Court upheld the judgment of 13 December 2011 on appeal.

It appears that the eviction proceedings are still pending.

8. *Application no. 3127/13, lodged on 21 December 2012*

The applicant in this case is Svetlana Alekseyevna Dergacheva, who was born on 29 September 1960 and lives in Moscow.

(a) Transactions in respect of the flat later purchased by the applicant

Prior to its privatisation, the flat at 13-2-113 Belomorskaya Ulitsa, Moscow, had been owned by the City of Moscow. On 21 February 2007 the local municipal authorities assigned the flat to Yo. and her family under the social housing agreement.

On 4 December 2007 the city housing authorities transferred ownership of the flat to Yo. under the privatisation scheme.

On 25 February 2009 Yo. sold the flat to the applicant.

(b) Annulment of the first applicant's title to the flat and eviction proceedings

On 13 October 2010 the Koptevskiy District Court of Moscow found Yo. guilty of fraud. The court established that Yo. had fraudulently acquired the tenancy rights in respect of the flat.

On an unspecified date the Housing Department brought a civil action seeking, *inter alia*, the return of the flat to the city and the applicant's eviction.

On 14 February 2012 the Golovinskiy District Court of Moscow granted the claims against the applicant. The court conceded that the applicant was a *bona fide* purchaser of the flat. However, it ruled that the case fell under one of the two exceptions to the protection of a *bona fide* purchaser's title, which required that precedence be given to the City of Moscow, as the previous owner of the flat. Lastly, the court ordered that Yo. return to the applicant the purchase price paid by her.

On 26 June 2012 the Moscow City Court upheld on appeal the part of the judgment of 14 February 2012 concerning the restitution of the city's title to the flat and the applicant's eviction, and remitted the issue of the purchase price paid to Yo. by the applicant for fresh examination. The applicant did not inform the Court of the outcome of the proceedings.

It appears that the eviction proceedings are still pending.

9. *Application no. 15320/13, lodged on 6 February 2013*

The applicants in this case are Fakir Mukhamad Gulom Mukhamad Karim, who was born on 10 May 1968, his wife Svetlana Aleksandrovna Karim and their children Gleb Fakirovich Karim, born on 17 October 2008, and Timofey Fakirovich Karim, born on 16 October 2010. The applicants live in Moscow.

(a) Transactions in respect of the flat later purchased by the first applicant

Prior to its privatisation, the flat at 27-3-50 Kastanayevskaya Ulitsa, Moscow, had been owned by the City of Moscow. Z. had resided there as a tenant under the social housing agreement with the city. On 2 August 2007 Z. died.

Acting by virtue of a power of attorney issued on 1 April 2008, V. signed a flat privatisation agreement on behalf of Z. on 28 April 2008 and then sold the flat to P. on 2 June 2008.

On 19 August 2008 P. sold the flat to the first applicant.

(b) Annulment of the first applicant's title to the flat and eviction proceedings

On an unspecified date the Housing Department brought a civil claim seeking restitution of its ownership of the flat.

On 17 January 2012 the Kuntsevskiy District Court of Moscow granted the claim. It restored the city's ownership of the flat and ordered the applicants' eviction. The court conceded that the first applicant was a *bona fide* purchaser of the flat. However, it ruled that the case fell under one of the two exceptions to the protection of a *bona fide* purchaser's title, which required that precedence be given to the City of Moscow as the previous owner of the flat.

On 8 August 2012 the Moscow City Court upheld the judgment of 17 January 2012 on appeal.

The eviction proceedings are still pending.

10. Application no. 50775/13, lodged on 31 July 2013

The applicant in this case is Natalya Viktorovna Kirillova, who was born on 18 December 1962 and lives in Moscow.

(a) Transactions in respect of the flat later purchased by the applicant

On 1 February 1994 F. bought a 19.3 square metre flat at 22-2-68 Nagatinskaya Naberezhnaya, Moscow. On 23 July 1997 F. died intestate.

On an unspecified date N. brought a civil action seeking recognition as F.'s heir-at-law. On 8 February 2010 the Simonovskiy District Court of Moscow granted her claim and recognised her title to F.'s flat.

On 14 May 2010 N. sold the flat to K. On 6 July 2010 K. sold the flat to the applicant.

(b) Annulment of the applicant's title to the flat and eviction proceedings

On an unspecified date the Housing Department brought a civil action claiming that N. had been erroneously recognised as F.'s heir-at-law and that the City of Moscow should be such an heir instead.

On 8 November 2012 the District Court granted the Housing Department's claims. It ordered the transfer of title to the flat to the City of Moscow and reclaiming of the flat from the applicant. The court also considered that the applicant had not demonstrated due diligence when buying the flat.

On 4 February 2013 the Moscow City Court upheld the judgment of 8 November 2012 on appeal.

It appears that the applicant has not yet been evicted.

B. Relevant domestic law and practice

For relevant domestic law and practice, see the case of *Gladysheva v. Russia* (no. 7097/10, §§ 35-37, 6 December 2011).

COMPLAINTS

Relying on Article 8 of the Convention and/or Article 1 of Protocol No. 1, the applicants complain about the loss of title to their real property and eviction.

COMMON QUESTIONS

1. Have the applicants been deprived of their possessions in the public interest, in accordance with the conditions provided for by law and in accordance with the principles of international law, within the meaning of Article 1 of Protocol No. 1?

If so, was that deprivation necessary to control the use of property in the general interest? In particular, did that deprivation impose an excessive individual burden on the applicants?

2. 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 and necessary in terms of Article 8 § 2?

APPENDIX

No.	Application no.	Lodged on	Applicant's name and date of birth	Represented by
1.	31788/06	24/05/2006	Svetlana Aleksandrovna ALENTSEVA 12/01/1974	Anastasiya SMOLENSKAYA and Aram Akopov
2.	41511/06	19/06/2006	Yuliya Vladimirovna ARTEMYEVA 24/04/1973	Bagrat MARGVELI
3.	47724/07	19/09/2007	Mariya Nikolayevna PCHELINTSEVA 15/06/1979	
4.	14618/08	21/01/2008	Aleksandr Viktorovich ANANYEV 14/02/1969 Tatyana Anatolyevna ANANYEVA 03/10/1971 Artem Aleksandrovich ANANYEV 23/06/1993	
5.	58677/11	02/08/2011	Tatyana Stanislavovna DEDIK 22/04/1973	
6.	63508/11	06/10/2011	Natalya Sergeevna PONYAYEVA 07/07/1978 Svetlana Aleksandrovna OLENEVA 18/03/2006 Anastasiya Aleksandrovna OLENEVA 11/07/2000	Yelena NAKHIMOVA Mariya SAMORODKINA Olga MAKARKINA
7.	2920/13	25/12/2012	Oksana Aleksandrovna POLEVODA 14/06/1974 Natalya Aleksandrovna POLEVODA 28/11/2002 Yuriy Aleksandrovich POLEVODA 11/02/1999	
8.	3127/13	21/12/2012	Svetlana Alekseyevna DERGACHEVA 29/09/1960	
9.	15320/13	06/02/2013	Fakir Mukhamad Gulom Mukhamad KARIM 10/05/1968 Svetlana Aleksandrovna KARIM 06/07/1979 Gleb Fakirovich KARIM 17/10/2008 Timofey Fakirovich KARIM 16/10/2010	
10.	50775/13	31/07/2013	Svetlana Viktorovna Kirillova 18 December 1962	