THIRD SECTION

DECISION

Application no. 67478/01
by Aina OZOLIŅA
against Latvia

The European Court of Human Rights (Third Section), sitting on 21 September 2006 as a Chamber composed of:

 Mr J. Hedigan, *President*,
 Mr C. Bîrsan,
 Mr V. Zagrebelsky,
 Mrs A. Gyulumyan,
 Mr E. Myjer,
 Mrs I. Ziemele,
 Mrs I. Berro-Lefevre, *judges*,
and Mr V. Berger, *Section Registrar*,

Having regard to the above application lodged on 5 February 2001,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

THE FACTS

The applicant is a Latvian national born in 1932 and living in Talsi, Latvia. Before the Court she is represented by Mr Arvīds Ozoliņš, a member of her family. The Government are represented by their Agent, Ms Inga Reine.

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

Since 1969 the applicant leased a plot of land in Talsi on which she built a dwelling house. In 1996, the local municipality issued a decision allowing the applicant to purchase the plot of land where her house was situated, according to the Land Reform Act 1991. The property is located in an established residential area, with other houses adjacent to it.

In May 1996 the applicant filed an action with the Talsi District Court against two owners of the neighbouring properties. She claimed that the defendants had interfered with her property rights by blocking off her gate with dustbins, by planting an electricity pole in front of the gate, by erecting a smokehouse and a shelter for waste containers near her property, by planting shrubs and apple trees on the street, etc. The applicant requested the court to order the defendants to remove all these obstacles. In October 1996 and in February 1997 she further extended her claim.

On 12 December 1996 the Talsi District Court held a first hearing in the case. However, it was postponed. At the following hearing, held on 11 June 1998, the applicant challenged both the judge and the court registrar on the grounds of impartiality, contending, *inter alia*, that one of the defendants had previously been a lay judge (*tiesas piesēdētājs*) at the same court. The judge dismissed the motion as being unsubstantiated.

In December 1998 the Talsi District Court declared two companies and the local municipality as co-defendants in the case and adjourned the proceedings.

In February 1999 the applicant applied to the President of the District Court, challenging again the impartiality of the sitting judge, but in vain. She also requested an adjournment of the hearing initially fixed for 6 April 1999. No decision was taken in respect of this request.

On 25 January 2000 after a short hearing, the judge once again adjourned the case. Finally, on 5 April 2000 the court examined the case and found against the applicant.

On 13 April 2000 the applicant requested the court to make some corrections in the minutes of the hearing. On 27 April 2000 this request was granted in part.

In May 2000 the applicant filed an appeal against the judgment with the Kurzeme Regional Court. The appeal hearing was initially scheduled for 4 September 2000, and the case was assigned to the panel of three judges. However, in August 2000, the applicant challenged one of the judges and requested her substitution. Apparently, there was no reaction to this motion. Later, the hearing was adjourned until 9 October 2000.

On 9 October 2000 the Kurzeme Regional Court held a hearing. The court refused the applicant’s request to hear witnesses and did not take any notice of her repeated request to exclude one of the judges from the bench. By a judgment given on the same day, the court dismissed the applicant’s appeal as unsubstantiated and ordered her to pay legal fees. On 30 November 2000 a panel of the Senate of the Supreme Court refused to grant the applicant leave to appeal on points of law.

COMPLAINTS

Under Article 6 § 1 of the Convention, the applicant contended that her case had been examined unfairly, that both the first instance judge and one of the appeal judges were not impartial, and that the proceedings had been inordinately lengthy. She also complained that the Kurzeme Regional Court had arbitrarily ordered her to bear the costs of the procedure.

Under Article 1 of Protocol No. 1, the applicant complained that she was unable to remove the obstacles to a free use of her property.

THE LAW

On 18 May 2006 the Court received the following declaration from the Latvian Government, signed by their Agent on 10 May 2006:

“I, Inga Reine, Agent for the Government of the Republic of Latvia, declare that the Government of Latvia offer to pay *ex gratia* 2,400 Latvian lati to Mrs Aina Ozoliņa with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum which is, to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.”

On the same day, the Court received the following declaration from the applicant’s representative, signed on 8 May 2006:

“I, Arvīds Ozoliņš, acting on behalf of Mrs Aina Ozoliņa, note that the Government of Latvia are prepared to pay *ex gratia* the sum of 2,400 Latvian lati to Mrs Aina Ozoliņa with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.

This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

I accept the proposal and waive any further claims against Latvia in respect of the facts giving rise to this application. I declare that this constitutes a final resolution of the case.”

The Court takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no public policy reasons to justify a continued examination of the application (Article 37 § 1 *in fine* of the Convention). Accordingly, Article 29 § 3 of the Convention should no longer apply to the case and it should be struck out of the list.

For these reasons, the Court, unanimously

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

 Vincent Berger John Hedigan
 Registrar President