

JUDGMENT OF THE SUPREME COURT

The Supreme Court of Iceland

Friday 15 September 1995.

No 299/1995.

Ms. Guðrún Skarphéðinsdóttir

(Barrister Mr. Björgvin Þorsteinsson)

versus

The Embassy of the United States of America in Iceland

Complaint. Dismissal confirmed. Judicial tribunals. Public international law.

Ruling of the Supreme Court of Iceland.

Supreme Court Justices, Mr. Garðar Gíslason, Mr. Gunnlaugur Claessen and Mr. Markús Sigurbjörnsson, hand down judgement in the present case.

The plaintiff took an appeal to the Supreme Court by way of a complaint on 4 September 1995, which was received by the Court together with the complaint documents on 6 September the same year. The subject matter of the complaint is the decree of the District Court of Reykjavík on 30 June 1995, where the plaintiff's case against the defendant was dismissed *ex officio*, but the plaintiff states that she did not learn of the decree until 22 August 1995. Regarding freedom of filing a complaint the plaintiff refers to Article 143, paragraph 1(j) of the Civil Litigation Act No 91/1991. The plaintiff makes the claim that the decree complained about would be annulled and requests that the District Court judge would be ordered to hear the case *de novo*. Furthermore the plaintiff makes the claim that the defendant would bear the costs associated with the complaint.

The defendant has not exerted itself with regard to the case.

In the summons the plaintiff states that she brings action against "Ambassador Parker Borg residing at Laufásvegur 21, Reykjavík, on account of the Embassy of the United States of America in Iceland, acting for the State Department of the United States of America". The plaintiff backs up her claims in the present case with a lease agreement, dated 18 September 1990, concerning an apartment at Freyjugata 27 in Reykjavík, where the tenant is claimed to be the Secretary of State of the United States of America. Considering the aforementioned wording of the summons the plaintiff's building of the case must be so understood, in light of the lease agreement, that the defendant proper were the United States of America, which were represented by the Secretary of State of that state. Furthermore it must be borne in mind that, according to Icelandic rules of civil procedure, a foreign Embassy does not enjoy the status of being capable of acting as an independent party in a court case.

In accordance with principles of public international law, a state cannot fall within the jurisdiction of judicial tribunals of another state, without the consent of the former, in such a manner that the plaintiff seeks to accomplish with her legal proceedings. The present case will therefore not be presented before Icelandic judicial tribunals. For that reason the conclusion of the decree complained about must be confirmed forthwith.

No costs, related to the complaint, will be determined.

The verdict:

The decree complained about is hereby confirmed.

Decree of the District Court of Reykjavík 30 June 1995.

The present legal action, where the case was taken in for judgement on 27 June 1995, is brought against Ambassador Parker Borg, residing at Laufásvegur 21 in Reykjavík, on account of the Embassy of the United States of America in Iceland acting for the State Department of the United States of America, before the Court by way of a summons issued 23 June 1995 by Ms. Guðrún Skarphéðinsdóttir, identity number 130741-7459, residing at Freyjugata 27 in Reykjavík, on the subject of payment of a debt of the amount of ISK 7 424 280 at a penalty rate, pursuant to Chapter III of the Interest Act No 25/1987, as regards the amount of ISK 322 920 as from 20 July 1992 to 20 October 1992; as regards the amount of ISK 664 500 as from the same date to 20 January 1993; as regards the amount of ISK 1 046 400 as from the same date to 20 April 1993; and as regards the amount of ISK 1 424 280 as from the same date until the date of payment.

The plaintiff makes the alternative claim that the defendant would be ordered to pay the amount of ISK 1 101 360 at a penalty rate, pursuant to Chapter III of the Interest Act No 25/1987, as regards the amount of ISK 341 580 as from 20 October 1992 to 20 January 1993; as regards the amount of ISK 723 480 as from the same date to 20 April 1993; and as regards the amount of ISK 1 101 360 as from 20 April 1993 until the date of payment.

The plaintiff makes the claim that the Court would rule that penalty interest would be added every 12 months to the amount of principal outstanding determined by the Court, whichever would be accepted, the principal or the alternative claim.

Furthermore the plaintiff makes the claim that the defendant would bear the Court costs in accordance with the invoice for the costs, which would be presented at the primary hearing of the case at the latest, with the addition of mandatory value added tax.

Conclusion.

An Ambassador has been summoned, on account of the Embassy of the United States of America in Iceland acting for the State Department of the United States of America, before the Court by the plaintiff on the issue of the payment of a rent, that she claims the Embassy owes her. Article 31(1) of the Vienna Convention on Diplomatic Relations, which was legally validated in this country by Act of Parliament No 16/1971, states that a diplomatic agent should enjoy immunity from civil and administrative jurisdiction of the receiving State. An exception is made to this principle as stated in subparagraphs a to c of the aforementioned Article. With reference to this it must be held that the Embassy of the United States of America in Iceland, acting for the State Department of the United States of America, enjoys immunity (extraterritorial rights) in this country. Hence the present case must be dismissed *ex officio*.

No costs will be determined.

Ms. Arnfriður Einarsdóttir, deputy for the President of the Court, issued the decree.

The decree reads as follows:

The present case is dismissed. No costs are determined.

