

Ruling no 170 of 4 March 2021 (20-11.726) - Cour de cassation (Court of Cassation) - Third Civil Chamber - ECLI:FR:CCASS:2021:C300170

Right to respect for private and family life and personal interest in taking legal action : inadmissibility of the owner to invoke the violation of the right to personal and family privacy of his renters, as long as he is not a victim of the alleged violation.

Third civil chamber

Only the french version is authentic

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Town planning – European Union – Property ownership

Dismissal

Summary

The person who claims a violation to their right to respect for private and family life and home, guaranteed by Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, must justify their personal interest in taking action, by demonstrating that they are a victim of the alleged violation.

It follows that a property owner's claim of violation of the right for private and family life of their renters is not admissible.

Appellant(s) : Mr U... P...

Respondent(s) : the municipality of Cabrières, represented by its current mayor

Facts and procedure

1. According to the ruling under appeal (Nîmes, 7 November 2019), Mr P.. is the owner of a farmhouse located in the municipality of Cabrières, in an agricultural zone according to the local city planning, where only construction necessary for agricultural activity is authorised.

2. The municipality of Cabrières took legal action against him to return the property to its original state, claiming that he set up several apartments for housing, for which he issued leases.

Reviewing pleas

On the first plea, appended hereafter

3. In application of Article 1014, paragraph 2 of the Civil Procedure Code, it is not necessary to have a specially reasoned decision on this plea which is clearly not of such a nature as to entail quashing.

On the second plea

Statement of plea

4. Mr P... objects to the ruling for accepting the request, whereas :

"1°/ the demolition of a structure or making a structure compliant infringes on the right to housing of the persons who live there. It is the court's role to ensure that interference with this right is necessary and proportional to the legitimate objective pursued. By maintaining, in order to require that apartment nos. 7, 8, 9, 10 and 11 be returned to their original state, that only the renters of Mr P...'s residence, the individuals concerned with the demolition measures, can invoke the provisions of Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, when returning the space used as housing to space used for agricultural operations, which has the effect of forcing the renters to leave their home, can only be ordered after examination of all of the relevant interests, the cour d'appel (Court of Appeal) infringed Article 480-4 of the Town Planning Code, along with Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

2°/ the demolition of a structure or making a structure compliant infringes on the right to housing of the persons who live there. It is the court's role to ensure that interference with this right is necessary and proportional to the legitimate objective pursued. By maintaining that, by responding in the general interest, the measure requested was proportional, without seeking to find out if making the structure compliant, while the apartments are occupied by families that all have young children between the ages of six months and five years, did not have the effect of disproportionately infringing on the rights of the renters to housing, the cour d'appel (Court of Appeal) deprived its decision of a legal basis under Article 480-14 of the Town Planning Code, as well as Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms."

Court's response

5. According to Article 31 of the Civil Procedure Code, legal action is open to anyone who has a legitimate interest in the acceptance or dismissal of a claim, excluding cases where the law attributes the right to act only to persons that it designates to raise or fight a claim, or to defend a specific interest.

6. It follows from this provision that the person who claims a violation to their right to respect for private and family life and home, guaranteed by Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (the Convention), must justify their personal interest in taking action, by demonstrating that they are a victim of the alleged violation.

7. This condition joins the condition that comes from Article 34 of the Convention. According to case law of the European Court of Human Rights, to be able to make a request according to this text, a person must be able to claim that their rights have been infringed for rights that are recognised in the Convention, which supposes that the person was personally affected by the alleged violation (ECHR, ruling of 12 November 2013, Occhetto v. Italy, no 14507/07, § 37).

8. Having noted that Mr P...'s apartments were not concerned by the legal action and maintained precisely that only the renters could invoke the provisions of Article 8 of the Convention, the cour d'appel (*Court of Appeal*), which was not required to carry out a control of proportionality that its statements made irrelevant, legally justified its decision to order returning the remodeled buildings to their original state due to violation of town planning rules.

ON THESE GROUNDS, the Court :

DISMISSES the appeal ;

President : Mr Chauvin

Reporting Judge : Mr Jacques, Judge

Lawyer(s) : SARL Meier-Bourdeau, Lécuyer et associés - SCP Didier et Pinet