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HUMAN RIGHTS COMMITTEE
Fifty-fifth session

DECISIONS

Communication No. 638/1995

Submitted by: Edward Lacika
Alleged victim: The author
State party: Canada
Date of communication: 13 September 1993 (initial submission)
Date of present decision: 3 November 1995

[ANNEX]

*/ Made public by decision of the Human Rights Committee.
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ANNEX

DECISION OF THE HUMAN RIGHTS COMMITTEE UNDER THE OPTIONAL PROTOCOL TO THE
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS
- FIFTY-FIFTH SESSION -

concerning

Communication No. 638/1995

Submitted by: Edward Lacika
Alleged victim: The author
State party: Canada
Date of communication: 13 September 1993

The Human Rights Committee, established under article 28 of the
International Covenant on Civil and Political Rights,

Meeting on 3 November 1995,

Adopts the following decision on admissibility:

1. The author of the communication is Edward Lacika, a Canadian citizen, currently residing in Ontario. He claims to be a victim of violations by Canada of articles 14 and 26 of the International Covenant on Civil and Political Rights.

The facts as submitted by the author:

2.1 In 1989, the author and his wife entered into a purchase and sale agreement with a construction company, Geranium Homes (Cobourg) Ltd. By consent of both parties, the closing date of the offer was 15 September 1989. On the said date, the author informed his lawyer that he was not going to honour the agreement, since the house was built to substandard workmanship specifications. The author had commissioned two reports from two building inspection firms. The contractor in turn had obtained the corresponding Occupancy Permit from the Building Inspector of Cobourg, as well as an approved inspection carried out by the New Home Warranty Program.

2.2 On 19 September 1989, a letter from the contractor informed the author's lawyer that the contract had been terminated and that the author had forfeited his deposit.

2.3 The author requested a hearing before a tribunal (The Commercial Registration Appeal Tribunal) on the basis of the damages the inspections carried out by the New Home Warranty Program (8 September 1989) and the

Building Inspector of Cobourg (13 September 1989), had caused him. He alleged that the inspections were manipulated and did not reveal four breaches of the building code and twenty three other deficiencies in the house interior, that the water services were not connected, etc. This substandard workmanship was criticized in the reports the author had commissioned from the independent firms. In this respect, he states that the testimony presented by the representative of the New Home Program Mr. P.L., during the hearing held on 18 January 1991, was contradictory. The author's claim was for the forfeited deposit and various damages, amounting to a sum total of thirty four thousand six hundred and sixty three dollars.

2.4 The hearing was held on 19 January 1990, and the Decision and Order to dismiss the claim were issued on 28 March 1990. The appeal was heard and dismissed by the Divisional Court on 18 January 1991; no order as to costs was issued. The appeal did not deal with the allegation of discriminatory treatment; a motion hearing for leave was held and dismissed by the Appeal Court of Ontario, on 27 May 1991, with no costs or reasons given. On 20 February 1992, the Supreme Court of Canada dismissed a motion for extension of time and an application for leave to appeal; without giving reasons.

The complaint:

3. The author alleges that the hearings in his case were biased. In this respect, he submits that the respondents' lawyers were not even present, allegedly because they knew that no questions were going to be put to them. The author further alleges that the dismissal of his request for a non-discriminatory hearing was a violation of his rights, which shows that the Supreme Court of Ontario and the Supreme Court of Canada have no interest in protecting human rights; their attitude is said to violate articles 14 and 26 of the Covenant.

Issues and proceedings before the Committee:

4.1 Before considering any claims contained in a communication, the Human Rights Committee must, in accordance with rule 87 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

4.2 The Committee observes that the allegations of discrimination and bias on the part of the Canadian courts have not been substantiated for purposes of admissibility: they remain blanket allegations and do not in any way reveal how the author's rights under articles 14 and 26 of the Covenant might have been violated. Therefore, the Committee concludes that the author has failed to advance a claim within the meaning of article 2 of the Optional Protocol.

5. The Human Rights Committee therefore decides:

- (a) that the communication is inadmissible;
- (b) that this decision shall be communicated to the author and, for information, to the State party.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]