

An entitlement to compensation for housing for a divorced spouse, who is using an apartment in a house owned by a second spouse after a divorce.

In this case **Mr Anderson acts as a respondent, Mrs Anderson as a plaintiff.**

The facts of the case are as follows:

The plaintiff is an owner of the house. The couple was divorced on May 4, 1997. After that the respondent is still living in that house. In the first instance, the court ruled that the respondent is required to leave the apartment in 15 days after the legal force of the judgement; he also has to find another place for housing. The situation is an analogy to an agreement on a joint apartment lease. Then the court of Appeal changed the 15 days to 30 days and held that the respondent is living in the apartment without a legal reason, plaintiff has all proprietary privilege according § 126 par. 1 of Civil Code. Then the defendant filed an appeal.

The question before the court is whether the respondent has in this situation, in the context of an action for eviction, right to provide substitute housing.

The court affirmed the decision of the lower court. The court held that the respondent is not required to leave the apartment without finding an alternative housing.

The court drew the conclusion that there was an existing family law relationship, where the spouses were obliged to live together in the same household. Because of the divorce the legal reason for one of the spouses terminates, especially for the one who is not an owner. The owner can start a legal action for the purpose of eviction. But an entitlement to compensation for housing for a divorced spouse in an apartment in a house which is owned by another spouse is not exactly specified in the Civil Code, that is why the court needs to use an analogy to an entitlement to compensation for housing for a divorced spouse in § 713 par. 1 of Civil Code.