

MOSCOW CITY COURT

JUDGMENT

24 November 2010 in case No. 33-36501

Judge: Bikovskaya L.I.

Judicial board on civil cases of the Moscow City Court consisting of
Chairman Gerbekov B.I.,
Judges Fedorova E.A., Nikitina E.A.,
With secretary V.,

Having heard in the open court hearing upon report of judge Nikitina E.A. the civil case on cassation complaint of P.

On judgment of the Tverskoi district court of city Moscow dated 11 August 2010, in which it is stated:

To refuse satisfaction of the claims of P. towards the Ministry of healthcare and social development of the Russian Federation and Ministry of healthcare of Moscow region about obligation to conduct official inspections on violations of patient's right.

established:

The applicant P., while submitting an application to the court with above mentioned claims pointed out that the respondents are obliged upon his request to conduct official inspections concerning the provision of medical help, and establishing the cause of death of his mother P.E. in year <...> in the Moscow healthcare institution (MHI).

The applicant during the court hearings fully supported the application.

The representative of the respondent of the Ministry of healthcare and social development of the Russian Federation – S. objected to satisfaction of claims on the basis of grounds set in the response to the complaint.

The representative of the respondent to the Ministry of healthcare of Moscow region was not present during the court hearings, he was duly notified.

The court met the mentioned judgment, in which abolition is requested by P. in the cassation complaint.

Having checked the case materials, heard arguments of the representative of the respondent, whilst discussing the arguments of the application, the judicial board did not find grounds to abolish the judgment.

According to Article 255 of the Civil Process Code of the Russian Federation (hereinafter – CPC RF) to the decisions and actions (inaction) of state bodies, local self-government bodies, and official persons, as well as government and municipal employees, which are disputed during the civil trial procedure shall belong: collegiate and one-man decisions and actions (inaction) as a result of which: the rights and freedoms of a citizen are infringed or obstacles are established against the citizen's exercise of his rights and freedoms, and upon the citizen is unlawfully imposed a certain duty, or he is unlawfully brought to responsibility.

As it is established by the court of first instance and confirmed by the case materials, in year <...> the Ministry of healthcare and social development of the Russian Federation received two appeals from the applicant, which, according to competence, were sent to Roszdravnadzor, in relation to what the applicant was notified, and what is confirmed by the copies of cover letters.

The Ministry of healthcare of Moscow region in the letter dated <...> No. <...> replied to P. that his appeal would be considered. The General Healthcare Directorate of the Administration of the Moscow Region gave a reply, in which it explained the reasons of his mother's death, and based on his request the Department which investigates organized crime in the Moscow Region conducted an inspection of medical service quality provided to P.E. in the year <...>, after which the resolution was passed to refuse the application of a criminal case due to an absence of a relevant crime in the act.

The Judicial board agrees with the conclusion of the court of the first instance about the refusal to satisfy the applicant's claims about the obligation to conduct official inspection, since, as is shown in the case materials official inspection was conducted both by the City Prosecutor office of Himki and by experts from an insurance company, according to the findings of whose, violations in diagnostics and treatment of P.E. were not established.

Meanwhile, implementation of control and supervisory functions for the provision of medical care for citizens does not fall within the competence of the Ministry of healthcare and social development of the Russian Federation and Ministry of healthcare of Moscow Region.

Based on the above mentioned the Court's judgment does not contradict the facts of the case and the requirements of the law.

The arguments of the cassation complaint do not contain grounds for abolishment of the judgment of the court.

Guided by the Articles 360, 361 of CPC RF the judicial board

Held:

The judgment of the Tverskoi district court of city Moscow dated 11 August 2010 to be left unchanged, cassation complain – without satisfaction.
