

First Class Action Decision in France: the Paris High Court of First Instance Dismisses the Case against Immobilière 3F

Alexandre Biard

Tribunal de Grande Instance de Paris, decision No 15/00835 of 27 January 2016, Confédération Nationale du Logement v. S.A. Immobilière 3F

On 27 January 2016, the Paris High Court of First Instance issued the very first decision on a class action in France.

○ Background

The association *Confédération Nationale du Logement* (“CNL”) initiated a class action against the company *Immobilière 3F* in January 2015 for allegedly applying unfair contractual terms in its lease contracts. Namely, CNL argued that the contractual term providing for a financial penalty of 2% in case of delayed payments was unfair and unlawful.

Immobilière 3F notably argued that the class action started by CNL was not admissible as the matter was essentially a question of housing law. According to the defendant, the claim fell thus outside the scope of class actions since the procedure is formally restricted to consumer/competition law matters.

○ The Court Decision

The court held the case admissible and retained a broad interpretation of consumer law. The court took the view that consumer law covers housing matters, and pointed out that no evidence drawn from the parliamentary works ultimately showed that housing litigation had to be excluded from the new French class action regime.

However, the court rejected the claim against *Immobilière 3F* as it considered that there was no evidence demonstrating that the defendant had infringed its contractual obligations. In particular, the court took the view that the four model cases brought by the association (with individual financial penalties going from €1 to €6) were not sufficiently serious to be considered in breach of the tenants’ rights.

CNL has appealed the decision and a new ruling is now expected in 2017.

○ Temporary Conclusions

Although the appeal is still pending, several temporary conclusions can already be drawn at this stage:

- *The key roles of model cases*: selecting representative model cases likely to demonstrate infringements is an essential step requiring extensive preparation and vigilance from associations. Courts are likely to be particularly rigorous before allowing class actions to proceed.

- *The broad interpretation of consumer law*: although the scope of class actions is now progressively expanding, the court took the view that the scope of consumer law must be defined broadly. Arguably, class actions might therefore be permissible to deal with any situations where professionals interact with lay individuals.

- *The lack of communication about the decision*: surprisingly enough, although issued in January 2016, the decision remained largely unnoticed in the press. Ultimately, this first decision appears as a nuanced success for the defendant, and a false start for the new French class action regime.