

Ariz. 49, and 143 P.2d 883 (two cases), 61 Ariz. 59, 51.

18. Exempted practices

Only the most exceptional circumstances can excuse discrimination on basis of racial descent. *Oyama v. State of Cal.*, Cal.1948, 68 S.Ct. 260, 332 U.S. 633, 62 L.Ed. 249.

Exemptions of owner-occupied, two-family homes and rental of rooms in a housing accommodation by owner residing therein from discriminatory practices proscribed by human rights laws were not unconstitutional on theory that they violated constitutional mandates against denial of equal protection and against discrimination on account of race. *Berback v. Mangum*, 1960, 297 N.Y.S.2d 833, 59 Misc.2d 41.

19. Judicial remedies

Fact that this section governing property rights of citizens is couched in declaratory terms and provides no explicit method of enforcement does not prevent federal court from fashioning effective equitable remedy. *Jones v. Alfred H. Mayer Co.*, Mo.1968, 88 S.Ct. 2186, 392 U.S. 409, 20 L.Ed.2d 1189.

This section may be enforced by injunction. *Id.*

District court, in fashioning fair and just order in action under this section would seek to prevent any further deprivation of Negroes' rights and would seek to restore Negroes the right to enter into lease for premises under terms and conditions set forth by owners to white applicants. *Bush v. Kalm*, D.C. Ohio 1969, 297 F.Supp. 151.

In case involving alleged racial discrimination in rental of property, court must determine whether refusal or failure on part of landlord or owner, to rent was motivated by racial considerations, was based solely on account of race or was made because the respective tenant is a Negro. *Id.*

In action brought under this section 1986 with respect to racial discrimination in rental of property, court must determine rights of the parties as of time of discrimination and restore to the plaintiff that of which he has been deprived. *Id.*

When district court finds that property owners refused to rent property to Negroes solely because of their race, court must fashion preliminary order to preserve status quo between the parties pending litigation and to prevent further deprivations of federally guaranteed rights during pendency of litigation. *Id.*

§ 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

R.S. § 1979.

Historical Note

Derivation. Act Apr. 20, 1871, c. 22, § 1, 17 Stat. 13.

Cross References

Citizenship clause, see U.S.C.A. Const. Amend. 14, § 1.
 Conspiracy to deprive rights, damages for, see section 1985 of this title.
 Jurisdiction of district courts of civil rights actions, see section 1343 of Title 28, Judiciary and Judicial Procedure.
 Privileges and immunities clauses, see U.S.C.A. Const. Art. 4, § 2, cl. 1 and Amend. 14, § 1.