FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

JANINA A. SCHAP
ZYGMUNT R. NOWAK
and FRANK B. NOWAK

Claim No. PO-2161

Decision No. PO- 2370

Under the Polish Claims Agreement of 1960 and the International Claims Settlement Act of 1949, as amended

PROPOSED DECISION

This claim, for $40,500.00, is based upon the asserted ownership and loss of improved real property located at M. Buczka Street No. 13, Kielce, Poland. Claimants, ZYGMUNT R. NOWAK and FRANK B. NOWAK, are native-born citizens of the United States. Claimant, JANINA A. SCHAP, became a national of the United States by derivation through her father on July 11, 1914.

Under the Polish Claims Agreement of 1960, claims by nationals of the United States for "(a) the nationalization or other taking by Poland of property and of rights and interests in and with respect to property . . ." are settled and discharged. (Agreement with the Government of the Polish People's Republic Regarding Claims of Nationals of the United States, July 16, 1960, 11 U.S.T. & O.I.A. 1953, T.I.A.S. No. 4545 (1960), Article II)

The Agreement further defines "claims of nationals of the United States" as including

> rights and interests in and with respect to property nationalized, appropriated or otherwise taken by Poland which, from the date of such nationalization, appropriation or other taking to . . . [July 16, 1960], have been continuously owned . . . (a) directly by natural persons who were nationals of the United States . . . . (Polish Claims Agreement of 1960, 1960, supra, at Annex, Paragraph A. See also 14 FCSC Semiann. Rep. 186 (Jan.-June 1961).)

The Commission finds, on the basis of official Polish documentation, that Anna Nowak was the owner of improved real property at M. Buczka Street, No. 13, Kielce, Poland, and that this property came within the purview of the Polish Decree of April 7, 1948 (Dz. U. No. 20, it. 138), effective April 16, 1948. That Decree permitted the appropriation of real property which had been used for certain public purposes from September 1, 1939 to May 9, 1945 and which was in the possession of Polish authorities on the effective date of the Decree. The Decree provided, in substance, that as a prerequisite to such appropriation (1) an application be made to the appropriate authority and (2) if such application be granted, that the property be deemed to have been expropriated as of May 9, 1945. In the instant case, the State Office of Public Security in Kielce applied for the expropriation of the subject real property under the aforementioned Decree and the Presidium of the County National Council in Kielce granted the application by Decision dated February 24, 1951. The Commission thus finds that the subject property was taken by the Government of Poland without compensation on the date of said Decision and not the retroactive date of May 9, 1945.

Anna Nowak became a citizen of the United States by derivation through her husband, who was naturalized on July 11, 1914 subsequent to their marriage. She died intestate in Baltimbre, Maryland on July 20, 1953, leaving her surviving the three children, claimants. Accordingly, each child has a one-third interest in the claim arising from the taking of the property.

On the basis of the evidence of record, namely the appraisals made by Z. Romiszowski and Jozef Kobryn, apparisers in the City of Kielce, the Commission finds that on February 24, 1951, the date of

loss, the property at 13 M. Buczka Street, Kielce had a value of $26,140.00, and that claimants are entitled, under the Polish Claims Agreement of 1960, to awards for their respective interests therein.

The Commission has determined with respect to any claim which, at the time of award, is vested in persons other than the person by whom the loss was sustained, that the Commission shall issue a consolidated award in favor of all claimants then entitled thereto, indicating the respective interests of such claimants therein, and all such claimants shall participate in payments, in proportion to their indicated interests, in all respects as if an award had been in favor of a single person.

The Commission has decided that in granting awards on claims under the Polish Claims Agreement of 1960, interest shall be allowed at the rate of 6% per annum from the date of loss to July 16, 1960, the effective date of the Agreement. (See the Claim of John Hedio Proach, Claim No. PO-3197.) Therefore, the amounts of the awards will be increased to that extent.

Accordingly, the Commission concludes that claimants, JANINA A. SCHAP, ZYGMUNT R. NOWAK and FRANK B. NOWAK are entitled to a consolidated award as follows:

A W A R D

A consolidated award is hereby made in the principal amount of Twenty-Six Thousand One Hundred Forty Dollars ($26,140.00), with interest thereon at 6% per annum from February 24, 1951 to July 16, 1960, the date of the Polish Claims Agreement, in the sum of Fourteen Thousand Seven Hundred Thirty-Four Dollars and Thrity-Three Cents ($14,734.33), in which the interests of claimants are as follows:

	Principal	Interest
JANINA A. SCHAP	$8,713.34	$4,911.45
ZYGMUNT R. NOWAK	$8,713.33	$4,911.44
FRANK B. NOWAK	$8,713.33	$4,911.44

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

29 JAN 1964

Edward D. Re, Chairman

Theodore Jaffe, Commissioner

LaVern R. Dilweg, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections to this Proposed Decision are filed within 20 days of service thereof, the decision will, upon the expiration of 60 days after such service or receipt of notice, be entered as the Final Decision of the Commission unless the Commission otherwise orders. (FOSC Reg., 45 C.F.R. § 531.5(e) and (g) (1961))

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