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

IN THE MATTER OF THE CLAIM OF

CHANA THEE
and
RACHEL NEUHOF

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

Claim No. PO-3830

Decision No. PO- 2879

Counsel for claimants: Frederic M. Alberti, Esq.

PROPOSED DECISION

This claim, by CHANA THEE and RACHEL NEUHOF, for an unstated amount, is based upon the asserted ownership and loss of a one-third interest each in a two-family brick building with two stores located at Lesko, powiat Lesko, Poland. Claimants have been nationals of the United States since their naturalization on April 6, 1948, and July 28, 1959 respectively.

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, supra, at Annex, Paragraph A. See also 14 FCSC Semiann. Rep. 186 (Jan.-June 1961).)

Thus where property was owned by a natural person at the time of its nationalization, appropriation, or other taking, a claim based upon such loss of property is not compensable under the Agreement unless such person was a national of the United States at the time of such nationalization, appropriation, or other taking, and also unless the claim was owned continuously thereafter until July 16, 1960 by a national or nationals of the United States.

The Commission finds that the property located at Lesko, powiat Lesko, Poland, the subject of this claim, was owned in equal shares by Sima Guenzberg and Jacob Guenzberg, both of whom perished during World War II. In the absence of evidence to establish the exact dates of death, it is presumed, in accordance with Article 21 of the Decree of August 29, 1945 (Dz. U. 1945, No. 40, it. 223) that they died simultaneously.

Jacob Guenzberg is survived by his two brothers, Nachem Guenzberg and Benio Geunzberg, who are presently living in Israel. Sima Guenzberg was survived by two sisters, Chana Thee and Rachel Neuhof (the claimants herein), and a niece, Batja Nesher, residing in Israel, the daughter of a deceased sister. Accordingly, each of the claimants herein inherited one-third of the one-half interest in the property which had been held by their late sister, Sima Guenzberg; that is, each claimant had a one-sixth interest in the property involved in the claim.

The Commission further finds, on the basis of official Polish documentation, that the improvements on the property were destroyed during World War II; and that the land, measuring 160 square meters, was within the purview of Article 34 of the Decree of March 8, 1946 (Dz. U. 1946, No. 13, it. 87). That Article provides for the taking of real property considered as abandoned, on the expiration of ten

years from the end of the year in which World War II terminated, January 1, 1956. In the absence of evidence to the contrary, the Commission finds that claimants' property was taken on that date, January 1, 1956.

The Polish Claims Agreement of 1960 provides for the payment of compensation for property which was nationalized, appropriated or otherwise taken by the Government of Poland. It does not settle or discharge claims based upon damage to or destruction of property during World War II, or the taking of property by forces occupying Poland during the war. (See the Claim of Dominick W. Przybylinski, Claim No. PO-1358.) Accordingly, the portion of the claim based upon improvements on the land is denied.

Claimant, Rachel Neuhof, was not a national of the United States until July 28, 1959. Therefore, her share of the property was not owned by a United States national at the time of taking as is required for compensation under the provisions of the Agreement discussed above. Accordingly, the portion of the claim which is based upon her share in the property is denied.

The claimants have not established the value of the land. However, based upon values of similar properties in the locality of the property claimed, the Commission finds that the value of the property at the time of loss was $300.00; and concludes that Chana Thee is entitled, under the Polish Claims Agreement of 1960, to an award in one-sixth of that amount.

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.) Accordingly, the amount of the award will be increased to that extent.

A W A R D

An award is hereby made to CHANA THEE in the amount of Fifty Dollars ($50.00), with interest thereon at 6% per annum from January 1, 1956, to July 16, 1960, the date of the Polish Claims Agreement, in the amount of Thirteen Dollars and Sixty-two Cents ($13.62).

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

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. (FCSC Reg., 45 C.F.R. § 531.5(e) and (g) (1961)).