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

IN THE MATTER OF THE CLAIM OF

ADOLPH B. BORNSTEIN

Claim No. PO-4596

Decision No. 787

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

PROPOSED DECISION

This claim for $8,000.00, is based upon an ownership interest in and loss of real property in Radomski, Poland, which claimant alleges he inherited in 1940. Claimant, ADOLPH B. BORNSTEIN, became a national of the United States by naturalization on May 27, 1919.

The property subject of this claim consists of a parcel of land of 1,000 square meters and a building No. 12 Armii Czerwonej Street, Radomsko, Poland. Claimant has submitted a letter of April 22, 1961, from the Bank Handlowy of Warsaw stating that Chaim Borensztajn (claimant's father) was the record owner of a 1/8 interest, and that Ruda Borensztajn (claimant's mother) was the record owner of a 2/8 interest, in the property at 12 Armii Czerwonej Street, Radomsko, consisting of 1,000 square meters. The letter further states that the plot (land) has not been taken over by the Polish Government but was (at the date of the letter) private property.

Under Section 4(a), Title I, of the International Claims Settlement Act of 1949, as amended, (64 Stat. 12 (1950), 22 U.S.C. § 1623 (1958)), the Commission is given jurisdiction over claims of nationals of the United States included within the terms of the Polish Claims Agreement of 1960, based upon losses which occurred on or before the entry into force of the Agreement. (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 2 of the Agreement defines the types of claims included in the Agreement as those for:

> (a) the nationalization or other taking by Poland of property and of rights and interests in and with respect to property;
>
> (b) the appropriation or the loss of use or enjoyment of property under Polish laws, decrees or other measures limiting or restricting rights and interests in and with respect to property. . .; and
>
> (c) debts owed by enterprises which have been nationalized or taken by Poland and debts which were a charge upon property which has been nationalized, appropriated or otherwise taken by Poland. (Polish Claims Agreement of 1960, supra, Article 2.)

According to an official report by the Polish authorities, the building was destroyed during World War II and only the lot remained. The Polish Claims Agreement of 1960 covers certain claims for the nationalization, appropriation, or other taking of property by the Government of Poland. It does not settle or discharge claims based upon the damage, destruction or taking of property by forces occupying Poland during World War II. (See the Claim of Dominick W. Przybylinski, Claim No. PO-1358.) Therefore, the portion of the claim based on the building must be and hereby is denied.

Article 8 provides that the Agreement "shall enter into force on the date of signature", which was July 16, 1960. Therefore, the claim is not within the scope of Article 2 of the Agreement unless claimant's property was nationalized, appropriated or otherwise taken by the Government of Poland on or prior to July 16, 1960.

As stated in the letter of April 22, 1961, the Government of Poland had not nationalized or otherwise taken the property herein as of that date. The Commission, by letter dated Auguat 8, 1962, directed claimant's attention to Article 2(b) of the Agreement, and suggested

that he submit to the Commission documentation or information tending to show appropriation or loss of use and enjoyment of the property. No such evidence has been received.

Accordingly, it not having been established that claimant has suffered the loss of his interest in the land within the scope of the Polish Claims Agreement of 1960, the portion of the claim based thereon must be and hereby is likewise denied.

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

27 DEC 1962

Edward D. Re, Chairman

Theodore Jaffe, Commissioner

LaVern R. Dilweg, Commissioner

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

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