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

IN THE MATTER OF THE CLAIM OF

IRENE CZAROWICZ

Claim No. PO-10183

Decision No. PO- 3179

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

Counsel for Claimant: Julius Kanarek, Esq.

PROPOSED DECISION

This claim, for $200,000.00, is based upon the asserted ownership and loss of an interest in a landed estate at Rusinowo, county Rypin, voivodeship Bydgoszcz, Poland, containing arable land as well as two houses and several utility buildings, including barns, stables and granaries. Claimant, IRENE CZAROWICZ, has been a national of the United States since her naturalization on November 11, 1954.

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 2)

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.

For a definition of the term "nationals of the United States", we refer back to Section 2(c), Title I, of the International Claims Settlement Act of 1949, as amended, which provides that:

> The term "nationals of the United States" includes (1) persons who are citizens of the United States, and (2) persons who, though not citizens of the United States, owe permanent allegiance to the United States. It does not include aliens.

The Commission finds, on the basis of official Polish documentation and other evidence submitted by claimant, that she was the owner of a 5/32 interest in a landed estate of 543.1105 hectares, including buildings and other improvements, in Rusinowo, county Rypin, voivodeship Bydgoszcz, Poland; and that the estate was nationalized by the Polish Committee of National Liberation pursuant to the Decree of September 6, 1944, which provided for the effectuation of agricultural reform. The Commission finds that, in the absence of evidence to the contrary, the land was effectively taken on the date of publication of the Decree. From evidence available, it appears that publication of the unified text of this Decree appeared in the Journal of Laws on January 19, 1945 (Dziennik Ustaw of 1945, No. 3, it. 13).

In the Claim of Fajbus Zakrzewski, Claim No. PO-1695, this Commission held that one who had filed a declaration of intention to become a citizen of the United States, but had not yet been

naturalized, was neither a citizen nor a "national of the United States" as that term is used in the Polish Claims Agreement of 1960 and Section 2(c) of the International Claims Settlement Act of 1949, as amended.

From the foregoing, it is clear that the property upon which this claim is based was not owned by a national of the United States on January 19, 1945, the date of loss, as is required for compensation under the provisions of the Agreement discussed above. Accordingly, the portion of the claim based on claimant's interest in the estate Rusinowo must be and the same is hereby denied.

However, pursuant to the terms of Article 17 of the Decree of September 6, 1944, former owners or co-owners of property encompassed within that Decree, had a right to receive in another county an independent farm of comparable arable land in partial compensation for the taking. Article 12 of said Decree defines independent farms as comprising up to five (5) hectares of land. The Commission further finds that said right was abrogated and declared null and void by the provisions of Article 12 of the Law of March 12, 1958, Regarding Sale of State-Owned Farmland and Concerning Regulation of Certain Matters Connected With the Implementation of the Agrarian Reform and Farm Settlements (Dziennik Ustaw of 1958, No. 17, it. 71). The Commission, therefore, finds that, based on the provisions of the aforementioned Decree of September 6, 1944, claimant acquired a right to receive the five (5) hectares of farmland and that this right was taken on the effective date of the Law of March 12, 1958, supra; i.e., on April 5, 1958.

Claimant submitted a purported assignment, dated April 3, 1962, of a 5/8 interest in the landed estate at Rusinowo excuted by her mother, Janina Sulkowski, a non-national of the United States.

Without determining the validity of the assignment, the Commission finds that that portion of the claim based upon the aforementioned 5/8 interest in the estate in Rusinowo must be and the same is hereby denied for the reason that it was not owned by a national of the United States either on January 19, 1945 or on April 5, 1958, as required by the terms of the Polish Claims Agreement of 1960.

Claimant submitted no evidence on the value of the subject property. However, the Commission has conducted an independent investigation into methods of evaluating agricultural property in Poland. On the basis of all the information available to the Commission, including the average values published in 1956 by the Praesident des Bundesausgleichsamtes, Bad Homburg (Verzeichnis der Gemeinde-Hektarsatze mit alphabetischem Kreisverzeichnis der Vertreibungsgebiete), used in administering the German Equalization of Burdens Law, and the average values published by the Kommission fur Nationalisierungsentschadigungen, the Swiss National Claims Commission, used in determining claims of Swiss nationals against the Government of Poland, and in the absence of other evidence as to the value of particular property, the Commission finds that the average value of farmland in the vicinity of Rusinowo, county Rypin, voivodeship Bydgoszcz, Poland, was $290.00 per hectare.

Accordingly, the Commission finds that the value of claimant's right to the five (5) hectares of land, at the time of its taking, was $1,450.00, and concludes that she is entitled, under the Agreement, to an award in 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 IRENE CZAROWICZ in the principal amount of One Thousand Four Hundred Fifty Dollars ($1,450.00), with interest thereon at 6% per annum from April 5, 1958 to July 16, 1960, the date of the Polish Claims Agreement, in the sum of One Hundred Ninety-eight Dollars and Forty Cents ($198.40).

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

OCT 7 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. (FCSC Reg., 45 C.F.R. § 531.5(e) and (g) (1961))