

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

GEORGE L. ROSENBLATT

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. G-0030

Decision No. G-0100

PROPOSED DECISION

This claim in an unstated dollar amount against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended, is based upon the loss of an apartment house and lot at Gartenstrasse 21, Gotha, in the German Democratic Republic.

Under section 602, Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), the Commission is given jurisdiction as follows:

"The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property, including any rights or interests therein, owned wholly or partially, directly or indirectly, at the time by nationals of the United States whether such losses occurred in the German Democratic Republic or in East Berlin . . ."

The evidence of record establishes that claimant became a United States citizen on April 19, 1943. The property at Gartenstrasse was inherited by the claimant from his father when, prior to the end of World War II, claimant was forced to sell this property due to Nazi persecution laws then in effect. Following the conclusion of the Second World War, claimant sought restitution of his property from the purchaser and in 1949 an agreement was reached and title was restored to claimant and such title was registered in the Grundbuch of Gotha.

The evidence of record, consisting of an entry in the Grundbuch, establishes that on September 2, 1952, the property was taken under administration on the basis of the decree on the administration and protection of foreign property of the German Democratic Republic, dated September 6, 1951. The Commission has examined in detail the decree of September 6, 1951, and the first regulations enforcing said decree, which were issued in August 1952. The implementation of the decree clearly deprived the owner of the property for practical purposes of all indicia of ownership. The owner was deprived of the right to dispose of the property. All income from the property was collected by the administering authority and after payment of expenses and taxes, any profits remaining were transferred to a collective account which was used for the general administration of all foreign property. Pursuant to section 5, subsection 3, of the decree of September 6, 1951, the powers of the owner or authorized administrator could be exercised "with the consent of the Government of the German Democratic Republic only." Pursuant to this decree, regulations were issued which directed the appropriate administrative agency ". . . to procure, without delay, the exclusive disposition right over the asset transferred under its administration. It must secure that all portions of the asset are seized and the income from the asset is collected."

By its terms the decree of September 6, 1951, was to continue until the conclusion of a treaty of peace with Germany, an event which due to the international politics of the time was, at best, an indefinite possibility at some distant, future time. In fact, the administration of such assets has continued for over twenty five years.

While the mere taking under administration of foreign assets for a temporary period to allow, for example, appropriate determination of ownership, might not constitute an international wrong, the Commission holds that the implementation of the decree of September 6, 1951, constitutes merely another means of effectively taking property and finds, therefore, that said property was "taken"

within the meaning of section 602 of the Title VI of the International Claims Settlement Act of 1949, as amended. The Commission so held in interpreting a very similar decree and course of conduct by the Government of Czechoslovakia under Title IV of the same act in the matter of the Claim of Angela Froehlich Lipson, Claim No. CZ-3386, Decision No. CZ-1383A (Foreign Claims Settlement Commission of the United States: Decisions and Annotations, pg. 384).

The Commission, therefore, holds there was an effective taking of the property by the German Democratic Republic on September 2, 1952. To determine just compensation for said taking, the Commission must determine the value of the property at the time it was taken.

In this regard, the Commission has been provided with considerable evidence concerning the value of the property in 1949, when a negotiated settlement was made for the return of the property to claimant. Independent appraisals at that time valued the property at 111,300 and 72,000 RM. The Einheitswert (Tax assessment) amounted to 67,400 RM, which tax valuation assessment purported to represent only a percentage of the fair market value at the time. In 1949, during the negotiations leading up to the restoration of title in claimant, a compromise agreed evaluation of the property was made in the amount of 91,650 Deutsche Marks. At the time the property was taken, it was encumbered by a mortgage in the amount of 21,423.42 Deutsche Marks.

The Commission has considered the various appraisals, tax assessments, the detailed description of the property submitted by the claimant, the general appreciation in value of property between 1949 and 1952, the negotiated value as agreed to by claimant in 1949, and the circumstances surrounding the negotiation that lead to that agreement, and has considered appropriate exchange rates for the conversion of Deutsche Marks to dollars. Based upon its consideration of all the evidence, the Commission determines that the value of claimant's property at the time of its loss, was \$20,000.


The Commission has concluded that in granting awards on claims under section 602 of Title VI of the Act for the nationalization or other taking of property or interests therein, interest shall be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of John Hedio Proach, Claim No. PO-3197; FCSC Dec & Ann 549 (1968)).


A W A R D

Claimant, GEORGE L. ROSENBLATT, is therefore entitled to an award in the amount of twenty thousand dollars (\$20,000.00) plus interest at the rate of 6% simple interest per annum from September 2, 1952, until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

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

22 FEB 1978

  
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Wilfred J. Smith, Commissioner

  
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Robert E. Lee, Commissioner

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on 16 OCT 1978

  
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Executive Director

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 513.5 (e) and (g), as amended.)