

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

IN THE MATTER OF THE CLAIM OF

INKA H. MULLER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. G-1736

Decision No. G-1552

PROPOSED DECISION

This claim in the amount of \$2,925.00, plus interest, against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), is based upon the loss of two mortgages.

The record indicates that claimant became a United States citizen on March 20, 1953.

Under section 602, Title VI of the Act, 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 record establishes that claimant was registered on July 22, 1947, as the holder of a 6,500 reichsmark mortgage on improved real property owned by her aunt, Sofie Muller, and located in Bergen auf Ruegen. The mortgage agreement called for the payment of 5% annual interest. The real property involved--a private house called "Sola Bona"--was acquired by Hildegard Luchmann on

January 20, 1954. In a letter dated December 28, 1977, from an attorney at the "Law Office for International Civil Law Matters" in East Berlin, claimant was advised that the mortgage was still registered in her name and that the premises continued to be occupied by Hildegard Luchmann. The letter also indicates that no interest was ever paid on the mortgage by either Sofie Mueller or Hildegard Luchmann and that Hildegard Luchmann, because she is a pensioner owning no additional property, is not able to make interest payments at the present time.

On the basis of the foregoing evidence, the Commission concludes that the mortgage on the "Sola Bona" property in Bergen auf Ruegen has not been taken by the German Democratic Republic. The Commission also finds that the unpaid interest does not constitute a loss "arising as a result of the nationalization, expropriation or other taking of property," as required under section 602 for a claim to be found compensable under the Act. This part of the claim, therefore, must be denied.

The record also establishes that claimant acquired a mortgage in the amount of 5,200 reichsmarks in 1947 from her aunt, Sofie Mueller, which was registered against improved real property in Goerlitz owned at that time by claimant's mother. The terms of the mortgage called for the payment of 5% annual interest beginning July 1, 1947. Claimant states that her mother sold the property to a Mr. Gude in 1948 or 1949. The record includes a letter from an attorney in the German Democratic Republic, dated January 24, 1971, indicating that the real property involved was confiscated in 1952, along with the claimant's mortgage. The letter indicates that claimant had a three year period in which to file a claim for compensation based upon the loss of her mortgage. Claimant has submitted no evidence indicating that she filed such a claim before the 1955 deadline or that such a claim for compensation was denied by the German Democratic Republic.

Section 603 of Title VI of the Act limits the Commission's jurisdiction as follows:

"A claim shall not be favorably considered under section 602 of this title unless the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss, and if favorably considered, the claim shall be considered only if it has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission."

The mortgage on the Goerlitz property was lost in 1952, at a time before claimant acquired United States citizenship. The record contains no evidence that the claimant's right to compensation for the mortgage was denied by the German Democratic Republic between March 20, 1953, the date claimant became a United States citizen, and 1955, when claimant's right to file for compensation in the German Democratic Republic expired. Based upon the foregoing, the Commission finds that claimant has failed to establish that the Goerlitz mortgage was nationalized or otherwise taken by the German Democratic Republic at a time when it was owned by a United States citizen, as required by section 603 of the Act. This part of the claim, therefore, must also be denied.

For the above cited reasons, the entire claim must be and hereby is denied.

The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

NOV 28 1979

For Presentation to the Commission



by David H. Rogers, Director  
German Democratic Republic Claims  
Division

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on 111-16-1000



Francis T. Williams  
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, a Final Decision based upon the Proposed Decision will be issued upon approval by the Commission any time after the expiration of the 30 day period following such service or receipt of notice. (FCSC Reg., 45 C.F.R. 531.5 (e) and (g), as amended.)