

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

IN THE MATTER OF THE CLAIM OF

IRENE SACHS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. G-1785

Decision No. G-1877

PROPOSED DECISION

This claim in the amount of \$1,200.00 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 a mortgage on real property in Berkach, Thuringia, as well as personalty within the subject premises.

This claim was originally filed by the claimant's husband, Hans Sachs, who died in May 1979. The record indicates that both Hans Sachs and the claimant acquired United States citizenship on September 1, 1944, and that claimant is the testamentary successor in interest to Hans Sachs.

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 Hans Sachs was the owner before World War II of a house and land in Thuringia, identified in the land register as Berkach No. 54. Legal title to the subject property was originally lost during the Nazi regime as a result of racial and religious persecution. After its expropriation in the name of the Reich, the property was sold in November 1943 to

Martha Zoeller at the price of 4,000 reichsmarks. The property was subsequently acquired by Karl and Luise Kellermann in June 1944. After World War II, Berkach No. 54 was administered first by the Soviet Military Administration and then by the State Real Property Office of Meiningen, although the Kellermanns retained legal title. Meanwhile, Hans Sachs filed a claim for the property under the Thuringian Restitution Law of 1945. In a settlement agreement, dated February 6, 1951, Karl and Luise Kellermann retained ownership of the property in exchange for the registration of a 4,000 ostmark mortgage in the name of Hans Sachs. The mortgage agreement provided for the payment of 4% annual interest beginning February 1, 1951.

Hans Sachs stated that he received no money from this transaction and that authorities in the German Democratic Republic gave him no information as to the status of the mortgage. Based upon the entire record, the Commission finds that this mortgage came under the purview of the "Decree on the Administration and Protection of Foreign Property in the German Democratic Republic" dated September 6, 1951. The Commission has held that implementation of the provisions of that decree constitutes a taking as defined by section 602 of the Act, which, absent more specific evidence, will be considered to have occurred on August 11, 1952, the date of the first implementing regulation, and that, in determining an award, 4.2 ostmarks equalled one dollar in 1952. (Claim of OLGA LOEFFLER, Claim No. G-0056, Decision No. G-0221). The loss sustained on August 11, 1952 included the 4,000 ostmark mortgage principal and 244 ostmarks in interest that had accrued since February 1, 1951--a total of 4,244 ostmarks. Claimant is therefore entitled to an award of \$1,010.48.

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. (Claim of GEORGE L. ROSENBLATT, Claim No. G-0030, Decision No. G-0100 (1978)).

Claim is also made for the loss of personal property in the house at the time of the original loss of Berkach No. 54 during the Nazi era, as well as rental income from November 20, 1943, the date the house and land were purchased by Martha Zoeller, to February 6, 1951, the date of the settlement agreement with Karl and Luise Kellermann. No evidence has been submitted, however, that any items of personalty originally lost during the Nazi era survived World War II and were taken over thereafter by the German Democratic Republic. No rent was paid on the premises by Martha Zoeller or Karl and Luise Kellermann between 1943 and 1951 since each of these parties held legal title to the property. The nonpayment of rent by these legal titleholders does not constitute a loss "arising as a result of the nationalization, expropriation, or other taking" by the German Democratic Republic, as required by section 602 of Title VI of the Act. The parts of this claim based upon the loss of personalty and rental income, therefore, must be denied.

A W A R D

Claimant, IRENE SACHS, is therefore entitled to an award in the amount of One Thousand Ten Dollars and Forty-eight Cents (1,010.48) plus interest at the rate of 6% simple interest per annum from August 11, 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.

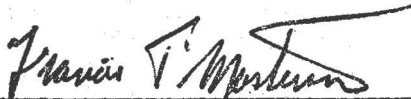
FEB 13 1980

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 SEP 10 1980



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.)