

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

IN THE MATTER OF THE CLAIM OF

JACK DORGIN and NATHAN FURMAN, Co-Executors
of the Estate of FRIEDRICH M. L. ARNTZ,
Deceased

c/o Albert S. Herskowitz, Esq.
Land Title Building
Philadelphia 10, Pennsylvania

Claim No. CZ-1,599 ✓

Decision No. CZ-2366

Under the International Claims Settlement
Act of 1949, as amended

GPO 942329

Counsel for Claimants:

Albert S. Herskowitz, Esq.
Land Title Building
Philadelphia 10, Pennsylvania

PROPOSED DECISION

This is a claim against the Government of Czechoslovakia under Section 404, Title IV, of the International Claims Settlement Act of 1949, as amended, by JACK DORGIN and NATHAN FURMAN, Co-Executors of the Estate of FRIEDRICH M. L. ARNTZ, deceased (hereinafter referred to as "ARNTZ"), for the nationalization or other taking of an enterprise called "Spinnstoffwerke Arntz and Co.", located in Hilbetten, Czechoslovakia.

Section 404 of the Act provides, inter alia, that the Commission shall determine the validity and amount of claims by nationals of the United States against the Government of Czechoslovakia for losses resulting from the nationalization or other taking on and after January 1, 1945, of property, including any rights or interests therein, owned at the time by nationals of the United States.

The record herein discloses that in 1940 "ARNTZ", a national of the United States since his naturalization in the United States on November 16, 1938, travelled to Hilbetten, Sudetenland, an area which was part of Czechoslovakia but which had been incorporated into the

Third German Reich on September 29, 1938.^{1/} On January 25, 1941, "ARNTZ", pursuant to an agreement of that date, "bought" an interest in the firm of Schafwoll & Seidenwarenfabrik of Hilbetten, Sudetenland, with the consent of an agency of the German Government, the State Commissioner for Private Economy. Subsequently, the enterprise became known as "Spinnstoffwerke Arntz and Co." It appears that the property in question had been owned by one Friedrich Pollak, a Jewish person, since the sales contract recites in paragraph 13 thereof as follows:

"This contract is subject to the consent of the respective administration Office with respect to the regulation regarding the use of Jewish property of December 3rd 1938. RGBl. I S 1709 and of the respective Office for foreign currencies."

The regulation referred to in paragraph 13 of said contract is known as the "Decree on the Limitation of Jewish Property of December 3, 1938."^{2/} Pertinent parts of this decree provide as follows:

"ARTICLE I

Trade Enterprises

Section 1

The owner of a Jewish trade enterprise (Third Decree to the Law on Citizenship in the Reich of June 14, 1938 - Official Gazette of the Reich No. I, p. 627) may be ordered to sell or liquidate his enterprise within a prescribed period. Such order may include contributions.

Section 2

(1) Where owners have been ordered to sell or liquidate Jewish trade enterprises pursuant to Section 1, a Trustee can be appointed for the temporary administration of the enterprise and for the completion of the liquidation, especially if the owner did not comply with the fixed period of time set by the Decree and if a petition for the extension of time has been denied.

^{1/} Munich Agreement of September 29, 1938.

^{2/} Official Gazette of the German Reich year 1938.

(2) The trustee is authorized to conduct all transactions and legal actions in the court and outside the court which are necessary for the administration, liquidation, and sale of such enterprise. His authority shall be considered as a legal power of attorney for this work."

It is noted that the Sales Agreement of January 25, 1941 recites that it was entered into between:

"the firm of Schafwoll- und Seidenwarenfabrik Friedrich Pollak in Hilbetten (Landskron Co. Sudetenland) represented by the personally responsible and only authorized shareholder with full power of authority of signing, Ernst F. Pollak, Vienna, Schubertring 7, with the consent of the State Commissioner for the Private Economy and Manager of the Personal Property Office, of March 6, 1939 - E 12600 - Ki - Hk appointed Public Trustee, Dr. Albert v. Schwarz, lawyer in Vienna 1, Schottenring 5,

as **SELLERS**, on the one side

and Mr. Friedrich M. L. Arntz, manufacturer in Hilbetten (Landskron Co. Sudetenland) represented by Dr. Erich Kaetner, university trained and graduated businessman in Berlin, as per power of attorney of December 13, 1940

as **BUYER**, on the other side"

It thus appears that this agreement was not executed by the true owner (Friedrich Pollak as seller) but by a German agency acting under the authority of the discriminatory measures then in effect against Jewish persons.

The United States Government, on January 5, 1943, in conjunction with other nations including the Czechoslovak Republic, declared as follows:

"Declaration regarding Forced Transfers of Property in Enemy-controlled Territory:

The Union of South Africa, the United States of America, Australia, Belgium, Canada, China, the Czechoslovak Republic, the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics, Greece, India, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Yugoslavia and the French National Committee:

Hereby issue a formal warning to all concerned, and in particular to persons in neutral countries, that they intend

to do their utmost to defeat the methods of dispossession practiced by the governments with which they are at war against the countries and peoples who have been so wantonly assaulted and despoiled."

After the re-establishment of the Czechoslovakian Government in 1945, that Government by statute ^{4/} decreed that "all transfers of property and all judicial-property transactions, irrespective of whether they concern movable or immovable, public or private property, are invalid if they were concluded after September 29, 1938 under the pressure of the occupation or of national, racial or political persecution." (Emphasis supplied.)

The Commission has had occasion to consider a number of claims under Section 404 of the Act involving the transfer of privately owned property in Czechoslovakia by German authorities during the period of occupation. It has consistently regarded such transfers null and void and considered claims by the original owners thereof, and where otherwise qualified, such owners have received awards.

The Commission, having fully considered all of the circumstances herein, holds that the purported sale of the property in question to "ARNTZ" was within the purview of the aforesaid Declaration dated January 5, 1943 and invalid by virtue of Law 5/45 Sb. It is, therefore, concluded that "ARNTZ" did not acquire good title to the subject property. There is no evidence nor even an allegation that "ARNTZ" acquired title to the property by some other legal means. Accordingly, the Commission finds that "ARNTZ" did not own the property upon which this claim is based, and this claim is, therefore, denied.

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

Dated at Washington, D. C.

JUN 7 1961

BY DIRECTION OF THE COMMISSION:

Francis T. Masterson

Francis T. Masterson
Clerk of the Commission

^{4/} Law 5/45 Sb. of May 19, 1945.

THIS DECISION WAS ENTERED AS THE COMMISSION'S
FINAL DECISION ON SEP 25 1961

Francis T. Masterson

Clerk of the Commission