

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

In the Matter of the Claim of
**CHARLES ANTHONY PERLE and
ANNA PERLE**
48-43 44th Street
Woodside, New York
and
ANTOINETTE F. POPOVITS
4125 No. Central Park Avenue
Chicago 18, Illinois

Under the Yugoslav Claims Agreement
of 1948 and the International Claims
Settlement Act of 1949

Docket No. Y-1570

Decision No. 1025

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1954*

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FINAL DECISION

Thirty days having elapsed since the claimant(s) herein and the Government of Yugoslavia were notified of the Commission's Proposed Decision on the above claim, and the claimant(s) having filed no objections thereto, and a brief filed by the Government of Yugoslavia having received due consideration, such Proposed Decision is hereby adopted as the Commission's Final Decision on the claim.

Done at Washington, D. C. **OCT 20 1954**

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PROPOSED DECISION OF THE COMMISSION

This is a claim for \$831.24 by Charles Anthony Perle, Anna Perle, and Antoinette F. Popovits, nee Schmidt. Charles Anthony Perle and Anna Perle have been citizens of the United States since their naturalization on January 26, 1928, and January 10, 1928, respectively. Antoinette Popovits has been a citizen of the United States since her birth in Chicago on May 5, 1926. The claim is for the taking by the Government of Yugoslavia of a one-half interest in a house, out-buildings, and lot registered under Docket No. 2505, Jasa Tomic, Yugoslavia.

The Commission finds it established by a certified extract from the Land Register of the County Court of Jasa Tomic (Docket No. 2505, Cadastral District of Jasa Tomic), filed by the Government of Yugoslavia, and admissions of that Government that Charles Anthony Perle, Anna Perle and Elizabeth Perle Schmidt each owned

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a one-sixth interest in a parcel of land with a total area of 420 square fathoms, with structures thereon, when it was taken by the Government of Yugoslavia on February 6, 1945, pursuant to the Enemy Property Law of November 21, 1944 (Official Gazette No. 2 of February 6, 1945).

Evidence filed by claimants shows that Elizabeth Schmidt, nee Perle, the owner of a one-sixth interest in the property, was admitted to United States citizenship on January 30, 1941, and that she died on October 2, 1949. Consequently, at the time of taking of the property, Elizabeth Schmidt, nee Perle, was a citizen of the United States, and her claim was settled by the Claims Agreement of 1948. Affidavits filed by Charles A. Perle, Anna Perle and by Joseph Schmidt, the decedent's husband, attest that the decedent gave birth during her lifetime to only one child, the claimant Antoinette Popovits. We find, therefore, that the decedent was survived by her husband, Joseph Schmidt, and the claimant, Antoinette Popovits. In his sworn statement of December 3, 1952, Joseph Schmidt, the father of Antoinette F. Popovits, and a citizen of the United States since December 1, 1941, assigned all rights he may have with reference to this claim to his daughter. Consequently, Antoinette F. Popovits is the lawful heir and assignee of her deceased mother's claim.

Claimants have filed no corroborative evidence of value. A three-party committee designated by local Yugoslav authorities appraised the land at 7,524 dinars and the structures thereon at 26,673 dinars. An investigator for this Commission appraised the land at 10,500 dinars and the structures at 68,640 dinars. Both appraisals were made on the basis of 1938 values.

The Commission is of the opinion, on the basis of all evidence and data before it, that the fair and reasonable value of all property of claimants which was taken by the Government of Yugoslavia was 79,140 dinars as of the year 1938.* That amount converted into dollars at the rate of 44 dinars to \$1, the rate adopted by the Commission in making awards based upon 1938 valuations, equals \$1,798.62. The interest of all three claimants is $\frac{3}{6}$ of this amount or \$899.31, or \$299.77* for each claimant.

The Commission's awards prior to July 1, 1953 were limited to the amounts claimed. The Commission is now of the opinion that awards should not be so limited but should reflect the actual value of the property taken. It is clear from the Commission's records that many claimants have been absent from Yugoslavia for many years and consequently out of touch with property values even though continuing contact with those using their property. It is also clear that many claimants have never been in Yugoslavia and have no first-hand knowledge regarding values there. Many claimants, including those who were in Yugoslavia prior to the war, state that they do not know the value of their property, particularly as of the time of taking. All claimants were, nevertheless, required to state "the amount of the claim" in their Statement of Claim. It is obviously unjust under such circumstances to hold a claimant to such a statement made adjunctly, as it was in many cases, as a mere matter of speculation when an on-the-spot investigation and appraisal establishes the actual value of the property to be in excess of the amount so claimed. This is feasibly corroborated by the modern liberalization of the rules of pleading to permit amendment after

the submission of the evidence to conform the pleadings to the proof. We are directed, moreover, by the law establishing the Commission to apply in the decision of the claims within our jurisdiction, principles of international law, justice and equity. We are persuaded that justice and equity require the allowance of a claim, if otherwise judicially valid, for the amount found to be the true value of the property taken, even though it had earlier been valued at a smaller amount by a claimant who was unacquainted with the necessary facts.

AWARD

On the above evidence and grounds, this claim is allowed and awards are hereby made to Charles Anthony Perle, Anna Perle and Antoinette F. Popovits, claimants, each in the amount of \$299.77, with interest thereon at 6% per annum from February 6, 1945, the date of taking, to August 21, 1948, the date of payment by the Government of Yugoslavia, each in the amount of \$63.67.* ✓

Dated at Washington, D. C.

JUL 28 1954

* For the Commission's reasons for use of 1938 valuations, use of exchange rate of 44 to 1, and the allowance of interest, see attached copy of its decision in the claim of Joseph Senser.