

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

In the Matter of the Claim of

HELENA SCHLESINGER
20 Mulberry Street
Pawtucket, Rhode Island

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

Docket No. Y-1667

Decision No. 1398

Counsel for Claimant:

PAUL NEUBERGER
16 West 46th Street
New York 36, New York

affirmed
HC
12-9-54

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.

DEC 15 1954

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16 West 46th Street
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alc.
10/25/54

OK
2/2/54
OK 2/1/54

PROPOSED DECISION OF THE COMMISSION

This is a claim for \$56,000 by Helena Schlesinger, a citizen of the United States since her naturalization in the United States on May 26, 1947 and is for the taking by the Government of Yugoslavia of an apartment building at Drencineva and Barciceva Streets, Zagreb, in which the claimant alleges she owned an undivided one-half interest and certain unenumerated items of jewelry.

Claimant alleges that the real property located at Drencineva and Barciceva Streets in Zagreb, in which she asserts she owned a one-half interest, was first taken by the "puppet government"; that it was restored according to the law of February 3, 1945 (Official Gazette, February 13, 1945); and that it was nationalized by operation of law on April 28, 1948, pursuant to the Second Nationalization Act of April 28, 1948 (Official Gazette No. 35, April 29, 1948). In support thereof she has submitted a photostatic copy of Minutes of a hearing held before the District Court for II and III Wards of the City of Zagreb, in Zagreb, on March 18, 1948, pursuant to a request by her and her co-owner to turn the real property over to their attorney-in-fact, Dr. Ivo Cebuhar.

Handwritten signature

An extract from the Land Register of the County Court of Zagreb, dated October 14, 1953 (Docket No. 2642, Cadastral District of the City of Zagreb) and filed by the Government of Yugoslavia and admission of that Government establish that claimant was the record owner of a one-half interest in one parcel of land with a total area of 423 square meters and that Marko Schlesinger, of Zagreb, owned the other one-half interest.

The claimant has furnished an affidavit of July 24, 1953 by Zlatko Koscica, a building contractor, which contains the following statements concerning the property recorded under Docket No. 2642:

"In February 1941, I concluded a contract with Marko and Helene Schlesinger, for the building of a 4-story building on their lot, at the corner of the Drencineva and Barciceva Street in Zagreb, according to the design I had submitted to them. The building was contemplated to consist of sixteen apartments. The agreed price without the building lot and special improvements was Din. 3,070,000.

"We started to build in February 1941; materials were ordered for the entire building, such as steel, concrete, tiles, stoves, all the equipment, electrical ones, then for bathrooms and kitchens, pipes, etc. I received from Marko and Helene Schlesinger a total sum of Din. 1,366,500 up to the time they left the country, and all this money was spent and paid for the account of building material and equipment, and partly for labor, until May 1941.

"The building was built up to the ground floor, i.e. the foundation /basement/ when Marko and Helene Schlesinger left, the money they had left for the building in escrow, had been taken by the Germans and I stopped the work and held the material in deposit in the basement of the building under lock.

"This material had been used later, when in fall 1943, the building was continued under my supervision, I had a contract with the

cooperative 'Hrvatski Radisa' to supervise the work, while they paid the workers, and additional expenses.

"The effective amount used for the building from Marko and Helene Schlesinger was, as I said, above Din. 1,366,500.-, for which amount I have receipts from suppliers and contracts with vouchers. The corner lot where the building was erected I estimated in 1941, at around Din. 800,000."

The Government of Yugoslavia reports that during the occupation, this real property was sold by the owner to the State Directorate for Economical Reconstruction of the former so-called Independent State of Croatia for 100,000 dinars; that according to the records of the said Directorate, 250,000 dinars were spent by it for improvements; that in 1943, the lot and a concrete foundation on the lot was purchased by the Hrvatski Radisa Cooperative; and that this Cooperative erected an incomplete three-story building. The Government of Yugoslavia further reports that the real property was put under its provisional management, pursuant to the Enemy Property Law of November 21, 1944 (Official Gazette No. 2, of February 6, 1945); that since the building was incomplete, it was turned over to the Construction Section of the People's Committee of the City of Zagreb, which Committee completed its construction, borrowing 4,100,000 dinars from the State Investment Bank, Zagreb, the loan being secured by a mortgage encumbrance presently on the property; and that on the basis of the Abandoned Property Law of August 2, 1946 (Official Gazette Nos. 64, August 9, 1946 and No. 105, December 27, 1946), pursuant to a decision of the Commissariat for Communal Affairs of the People's Committee of the City of Zagreb, the property was put under the management of the State Residential Buildings Enterprise of III Precinct of the City of Zagreb.

The apparent position of the Yugoslav Government is that the property was taken pursuant to the Abandoned Property Law of August 2, 1946; (Official Gazette No. 36 of May 29, 1945); that this date of

August 2, 1946 is prior to the date when claimant became a national of the United States; and that, accordingly, that portion of the claim based on real property should be denied.

The Commission has previously decided that where property was taken by the Government of Yugoslavia under the Abandoned Property Law in circumstances such as these, the date of taking was August 17, 1947. The Commission decides, therefore, that the real property recorded under Docket No. 2642 was taken by the Government of Yugoslavia on August 17, 1947, a date subsequent to the date when the claimant herein became a national of the United States.

Claimant alleges that the value of her one-half interest in the real property was 2,500,000 dinars. In support of such value, she filed an affidavit by the contractor who supervised the construction of that part of the building which he built, which affidavit values the land at 800,000 dinars and the part of the building constructed by claimant at 1,366,500 dinars. A three-party committee designated by the Yugoslav authorities appraised the land and the concrete base and cellar at 400,000 dinars. An investigator for this Commission appraised the land at 296,000 dinars and the concrete foundation at 123,000 dinars.

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 claimant which was taken by the Government of Yugoslavia was 209,500 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 \$4,761.36.*

Claimant alleges the loss of various unenumerated items of jewelry, which she values at 300,000 dinars. She asserts that "the jewelry is believed, according to information received from Yugoslavia,

to have been taken in 1947, the date of such taking being unknown as yet". She has, however, filed no corroborating evidence to support the allegation of a taking by the Government of Yugoslavia.

The Yugoslav Government, by report dated January 17, 1950, to the American Embassy, Belgrade, advised that such personal property belonging to claimant as was found after the liberation was given into custody of her brother, Schmutzer Dragutin, and that the remainder of the personal property was confiscated and taken away by occupation forces. By a report, dated September 14, 1954, that Government advised that it could not locate any jewels belonging to claimant and that the Federal People's Republic of Yugoslavia had not taken any jewels belonging to her. The Commission's own investigator has reported that no trace of any personal property belonging to claimant could be found, and that inquiry at the Insurance Company's office failed to elicit any information with respect to such property.

From the foregoing, it is apparent that the investigations conducted by the Yugoslav Government and by this Commission have failed to supply any evidence which shows that the jewelry was taken by the Government of Yugoslavia. The burden of establishing such a taking rests with the claimant, and she has failed to meet that burden; therefore, the part of the claim based on personal property must be, and hereby is, denied.

AWARD

On the above evidence and grounds, this claim is allowed and an award is hereby made to Helena Schlesinger, claimant, in the amount of \$4,761.36 with interest thereon at 6% per annum from August 17, 1947, the date of taking, to August 21, 1948, the date of payment by the Government of Yugoslavia, in the amount of \$288.81. *

Dated at Washington, D. C.

OCT 21 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 the attached copy of its decision in the claim of Joseph Senser.