

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

In the Matter of the Claim of

HUBERT MIHIC

and

MARY MIHIC

179-01 Anderson Road
St. Albans, New York

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

Docket No. Y-394

Decision No. 89-A

Approved
11-26-54

*OK
JWS
Nov 23, 1954*

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 1 1954

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PROPOSED DECISION OF THE COMMISSION

This is a claim for \$10,296.80 by Hubert Mihic and Mary Mihic, citizens of the United States since their naturalizations on December 11, 1928, and June 18, 1929, respectively, and is for the taking by the Government of Yugoslavia of a house, farm buildings and land recorded under Docket Nos. 368 and 420, Travnik, and No. 22, Draga, and bank accounts in Yugoslavia.

That portion of the claim based upon bank accounts was denied by the International Claims Commission in Proposed Decision No. 89 dated June 17, 1952, which was affirmed on December 29, 1952.

The Commission finds it established by certified extracts from the Land Register of the County Court of Kocevje (Docket Nos. 368, 420 and 22, Cadastral Districts of Travnik and Draga), filed by the Government of Yugoslavia, and admissions of that Government that claimant, Hubert Mihic, owned seventeen parcels of land recorded under Docket No. 22, with a total area of 2.9042 hectares, with structures on one of the parcels, when they were 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).

OK.
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The property claimed by Mary Mihic, Docket Nos. 368 and 420, still stands recorded in her name. The Government of Yugoslavia in Note No. 111-4474 from the Ministry of Foreign Affairs under the date of June 2, 1949, reported that Mary Mihic is considered a Yugoslav citizen and that her property was being administered by Ivan Bambic, authorized as the caretaker by the claimant. Under the date of September 17, 1954 the Yugoslav Government reiterated its earlier statement that the property has not been taken and stated that it is now under the temporary control of the Peasant Working Cooperative, Draga, in the absence of specific directions from the claimant as to its disposition.

The position of the Government of Yugoslavia is that although the record owner has acquired United States citizenship she has not lost Yugoslav citizenship; that the property is, therefore, exempt from nationalization; that no restrictive measures have been applied to it; and that it may be sold or otherwise disposed of in the same way as the property of any citizen of Yugoslavia.

The Government of Yugoslavia in its nationalization program enacted two nationalization laws. The first, the Nationalization Law of December 5, 1946 (Official Gazette No. 98, December 6, 1946), nationalized 42 kinds of "economic enterprises of general, national and republican importance," and did not include agricultural property such as that claimed herein.

The second law, the Nationalization Law of April 28, 1948 (Official Gazette No. 36, April 29, 1948), nationalized additional kinds of "economic enterprises" and certain real property, including "all real property owned by foreign citizens," with certain stated exceptions not here applicable, and authorized the Ministry of Justice to "issue the necessary instructions for the transfer to the State of nationalized real property." Instructions issued on

June 23, 1948, pursuant to such authority, contain the following definition of "foreign citizens" (Official Gazette No. 53, June 23, 1948):

"IX. Our emigrants who have acquired foreign citizenship but who have not obtained a release from our citizenship, and who neither have a decree from the Ministry of the Interior stating that they have lost their citizenship nor that their citizenship was revoked, are not considered foreign citizens. Therefore the real property of such persons is not nationalized, regardless of the class of property and regardless of whether they are farmers or not."

Thus it appears that the Nationalization Law of April 28, 1948, as construed by the Ministry of Justice of Yugoslavia under authority conferred in the Act itself, is not applied by the Government of Yugoslavia as a taking of property of "foreign citizens" if such citizens have not lost Yugoslav citizenship. Apparently the claimant, Mary Mihic, has been held to be within that category, and in the absence of actual interference with the property, of which there is no evidence, she is not eligible to receive an award under the Yugoslav Claims Agreement of 1948.

For the foregoing reasons the claim of Mary Mihic is denied.

Claimants have filed no corroborating evidence as to the value of the property recorded under Docket No. 22. A two-party committee designated by local Yugoslav authorities appraised the property at 16,482.70 dinars. An investigator for this Commission appraised the land at 14,122.91 dinars and the structures at 13,320 dinars. Both appraisals were made on the basis of 1938 values.

According to the extract the land bears an encumbrance in the form of a tenancy in favor of Juliana Oswald "until married". An affidavit by Juliana Poje, nee Oswald, has been submitted certifying to her marriage on October 12, 1930. Accordingly no deduction need be made for the recorded encumbrance.

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 27,442.91 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 \$623.70.*

DECISION

On the above evidence and grounds, the claim of Mary Mihic is denied and the claim of Hubert Mihic is allowed, and an award is hereby made to Hubert Mihic, claimant, in the amount of \$623.70 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, in the amount of \$132.46.*

Dated at Washington, D. C.

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* 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.