

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

In the Matter of the Claim of :

JOSEPHINE PRSLE on her own :
behalf and as natural guardian :
of her infant children :
SYLVIA PRSLE and EMILY PRSLE :
811 Sable Road, :
Cleveland, Ohio :

Docket No. Y-513

Decision No. 1518

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

*affirmed
12-29-54*

FINAL DECISION

Thirty days, or such extended time as may have been granted by the Commission, having elapsed since the Claimant(s) herein and the Government of Yugoslavia were notified of the Proposed Decision of the Commission on the above Claim, and no objections thereto or notice of intention to file brief or request for hearing having been filed, or, if filed, no further evidence or other representations having been offered pursuant to the opportunity duly afforded therefor, such Proposed Decision is hereby adopted as the Commission's final decision on this Claim.

Done at Washington, D. C. DEC 29 1954

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JOSEPHINE PRSLE on her own
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Under the Yugoslav Claims Agreement
of 1948 and the International Claims
Settlement Act of 1949

11-22-54

PROPOSED DECISION OF THE COMMISSION

This is a claim for \$162,800, plus interest, by Josephine Prsle on her own behalf and as natural guardian of her two infant children, Sylvia Prsle and Emily Prsle.

Josephine Prsle (nee Spretnak) is a citizen of the United States since her birth in the United States on February 28, 1914, as evidenced by a certified copy of her birth certificate which she filed with the Commission. On June 27, 1937, while she resided in Yugoslavia, she married Emil Prsle, a Yugoslav national. The infant, Sylvia Prsle, born of that marriage in Yugoslavia on November 19, 1939, is a citizen of the United States, having acquired such citizenship by virtue of Section 1993 of the Revised Statutes, as amended by the Act of May 24, 1934. The infant, Emily Prsle, born of that marriage in Yugoslavia on October 14, 1945, is a citizen of the United States, having acquired such citizenship by virtue of Section 201(g) of the Nationality Act of 1940.

The claim is for the alleged taking by the Government of Yugoslavia of real property which claimant states was devised to her by

her mother, Mary Spretnak, deceased, and for claimant's interests in real and personal property (general merchandising business) formerly jointly owned by the claimant and her husband, Emil Prsle, who met his death on July 20, 1945, all of which property was located in Petrovina and Novaki, Yugoslavia, and for the loss of income from the real property. From the record, it appears that Emil Prsle was not a United States national at the time of his death.

The Commission finds it established by certified extracts from the Land Register of the County Court of Jastrebarsko (Docket No. 14, Cadastral District of Petrovina, and Docket Nos. 170, 770, 774, 466 and 465, Cadastral District of Volavje), filed by the Government of Yugoslavia, dated February 12, 1953 and August 12, 1953, and admissions of that Government, that claimant's mother, Mary Spretnak, is the record owner of a three-fourths interest in 63 parcels of land (Docket No. 14) with a house on one of the parcels; that claimant, Josephine Prsle, is the record owner of a one-half interest and her children, Sylvia and Emily, are the record owners in equal shares of a one-half interest in 6 parcels of land (Docket Nos. 170, 466 and 465) with a structure on one of the parcels; and that claimant's, Josephine Prsle's, children, Sylvia and Emily, are the record owners in equal shares of 2 additional parcels of land (Docket Nos. 770 and 774).

The Government of Yugoslavia reported, under date of March 9, 1954, that no restrictive measures have been applied by that Government against the above real property and that it is free and kept and managed by Franjo Vucinovic, a farmer of Petrovina, on the basis of powers of attorney which claimant and Mary Spretnak gave him before they departed for the United States.

This Commission's representative in Yugoslavia interviewed Franjo Vucinovic in Petrovina on June 10, 1954. Mr. Vucinovic confirmed that

he holds all of the above-mentioned real property by virtue of a power of attorney for unlimited duration from the claimant and that he forwards her an annual account of its financial status. He stated that he rented some of the land and buildings to other persons under authority of the power of attorney; that he uses the income to pay the taxes and maintain the property. He further stated that sometime in 1949 a unit of the Yugoslav Army took possession of certain buildings involved in this claim and evicted the tenants and that, although the Army no longer holds the property, he has instituted suit against it for damages. The fact that he instituted such suit tends to confirm his statement that claimant is the legal owner. Moreover, since the Yugoslav Army took possession in 1949, the claim for such unlawful taking, if any, is not within the jurisdiction of the Commission since it occurred after July 19, 1948, the date of the Settlement Agreement between the Governments of the United States and Yugoslavia. That Agreement provides, inter alia, for settlement of claims of nationals of the United States against Yugoslavia on account of taking by Yugoslavia of property and of rights and interests in property, which occurred between September 1, 1939 and July 19, 1948 (Article 1, sub. (a)).

The Land Register extracts above referred to show that the real property recorded in Docket No. 14 still stands in the name of Mary Spretnak (three-fourths interest); that the real property recorded in Docket Nos. 170, 466 and 465 stands in the names of claimant, Josephine Prsle, and her two children, Sylvia Prsle and Emily Prsle; and that the real property recorded in Docket Nos. 770 and 774 stands in the name of claimant's, Josephine Prsle's, two children, Sylvia Prsle and Emily Prsle.

The Government of Yugoslavia is of the view that claimant, Josephine Prsle, became a citizen of Yugoslavia in 1937 by her marriage

to Emil Prsle, now deceased, who was a Yugoslav national, and that her children are likewise Yugoslav citizens.

As stated above, the Government of Yugoslavia reported that all of the above real property is free, that is to say, it has not been taken by that Government. The position of that Government is that although the record owners have acquired United States citizenship, or are such citizens by birth, they have 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.

In the absence of actual interference with the real property, of which there is no evidence, claimant, Josephine Prsle, and her two children, Sylvia and Emily Prsle, are not eligible to receive an award under the Yugoslav Claims Agreement of 1948.

Claimant asks \$14,800 compensation for the deprivation of income from July 20, 1945 to July 19, 1948 from the real property which she owned jointly with her husband, and for the deprivation of income from August 23, 1946 to July 19, 1948 from the real property which she subsequently inherited from her mother. Since the evidence shows that none of the aforementioned property was taken by the Government of Yugoslavia, but that in fact has been managed during the above dates by claimant's agent, Franjo Vucinovic, the claim for such alleged deprivation is denied.

With respect to the personal property (general merchandising business), the Government of Yugoslavia has reported that it was owned exclusively by Emil Prsle (claimant's husband) when it was confiscated; that during the procedure of confiscation, many of the items were

excepted and left for the use of close members of Emil Prsle's family and given to them; that claimant was personally present when the inventory was prepared and gave no proof that any of the confiscated property belonged to her. Mr. Vocinovic likewise stated that this merchandise was considered to be the property of Mr. Prsle since the latter was registered as the merchant (owner).

The burden of proof in establishing a claim rests on the claimant. The Commission is of the opinion that claimant has not established direct ownership of any personal property. Therefore, there remains for consideration the question as to whether claimant or her children succeeded to any personal property owned by their husband and father, respectively, on his death.

The Government of Yugoslavia has advised and has furnished corroborating documentary evidence to the effect that claimant's husband, by a sentence of the Military Court of the Military Territory of Zagreb, dated July 20, 1945, was sentenced to be shot, permanent loss of political and particular civil rights, and confiscation of property; that he was shot on August 15, 1945; and that by a decision of the People's District Court, Jastrebarsko, dated November 17, 1945, his personal property was transferred to the State.

Claimant's husband was not a citizen of the United States. The confiscation of his property was carried out after he died. Thus, the legal question is presented as to whether any interest in his property vested in claimant between the date^{of} the confiscation decree and the date the confiscation was carried out. We are of the opinion that it had not. The Agreement of July 19, 1948, between the Governments of the United States and Yugoslavia, as implemented by the International Claims Settlement Act of 1949, requires that the Commission be guided by principles of international law, justice and equity (Section 4(a) of the International

Claims Settlement Act), in determining questions of this kind. It appears that the confiscation procedure was carried out in accordance with the laws of Yugoslavia, as evidenced by the copies of the decrees which have been provided by that Government and by reference to its laws. In any event, we have no evidence indicating that it was not. The fact that claimant's husband died after the sentence of confiscation and before it was carried out is not, in our view, material. In the first place, the confiscation was not against a person who was a citizen of the United States. A claim must be national in origin, i.e., the property must be taken from a United States national. (See Section 200, Borchard, Diplomatic Protection of Citizens Abroad.) Generally, a nation has no basis for objecting to or demanding compensation (in behalf of its citizens) for a wrong, if any, which another nation may inflict upon its own citizens. (See Hackworth, Digest of International Law, Volume 5, Section 541.) Secondly, we are not in a position to question the laws or court proceedings of Yugoslavia on such matters in the absence of evidence that such laws and procedures were not followed, or that they did not measure up to international standards of justice. In this connection, it may not be amiss to observe that the laws of the United States in effect permit the taking of property on conviction of offenses against the state (e.g., fines). We, therefore, hold that claimant and her children did not succeed to the personal property formerly belonging to their deceased husband and father, respectively, which was taken from him during his lifetime by virtue of the military sentence above referred to.

For the foregoing reasons, the claim is denied in its entirety.

Dated at Washington, D. C.

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