

DEPARTMENT OF STATE
INTERNATIONAL CLAIMS COMMISSION
OF THE UNITED STATES

In the Matter of the Claim of

MARY RONGETTI MOFFA

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

Docket No. Y-683

Decision No. 627

PROPOSED DECISION

MARVEL, CHAIRMAN. This claim seeks the recovery of approximately twenty-four thousand dollars, the asserted value of real property alleged to have been nationalized or otherwise taken by the Yugoslav Government.

The claim is before this Commission upon the proceeding of the Solicitor of the Commission pursuant to Section 300.16 of the Rules of Practice and Procedure of the Commission.

Evidence before the Commission shows that claimant acquired citizenship of the United States by marriage on February 11, 1906, and claimant's brother, Rev. John Joseph Rongetti, who died on May 4, 1947, acquired American citizenship by naturalization on April 7, 1922. This claim is based upon the inheritance by claimant of the property involved from her brother.

The record shows that John Joseph Rongetti was the owner of the real property parcel No. 2673, a garden, and parcel No. 3147, villa Rongetti with a courtyard, garage and a small house, of the total area of 1,200 square meters, all recorded in the Land Register, town of Piran, under docket 3241. This property is not located within the territory of Yugoslavia but in what is now known as the Free Territory of Trieste.

Article 21 of Section III (Free Territory of Trieste) of Part II (Political Clauses) of the Treaty of Peace with Italy (signed by several nations including the People's Federal Republic of Yugoslavia) which entered into force on September 15, 1947, provides in part as follows:

1. There is hereby constituted the Free Territory of Trieste, consisting of the area lying between the Adriatic Sea and the boundaries defined in Articles 4 and 22 of the present Treaty. The Free Territory of Trieste is recognized by the Allied and Associated Powers and by Italy, which agree that its integrity and independence shall be assured by the Security Council of the United Nations.

2. Italian sovereignty over the area constituting the Free Territory of Trieste, as above defined, shall be terminated upon the coming into force of the present Treaty.

Annex VI (Permanent Statute of the Free Territory of Trieste) of the aforesaid Treaty of Peace with Italy, provides in part as follows:

Article 1. Area of Free Territory

The area of the Free Territory of Trieste shall be the territory within the frontiers described in Articles 4 and 22 of the present Treaty as delimited in accordance with Article 5 of the Treaty.

Article 2. Integrity and Independence

The integrity and independence of the Free Territory shall be assured by the Security Council of the United Nations Organization . . .

From the foregoing, it is clear that the Government of Yugoslavia is and has been occupying that portion of the Free Territory of Trieste in which the property is located as a conqueror and that it cannot acquire permanent possession or title to the property which is the basis of this claim.

The evidence further shows that the said property was requisitioned by units of the Yugoslav Army on April 24, 1947; that, when the County Court of Piran, by its Decision of June 17, 1948 ordered the Commission for Temporary Administration of Properties of Absent Persons to take

the property under its management, the agent of the claimant appealed this decision; that as a result of the appeal, it was ordered that the management of the property be given to the claimant's agent; that when the agent refused to take over the management of the property, the Local People's Committee of Porto Rose was authorized to temporarily administer it until the owner appeared; that upon furnishing the evidence necessary to substantiate claimant's inheritance of the property it (the property) would be returned to her.

The above facts show that Yugoslavia has not acquired permanent possession of the title to such property. Such action we hold not to be within the terms of the Yugoslav Claims Agreement of 1948 and the International Claims Settlement Act of 1949.

The claim is denied in whole.

June 16, 1953