

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

In the Matter of the Claim of

JOHN ADAM MAUS and
JOSEPH JOHN MAUS
5004 Curtis
Dearborn, Michigan

Docket No. Y-787

Decision No. 591-A

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

RC.
10/14/54
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8/11/54
Oct 13, 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.

~~OCT 20 1954~~
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J. A. Kuistek

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

In the Matter of the Claim of

MAGDALENA MAUS

24451 Lehigh Street
Dearborn, Michigan

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

Docket No. Y-787

Decision No. 591

FINAL DECISION

The Commission issued a Proposed Decision herein on April 8, 1953 in which it found the value of the claimant's interest in the property to be 71,733.75 dinars and awarded claimant \$1,304.25. The Government of Yugoslavia has filed a brief as amicus curiae objecting to the amount of the award. It alleges, among other things, that the Commission should not have compensated claimant for a life estate interest in the property recorded under Docket No. 351 of the Cadastral District of Sarlevil because the claimant lost that interest upon her remarriage to Peter Spreitzer in 1935. Subsequent thereto, claimant was notified that newly acquired evidence showed that her remarriage caused a forfeiture of her life estate interest in the property in accordance with the laws of the situs of the realty (Vojvodina area) and the amount awarded her would be decreased to the extent of the value of that life estate (22,283.80 dinars). Claimant informed the Commission she would accept the decreased amount.

o.k. Hc 7/11/54
Aug 6, 1954
Fabian A. Kuistek

Thirty days having elapsed since the claimant herein was notified of the Proposed Decision and the proposed reduction thereof, and the claimant's having filed no objections thereto, and a brief filed by the Government of Yugoslavia having received full consideration, the Commission hereby adopts such Proposed Decision with the following exceptions as its Final Decision on the claim:

1. The amount found as the value of the property, namely, 71,733.75 dinars, is changed to 49,449.95 dinars which, converted into dollars at the rate of 44 dinars to \$1, equals \$1,123.86.
2. Interest is allowed at the rate of 6% per annum from February 6, 1945, the date the property was taken, to August 21, 1948, the date payment was made by the Government of Yugoslavia, in the amount of \$238.69.*

Accordingly, in full and final disposition of the claim, an award is hereby made to Magdalena Maus, claimant, in the amount of \$1,123.86, with interest thereon in the amount of \$238.69.

Dated at Washington, D. C.

AUG 23 1954

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

FOREIGN CLAIMS SETTLEMENT COMMISSION
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In the Matter of the Claim of

JOHN ADAM MAUS and
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24451 Lehigh Street
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Docket No. Y-787

Decision No. 591-A

Under the Yugoslav Claims Agreement
of 1948 and the International Claims
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PROPOSED DECISION OF THE COMMISSION

*OK
gmk
Aug 6, 1954*

This is a claim for an unspecified amount by John Adam Maus and Joseph John Maus, citizens of the United States since June 2, 1929 and October 22, 1926, respectively, the dates of their births at Philadelphia, Pennsylvania, and is for the taking by the Government of Yugoslavia of that property recorded in the name of their deceased father, "Jovan Maus", under Docket No. 351 of the Cadastral District of Sarevil.

It is established by a certified extract from the Land Registry Office of the County Court at Kikinda that "Jovan Maus" was the owner of one parcel of land identified as Parcel No. 266a and described as a hay field with an area of 3 yutars, as recorded under Docket No. 351 of the Cadastral District of Sarlevil, 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).

Claimants allege that "Jovan Maus", the recorded owner of the above property died intestate in the City of Philadelphia, State of Pennsylvania, on March 23, 1932, and that there was no

Ja. Kuistek

administration or probate proceedings upon his estate. That allegation is supported by a death certificate. Claimants also filed their own affidavits and the affidavit of Magdalena Maus, the widow of John Maus, in which all swear that John Maus died intestate and that they are the only heirs. On the basis of the above evidence, the Commission is satisfied that John Maus died intestate on March 23, 1932, and that at the time the property was taken, the decedent was the record owner of the property. Accordingly, the decedent's real property would pass in accordance with the laws of intestacy at the situs of the property.

The property was located in the "Vojvodina area" where there is no code governing the descent and distribution of real property. Such descent and distribution is governed by the customary law of Hungary. According to that law, if a man dies intestate his property is inherited by his children in equal shares, subject to his widow's dower, comprising the usufruct for life, so long as she remains unmarried. Mrs. Maus admittedly remarried approximately three years after Mr. Maus died.

Upon consideration of all evidence before it, the Commission is satisfied that claimants John and Joseph Maus were at the time of the taking of the property the only survivors of "Jovan Maus" who had an interest in his property.

It is understood that under the laws of Yugoslavia, legal ownership of inherited real property must be established by a judicial proceeding in that country. However, the Commission is of the view, and has repeatedly held, that even though no such proceedings were had, the heirs of a decedent acquire rights and interests in and with respect to property which may be converted into legal title by appropriate court proceedings and that such rights and interests are compensable under the

Agreement between the Governments of the United States and Yugoslavia.

Claimants have filed no corroborating evidence as to the value of the property. A Committee appointed by local Yugoslav authorities appraised it at 30,000 dinars. An investigator for this Commission independently appraised the property at 36,000 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 gross value of all property of claimants which was taken by the Government of Yugoslavia was 36,000 dinars as of the year 1938.*

However, under the laws of Yugoslavia, persons who succeed to real property by inheritance, such as claimants herein, are obligated to pay inheritance taxes on the value of the property (See Law Concerning Direct Taxation, effective January 1, 1946, Chapter III, Article 24, OFFICIAL GAZETTE No. 854, November 20, 1945). The People's Court is prohibited from transferring title to the heirs unless and until such inheritance taxes are paid (Revised Law Concerning Direct Taxation of August 14, 1946, Chapter 64, OFFICIAL GAZETTE No. 67, August 20, 1946). Thus, the value under local law of an heir's interest in real property must be regarded as being the value of the property less the inheritance taxes charged against it and which must be paid before the transfer of title can be accomplished. As awards may be made only for the value of the property taken or, as is the case here, for the value of an interest in property, a deduction must be made for inheritance taxes.

Under the applicable tax law (Inheritance and Gift Tax Law of March 18, 1947, OFFICIAL GAZETTE No. 25, March 26, 1947), the tax on property valued at 36,000 dinars is 4%, or 1,440 dinars. That amount will, therefore, be deducted from the value of the property.

Therefore, we find that the net value of claimants' property which was taken by the Government of Yugoslavia was 34,560 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 \$785.45.* Accordingly, since each claimant was the owner of a one-half interest in the property, each share amounts to \$392.73.

AWARD

On the above evidence and grounds, this claim is allowed and awards are hereby made to John Adam Maus and Joseph John Maus, claimants, each in the amount of \$392.73 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 \$83.41.*

Dated at Washington, D. C.

AUG 9 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.