

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

In the Matter of the Claim of

JOSEPH STRAUB, Administrator of the
Estate of GEORGE STRAUB, deceased
7911 Clyde Avenue
Chicago, Illinois ✓

and

JOSEPH STRAUB, Administrator of the
Estate of KATHERINA STRAUB, deceased
7911 Clyde Avenue
Chicago, Illinois ✓

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

Docket No. Y-990 ✓

Decision No. 1405

Counsel for Claimants:

CLIFFORD K. RUBIN, Esquire
77 West Washington Street
Chicago 2, Illinois

PROPOSED DECISION OF THE COMMISSION

This is a claim for \$16,451.40 by Joseph Straub, Administrator of the Estates of George Straub, deceased, and of Katherina Straub, deceased, citizens of the United States from their naturalizations on December 2, 1936 and December 16, 1941, respectively, until their deaths on August 26, 1948 and October 9, 1949, respectively, and is for the taking by the Government of Yugoslavia of real and personal property located at Veprovac, Yugoslavia.

Claimant filed Letters of Administration by the Probate Court of Cook County, appointing him administrator of the estates of George Straub, deceased, and of Katherina Straub, deceased.

The Commission finds it established by certified extracts from the Land Register of the County Court of Kula (Docket Nos. 202, 1170, 1425, 1805 and 652, Cadastral District of Kruscic), filed by the

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Government of Yugoslavia, and admissions of that Government that George and Katherina Straub owned a one-half interest each in two parcels of land with a total area of 4 yutars and 1569 square fathoms; that George Straub was sole owner of the entire interest in eight parcels of land with a total area of 9 yutars, 1290 square fathoms, 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, February 6, 1945).

Claimant has filed originals of sales contracts for the aforesaid land in support of the claim. He also filed an affidavit of Katherina Straub, his grandmother and resident on the property, who swears that the property claimed was worth 892,570 dinars at the time of taking. A three-party committee designated by local Yugoslav authorities appraised the interest in the land of George and Katherina Straub at 201,829 dinars and the structures at 27,010 dinars. An investigator for this Commission appraised the interest in the land of George Straub at 195,391 dinars and the structures at 71,670 dinars, and the interest in the land of Katherina Straub at 37,355 dinars. Both appraisals were made on the basis of 1938 values.

The property is encumbered with mortgages in favor of the State Land Fund in the amount of 1,215 dinars. Due to the fact that this mortgage represents an insignificant sum in United States currency, no deduction will be made from the established value of the property for this mortgage, under the principle "de minimis non curat lex." Life estates, previously recorded on the property in favor of various beneficiaries have terminated, according to a report of the Government of Yugoslavia. Therefore, neither will deductions be made for such previously recorded life estates.

The Government of Yugoslavia has advised that George and Katherina Straub had three surviving children: Joseph, the claimant, Katherina, a sister allegedly living in the United States, and George, who was a German soldier and therefore an enemy of Yugoslavia.

We are of the view that since the decedents were citizens of the United States at the time their property was taken (February 6, 1945), and citizens and residents of the United States at the time the Agreement between the United States and Yugoslavia was signed (July 19, 1948), that their claim has met the nationality requirements of the Agreement. We are aware that there is international legal precedent to the effect that a claim must be national from the date of origin to the date of settlement. The Agreement with Yugoslavia provided for the settlement of claims involving many thousands of persons. More than six years have already elapsed since the Agreement was signed. In the interim several hundreds of claimants (including original claimants and their successors) have died. If a claim has once been completely documented, the Commission would not, in most instances, have knowledge of the deaths of persons who had an interest in the claim. If it had to reinvestigate this aspect of each claim and require proof of death, succession, and nationality, it would be faced with a continuing and ever increasing burden which would tend to defeat the primary purpose of the Agreement, i.e., the prompt payment of effective compensation for the taking of property. This added burden upon the Commission would increase the cost of determining claims and, since the expenses of the Commission are deducted from awards, the end result would be a diminution of all awards. As the Commission is not in a position to undertake this additional burden with respect to all claims, it would be inequitable to deny this claim, and one or two like it, because it happens to have knowledge that some of the persons who share in the award are not citizens of the

United States.¹ This claim will, therefore, be allowed.

Claimants also asked \$3,051.40 for the taking by the Government of Yugoslavia of grain, farm implements, livestock, wine, various household items and furniture. As evidence of ownership and taking, claimant filed the affidavit of Katherina Straub who swears that she resided in Veprovac until 1944; that her son and his wife owned the above personalty and that " . . . she knows of her own knowledge that the grain, farm implements, livestock and wine were on the farm when it was confiscated by the Yugoslav Government, and that the household items and furniture were in the house when the same were confiscated . . . "

The Government of Yugoslavia advised the Commission that it could not establish the existence or taking of the above personal property. However, the Commission is persuaded by evidence of record that some of the items of personalty were on the property when it was confiscated on February 6, 1945, the date of the taking of the real property, and that the fair and reasonable value of such personal property was \$1,000; that each decedent owned a half interest therein.

Claimant's counsel has requested the Commission in writing to determine his fee. He filed a written agreement authorizing a fee of 10% of any award.

The Commission is of the opinion, on the basis of all evidence and data before it, that the fair and reasonable value of all real property of George and Katherina Straub which was taken by the

¹ The Commission in its decision on the claim of Jerko Bogovich, et al, Decision No. 857, has heretofore held that a claim must at least be national from the date of origin to the date of the Agreement with Yugoslavia. It was not necessary for the Commission to decide in that case and it did not decide the question of nationality subsequent to the date of the Agreement.

Government of Yugoslavia was 267,061 dinars and 37,355 dinars, respectively, as of the year 1938.² Those amounts converted into dollars at the rate of 44 dinars to \$1, the rate adopted by the Commission in making awards based upon 1938 valuations, equal \$6,069.57 and \$848.98.

AWARD

On the above evidence and grounds, this claim is allowed and awards are hereby made to Joseph Straub, Administrator of the Estate of George Straub, deceased, in the amount of \$6,569.57, and to Joseph Straub, Administrator of the Estate of Katherina Straub, deceased, in the amount of \$1,348.98 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 amounts of \$1,395.26 and of \$286.50, respectively.

An award of ten (10) percent of the total amount paid to the claimant is hereby made to Clifford K. Rubin, Esquire, for his fees.

Dated at Washington, D. C.

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For the Commission's reasons for use of 1938 valuations, use of the exchange rate of 44 to 1, and the allowance of interest, see the attached copy of its decision in the claim of Joseph Senser.

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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 8 1954

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