

DEPARTMENT OF STATE
INTERNATIONAL CLAIMS COMMISSION
OF THE UNITED STATES

In the Matter of the Claim of

MARIE ROTTER GERRICK

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

Docket No. Y-269 ✓

Decision No. 291 /

PROPOSED DECISION

MARVEL, CHAIRMAN. This claim seeks the recovery of approximately seventy thousand dinars, the asserted value of certain 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 became a citizen of the United States by naturalization on February 16, 1927 and has not lost such citizenship. Her claim is based upon the inheritance of the property involved on the death of her sister July 12, 1946. It appears that prior to July 12, 1946 the property was owned by claimant's sister, a national of Yugoslavia. It further appears that the property involved in this claim was subject to a decree of Yugoslavia dated November 21, 1944, entitled "Decree Covering Transfer Into State Ownership of Enemy Property, State Administration of Property Belonging to Absent Persons and Sequestration of Property Alienated by Force by the Occupation Authorities (Official Gazette No. 2, February 6, 1945). This decree was confirmed with

amendments on July 31, 1946 (Official Gazette No. 63, August 6, 1946 and No. 105, December 27, 1946). Article 1 of said decree provides:

Into the ownership of the Federative People's Republic of Yugoslavia shall pass and become People's Property:

- 1) All the property of the German Reich and its citizens situated in the territory of the Federative People's Republic of Yugoslavia;
- 2) All the property of persons of German nationality regardless of citizenship. By these are especially meant all those persons who during the occupation declared themselves to be of German nationality, regardless of whether they acted as such before the war, or have been considered assimilated Croats, Slovenes or Serbians.

* * *

The property mentioned in Paragraphs 1) and 2) of this Article shall pass into State ownership as of February 6, 1945, the date when the Decree of November 21, 1944, covering the transfer into State ownership of enemy property, State administration of property belonging to absent persons, and sequestration of property alienated by force by the Occupation Authorities, became effective.

It appears that action against the property here involved was taken under Paragraph 2 of Article 1 of the decree mentioned above. It also appears from the evidence that the property here involved was entered in the Yugoslav land register in the name of "People's Common Property" on April 14, 1948, pursuant to a decision of the District Court of the City of Belgrade in Zemun, dated February 21, 1948.

The question here presented is the determination of the date of taking of the property by the Yugoslav Government.

A similar question was considered by this Commission in the Matter of the Claim of Elias Mann (Docket No. Y-324). In that

claim proceeding we pointed out that the effective date of the nationalization of real property under the nationalization law of April 28, 1948 (Official Gazette No. 36, April 29, 1948) was the date of that decree, namely, April 28, 1948, and that the subsequent action of the Municipal People's Committee in ordering the transfer of the property in question to "People's Common Property" was procedural only and in the nature of a confirmation of the action taken by the decree of April 28, 1948, and that the effective date of the nationalization was April 28, 1948. In this conclusion the dissenting opinion filed In the Matter of the Claim of Elias Mann concurred.

We believe the same principle applies in this claim proceeding and that the date February 6, 1945, established by the Decree of July 31, 1946, supra, is the date of the taking of the property, and that the action of the District Court of the City of Belgrade ordering the transfer of the property here involved to the "People's Common Property" on April 14, 1948 was merely procedural and in confirmation of the action of the State in taking over the property by decree on February 6, 1945.

It thus appears that at the time of the taking of the property claimant's sister, a national of Yugoslavia, was the owner thereof. The claimant, not being the owner of the property at the time of the taking by Yugoslavia, cannot assert a claim against the fund established by the Yugoslav Claims Agreement of 1948.

The claim is denied in whole.

Commissioner McKeough concurs in the above.

Commissioner Baker herewith files his dissenting opinion.

August 6, 1952