

DEPARTMENT OF STATE
INTERNATIONAL CLAIMS COMMISSION
OF THE UNITED STATES

6/25/52

In the Matter of the Claim of

ELIAS MANN

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

Docket No. Y-324

Decision No. 29

FINAL DECISION

MARVEL, CHAIRMAN. A proposed decision was filed in this claim proceeding on May 6, 1952, granting an award to the claimant in the sum of seven thousand three hundred thirty-three dollars (\$7,333). Shortly thereafter the Yugoslav Government, pursuant to the Rules of this Commission, as amicus curiae filed its brief in opposition to the proposed decision.

A majority of the Commission, after careful consideration of all the matters relating to this claim, conclude that the proposed decision herein rendered be affirmed in the amount of seven thousand three hundred thirty-three dollars (\$7,333).

Since the claimant has not requested a hearing within the thirty days provided by Section 300.17 of the Rules of the Commission, this decision constitutes a full and final disposition of this claim.

June 25, 1952

DEPARTMENT OF STATE
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PROPOSED DECISION

MARVEL, CHAIRMAN. This claim seeks the recovery of one-third of the value of property alleged to have been nationalized by the Yugoslav Government in 1948, and also seeks the recovery of one-third of the rents issuing from said property, alleged to have been collected 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.

The evidence before the Commission is that the claimant was admitted to United States citizenship by the United States District Court at New York on February 25, 1946 and therefore was a citizen and national of the United States in 1948, the alleged date of nationalization of the property.

The property alleged to have been nationalized by the Yugoslav Government is, according to American standards, a five-story apartment house, located in Zagreb, Yugoslavia, being twelve meters long, twenty meters high, and twelve meters wide, built of stucco.

To be eligible to assert a claim against the fund established by the Yugoslav Claims Agreement of 1948, the nationalization of the property, subject of the claim, must have occurred between September 1, 1939 and July 19, 1948. In his Statement of Claim this claimant asserts that the property was nationalized on September 10, 1948, which, if true, would take it outside of the terms of the Agreement above mentioned.

By Article 3 of the Nationalization Law of April 28, 1948 (Official Gazette No. 36 of April 29, 1948), all real property owned by foreign citizens, with certain exceptions, "is nationalized and passes into State ownership * * * on the day this Law becomes effective." (Underscoring added.) In Article 5 of this law it is stated: "This law becomes effective when enacted by the People's Assembly of the FPRY." In the "Edict" prefacing the law it is stated that the Law is "enacted by the Federal Council, and the People's Council of the People's Assembly of the FPRY in its sessions of April 28, 1948."

The date of nationalization given by claimant is September 10, 1948, which is the date of the decision of the Municipal People's Committee at Zagreb. As to the legal effect of this decision, reference is made to Articles IV, V, and VII of the "Instructions for the Transfer of Ownership of Nationalized Real Property of Foreign Citizens, Foreign Institutions or Foreign Private Persons and Legal Entities." (Official Gazette No. 53 of June 23, 1948) Article IV provides that the Executive Committee of the County or City (Local) People's Committee shall, after notice of the existence of foreign-owned property, investigate to determine "whether the property has been nationalized in accordance with the Law of April 28, 1948. After making findings the Committee "shall issue a decree which will confirm that the property has been nationalized" in accordance with

the Law of April 28, 1948. Article V likewise refers to this "decision confirming the transfer of nationalized property into State ownership." And Article VII provides that the Local Court shall record the ownership rights of the nationalized property on the basis of the Committee's decision "by which it was confirmed that the nationalized property has passed into State ownership." (Underscoring added.)

Accordingly, we conclude that the real property of claimant was effectively nationalized on April 28, 1948, and that only a procedural action in the nature of a confirmation was carried out on September 10, 1948.

As this claimant is eligible to assert a claim against the fund established by the Yugoslav Claims Agreement of 1948, it is a question of determining the value of this claim. Evidence before the Commission proves that the claimant is the owner of one-third of the land and building nationalized by the Yugoslav Government on April 28, 1948. As to the value of this one-third share, the Commission has before it three expressions of opinion. An appraisal made by a Yugoslav expert places a value on this one-third share of \$5,150. An appraisal made in 1948 for the purposes of insurance, placed a value on this one-third share of \$6,666. The on-the-spot appraisal made by the Chief of the Field Branch, representing this Commission, placed a value on this one-third share, as of the date of nationalization, of \$7,333. After an examination of all the factors involved, the Commission concludes that the value of one-third of the land and building nationalized by the Yugoslav Government on April 28, 1948, is the sum of \$7,333.

As to the part of the claim which relates to rents alleged to have been collected by the Yugoslav Government prior to April 28,

1948, the claimant has offered no proof in support thereof. Evidence, on the other hand, indicates that these rents were collected by one of claimant's co-owners. In the absence of proof as to this item by the claimant, it is denied in whole by the Commission.

An award will be made to this claimant in the sum of \$7,333.

May 6, 1952