

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

ANNA MARIA SCHATTEN
111-27 126th Street
South Ozone Park 20, New York

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CZ-2,161

Decision No. CZ-

2315

GPO 942329

Counsel for Claimant:

WILLIAM A. SCHAUER
66-61 Forest Avenue
Ridgewood 27, New York

PROPOSED DECISION

This is a claim in the amount of \$1,710.00 against the Government of Czechoslovakia under Section 404, Title IV of the International Claims Settlement Act of 1949, as amended, by ANNA MARIA SCHATTEN, a national of the United States since her husband's naturalization on June 9, 1916. The claim is based upon the loss of a mortgage placed upon improved real property located at Johannesthal (Januv Dul), Czechoslovakia.

Section 404 of the Act provides, inter alia, for the determination by the Commission in accordance with applicable substantive law, including international law, of the validity and amount of claims by nationals of the United States against the Government of Czechoslovakia for losses resulting from the nationalization or other taking on and after January 1, 1945 of property including any rights or interests therein owned at the time by nationals of the United States.

It follows from the congressional mandate to the Commission that there must be a showing, among other things, that the Government of Czechoslovakia nationalized or otherwise took claimant's property, in order for the Commission to act favorably on the claim. A study of the laws which were in effect in Czechoslovakia with respect to mortgages reveals that pursuant to Law No. 31/1947 Sb. of March 17, 1947 mortgages recorded on property confiscated by the Government of Czechoslovakia under Law No. 108/45 Sb. were assumed by the Fund of National Reconstruction, an agency of the Czechoslovakian Government 1/ and cancelled. 2/

The Commission finds that claimant since 1920 was the owner of a recorded mortgage in the principal amount of 30,000 Czech crowns given to secure a loan on a piece of improved real property consisting of a flour mill and adjoining land, in Januv Dul, Czechoslovakia; that the mortgage was recorded in the land register of Januv Dul, liber No. 99 and 110 under No. 792/110; that the real property was taken by the Government of Czechoslovakia pursuant to Decree No. 108/45 Sb., which authorized the confiscation without compensation of property of persons of German ethnic origin; and that the value of the mortgaged property is in excess of the value of the recorded mortgage.

The Commission further finds that this mortgage was an interest in property within the meaning of Section 401(1) of the Act, which defines property as "any property, right, or interest" and that such mortgage was taken by the Government of Czechoslovakia without compensation upon enactment of Law No. 31/1947 Sb., effective March 17, 1947.

The Commission, therefore, concludes that claimant is entitled to compensation in the amount of 30,000 Czech crowns plus interest as specified below at the rate of \$1.00 for 50 crowns for such taking under Section 404 of the Act.

1/ Section 2, subsec. (1) of Law No. 31/1947 Sb., effective March 17, 1947.
2/ Section 2, subsec. (4) of the aforesaid Law No. 31/1947 Sb.

With respect to the portion of the claim based upon "charges permitted under the mortgage or loan agreement in the amount of 1,500 Kc", the Commission finds that such charges constituted, in effect, a contingent security with the same priority as the principal mortgage to cover costs and fees expended by the creditor in the event it became necessary to institute court action or foreclosure proceedings. No evidence has been presented to show that any such action or proceedings had ever been instituted or that any such expenses were ever incurred. The Commission, therefore, concludes that no claim on account thereof ever arose in favor of the claimant. This part of the claim is, therefore, denied.

A W A R D

Pursuant to the provisions of Title IV of the International Claims Settlement Act of 1949, as amended, an award is hereby made to ANNA MARIA SCHATTEN in the principal amount of Six Hundred Dollars (\$600.00) plus interest thereon at the rate of 6% per annum from March 17, 1947 to August 8, 1958, the effective date of Title IV of the Act, in the amount of Four Hundred Ten Dollars and Ten Cents (\$410.10) for a total award in the amount of One Thousand Ten Dollars and Ten Cents (\$1,010.10).

Dated at Washington, D. C.

MAY 10 1961

BY DIRECTION OF THE COMMISSION:

Francis T. Masterson

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Clerk of the Commission