

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

In the Matter of the Claim of

PETER SCHUMACHER
1553 Bryant Avenue
Bronx 60, New York

Docket No. **Y-1019**

Decision No. **886**

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

*o.k.
HC
8/31/54*

*o.k.
SMS
Aug 26, 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.

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JMM*

INTERNATIONAL CLAIMS COMMISSION OF THE UNITED STATES
DEPARTMENT OF STATE
Washington, D. C.

In the Matter of the Claim of

OT
9/11/54
June 9, 1954
PETER SCHUMACHER,
1553 Bryant Avenue,
Bronx 60, New York.

Docket No. Y-1019

Decision No. 886

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

PROPOSED DECISION OF THE COMMISSION

approved
see
6/9/54
This is a claim for \$18,620, including \$4,420 for "net produce loss", by Peter Schumacher, a naturalized citizen of the United States since May 8, 1931, and is for the taking by the Government of Yugoslavia of a house located at Crvenka and 10 parcels of land located in Crvenka and Bajsa, Yugoslavia.

The Commission finds it established by certified extracts from the Land Register of the District Court of Backa Topola (Docket Nos. 12 and 38, Cadastral District of Duboka Pustara Mun. Bajsa), and from the District Court of Kula (Docket Nos. 4655, 2122 and 1269, Cadastral District of Crvenka), filed by claimant and by the Government of Yugoslavia, and admissions of that Government, that claimant owned the entire interest in 5 parcels of land with a total area of 25 yutars, 228 square fathoms, a 1/3 interest in 2 parcels of land with a total area of 365 square fathoms, with structures on one of the parcels, and a 1/6 interest in 1 parcel of land with an area of 943 square fathoms, 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, however, claims, in addition, land registered under Docket No. 153, District Court of Kula, Cadastral District of Crvenka, comprising parcels 4459/1 and 4459/2/a. To support this claim he has

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filed a certified copy of a sales contract dated October 3, 1940, under which he and his wife, Anna Schumacher, purchased the two parcels from "the spouse of Peter Welker, nee Margita Hajser" for 45,000 dinars.

In its report of February 6, 1954, the Yugoslav Government states that investigation has established that the property is recorded in the name of Margaret Welker, presumably the purported seller under the sales contract, "because the claimant Schumacher's application to have this property recorded (in his name) had been rejected by the decision of the competent Court, No. 1613/43 of May 14, 1943." In support of this contention the Yugoslav Government has filed a certified extract from the Land Register for Docket No. 153, Crvenka. This document includes the two parcels purportedly sold to claimant and shows that the registered owner was Margaret Welker from January 13, 1938, until December 2, 1945, when the property was registered in the name of the Yugoslav Government.

Since claimant's evidence as to the property recorded under Docket No. 153, Crvenka, is limited to the sales contract, which may never have been fully consummated, and as both by judicial decree and recorded ownership the property is shown to have been owned by another, his claim for such property must be denied.

As to the value of the property owned by him, claimant has filed a sales contract dated September 29, 1932, showing the purchase price of the property registered under Docket Nos. 12 and 38, Duboka Pustara Mun. Bajsa, to be 240,000 dinars. A three-party committee designated by local Yugoslav authorities appraised the land and structures at 283,150 dinars.

An investigator for this Commission appraised the property as follows:

<u>Docket No.</u>	<u>Location</u>	<u>Description</u> <u>Lot, house,</u>	<u>Appraisal</u> <u>in Dinars</u>	<u>Claimant's</u> <u>Int. in Dinars</u>
2122	Crvenka	buildings	73,625	24,542 (1/3) ✓
1269	"	Vineyard	4,560	4,560 (entire) ✓
4655	"	Vineyard	18,860	3,143 (1/6) ✓
12 and 38	Bajsa	Plowland	296,565	296,565 (entire)
12	Bajsa	Road	<u>1,430</u>	<u>1,430</u> (entire)
Totals			395,040	330,240 ✓

Both appraisals were made on the basis of 1938 values.

The land extracts show that all the property registered under Docket No. 2122, Crvenka, and one-half the property registered under Docket No. 4655, Crvenka, are encumbered by a life estate in favor of "Katarina, widow of Peter Schumacher, nee Glaser". In addition, both properties are encumbered by inheritance taxes due the Government of Yugoslavia. Claimant alleges the life tenant is his mother and that she was born on March 28, 1883, and is living. Therefore, she was 62 years old at the time the property was taken. Claimant's interest in the indicated parcels is, consequently, a remainder interest, the value of which must be determined.

The Commission does not have actuarial and income data with respect to Yugoslavia and so far as it has been able to determine, reliable data for Yugoslavia is not available. It has, therefore, adopted as a basis for the valuation of life and remainder interests the Makehamized mortality table, appearing as Table 38 of United States Life Tables and Actuarial Tables 1939-41, and $3\frac{1}{2}\%$ interest rate, compounded annually, as prescribed by United States Treasury Department regulations of June 3 and 4, 1952 for the collection of gift and estate taxes, respectively. (See 17 F.R. 4980, 26 C.F.R. 86.19 (f); 17 F.R. 5016, 26 C.F.R. 81.10 (i).) According to that method of valuation, the life estate of a person 62 years old is worth 37.17% of the value of the property. On the basis of the appraisal made by the Commission's investigator, the value of the life estate respecting the property registered under Docket No. 2122, Crvenka is, therefore,

37.17% of 73,625 dinars, or 27,359 dinars. Since the life estate encumbers only one-half the property registered under Docket No. 4655, Crvenka, the value of this life estate is 37.17% of 9,430 dinars, or 3,505 dinars. The amounts deductible from claimant's interests are, therefore, one-third of 27,359 dinars and one-sixth of 3,501 dinars, respectively, or 9,703 dinars.

With respect to the inheritance taxes encumbering the property recorded under Docket Nos. 2122 and 4655, Crvenka, the Yugoslav Government states the amount owed by claimant is 16,192 dinars. However, the appraised value of his interest in these properties is only 27,685 dinars, and the figure 16,192 dinars appears to be in error. In the absence of other data with which to compute the amount of the tax, we apply the present Yugoslav tax law (Inheritance and Gift Tax Law of March 18, 1947 (Official Gazette No. 25, March 26, 1947)). Under that law, the tax on property valued at 27,685 dinars is 4% or 1,107 dinars. That amount, plus the amount for the life estate deducted from the value of the property, leaves 319,430 dinars as the value of claimant's interests in the property which, converted into United States dollars at the rate of 44 dinars to 1 dollar, the rate adopted by the Commission in making awards based upon evaluations as of the year 1938, equals \$7,259.77.*

With respect to the claim for the net income of the property for the years 1945 to 1951, claimant is not entitled to income from property which was no longer owned by him, but which has been owned by the Yugoslav Government since February 6, 1945, the date of taking. However, claimant may be compensated in terms of interest for the loss of the use of the compensation he was entitled to receive on the date the property was taken, from the date of taking to the date of payment by the Government of Yugoslavia. Both the Agreement with Yugoslavia and the International Claims Settlement Act contemplate the allowance of

interest by the Commission for the delay in payment of compensation by the Government of Yugoslavia.

AWARD

On the above evidence and grounds, this claim is allowed to the extent indicated and an award is hereby made to Peter Schumacher, claimant, in the amount of \$7,259.77 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 amount of \$1,541.85.*

Dated at Washington, D. C.

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* 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.