

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

In the Matter of the Claim of

RUDOLF TREO, JR.  
190 Hempstead Street  
New London, Conn.

Docket No. 1186

Decision No. 796

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

Counsel for Claimant:

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Washington, D. C.

PROPOSED DECISION OF THE COMMISSION

This is a claim by Rudolf Treo, Jr., a citizen of the United States since December 20, 1945, the date on which he was naturalized by the United States District Court at Philadelphia, Pa. The claim is based upon the nationalization or other taking by the Government of Yugoslavia of a house and lot, designated as No. 27, St. Vid, Yugoslavia, (Book No. 526, Parcel Nos. 202/2 and 202/3, St. Vid), which claimant values at 1,650,000 dinars,<sup>(1)</sup> furnishings at 500,000 dinars, a library formerly belonging to his father at 250,000 dinars, and his personal library at 275,000 dinars.<sup>(2)</sup> The total amount claimed in dollars is \$59,911.97.

Claimant predicates his request for an award for the taking of the house and lot and library assembled by his father on the following circumstances: Prior to April 1941, claimant lived in Ljubljana, near St. Vid. Between 1939 and 1941, his father, Rudolf Treo, Sr., is said to have expressed the intention, orally, of giving claimant the house and all its furnishings as a gift.

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On April 10, 1941, Rudolf Treo, Sr. prepared a document entitled "Property Settlement", by which, according to its terms, ownership of the house, its furnishings, and the library was transferred to claimant. Claimant further states that he was forced to flee from Yugoslavia in August 1941, and that he arrived in the United States on December 22, 1941. His father remained in the house during the German occupation and until January 1945. Claimant next saw his father in 1949 in Graz, Austria, to which Rudolf Treo, Sr. apparently had come in 1945 upon leaving Yugoslavia.

Claimant's father states, in an affidavit of record, that his intention to transfer full title to the house and lot and furnishings was carried out by the document of April 10, 1941, but "because the German invaders were near, and no notaries public were available, it was informally executed." He also states that no formalization or recording of the document was attempted when facilities became available because his son, the claimant, was a political refugee and "a transfer of property to him never would have been authorized." He further states that "an attempt to record a property right in the real estate register in favor of my son, and to obtain a notarized certification of the document, would, however, have been extremely incriminating for me as an individual and would have resulted in consequences seriously detrimental to me and to my son." The document itself, according to claimant, was "sent to me by a messenger who was planning surreptitiously to cross the German and Italian lines. I am uncertain at this time exactly on what date this messenger delivered the document to me, but it was within a few days after April 10."

The Government of Yugoslavia admits the taking of the house and lot and the personal property of Rudolf Treo, Sr. under the confiscation law effective June 12, 1945, and the decision of the

District Court of Ljubljana entered pursuant thereto. As to this property, the Government of Yugoslavia states that the document of April 10, 1941, was ineffective as a title transfer and that the recorded owner in the land records was, and remained thereafter until the taking, in Rudolf Treo, Sr; and that, even if proper execution of the document was prevented at the time of the German invasion, a legal assignment could have been accomplished thereafter. That Government also denies the taking of any one of three libraries formerly in the house at No. 27, St. Vid - one belonging to Rudolph Treo, Sr., another to his son-in-law, and another to claimant - on the ground that they were completely destroyed during the war and, therefore, were not taken.

The document dated April 10, 1941, entitled "Grant Agreement" (Izročilna Pogodba) is signed only by Rudolf Treo, Sr. It is not witnessed, notarized or recorded and does not reflect acceptance by claimant. The Agreement purports to grant to, and allow the right of ownership to be recorded in, Rudolf Treo, Jr. the real estate and its contents at St. Vid, but with the reservation of a limited life estate and a monthly rental during the lifetime of Rudolf Treo, Sr. and his wife, claimant's parents. Provision is made for the recording of that encumbrance.

Whatever the intentions of claimant and his father may have been, it is necessary to apply the applicable law to determine whether the document of April 10, 1941, effected a transfer of ownership. If it did not, none of the assigned reasons would serve to make effective that which never attained the stature of a legally acceptable conveyance.

The document, by its express terms, purports to be an agreement and entails certain obligations on behalf of claimant. Thus, the document contains the following reservations and conditions:

- " a) The legator Rudolf Treo, Engineer, reserves to himself and his wife, nee Rauber, in the house, today handed over at St. Vid near Ljubljana, Poljane 27, and apartment, consisting of two rooms and kitchen with accessories free of rent for life.

" b) Moreover he reserves to himself and his wife a life-time annuity of Dinars 1200.00 to be paid monthly ..."

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"The legatee, Rudolf Treo, Junior, explicitly permits that the above-mentioned rights of the legator, Rudolf Treo, Engineer, and his wife Claire Treo, nee Rauber, may be registered at the Lot Number 526 St. Vid County, as a benefit and encumbrance respectively."

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"Both contractors agree to cancel this contract in case of a depreciation to under the half of the real value."

The document is clearly defective as a binding instrument since there has been no express acceptance by claimant. Oral acceptance of an agreement regarding real property is not sufficient. Such agreements must be in writing (Austrian Civil Code of 1811, as amended, Sec. 432 and 433). Oral acceptance of a gift regarding personal property is regarded as valid only if followed by actual delivery of the personality (id., Sec. 943).

In order to obtain a transfer of title to real property on the Yugoslav land registry books, the instrument upon which the transfer is to be based must be verified either by the court or by a Notary Public (Yugoslav Law on Land Registry Books of May 18, 1930, Official Gazette No. 146 of June 1, 1930, effective January 1, 1931). Title to real property valued at less than 1,000 dinars may be transferred if the instrument is verified by two competent witnesses (id., Sec. 38).

It is noted that on and after August 1941, when he left Yugoslavia, or from December 1941, when he arrived in the United States, claimant was free to take steps to perfect the transfer. His father seems to have remained in undisturbed possession of the property at St. Vid until January 1945. Thereafter, and for a period of time prior to the taking, he resided outside Yugoslavia - apparently in Austria. There would thus appear to have been ample opportunity to have had the document accepted,

formalized, and offered for recording. So far as appears, no such steps were taken to give legal effect to the transfer. However, as hereinabove indicated, matters such as these bear upon intention, not legal acceptability.

With respect to claimant's own library, the Commission's representative at Belgrade interviewed persons in St. Vid, including the present occupants of the house in question. However, such investigation failed to disclose either the time of taking or destruction of the library or the identity of those responsible.

On the basis of the record, it has not been established that claimant's property or rights with respect thereto were nationalized or otherwise taken by the Government of Yugoslavia. Accordingly, no basis for an award has been presented.

In view of the foregoing, the claim must be, and it hereby is, denied.

**Dated at Washington, D. C. April 28, 1954.**

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

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In the Matter of the Claim of

RUDOLF TREO, JR.

190 Hempstead Street  
New London, Connecticut

Docket No. Y-1186

Decision No. 796

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

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Counsel for Claimant:

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*approved*  
*12-27-54*

FINAL DECISION

By Proposed Decision No. 796 of April 28, 1954 this claim was denied because claimant had not established that his property or rights with respect to such property were nationalized or otherwise taken by the Government of Yugoslavia.

The Government of Yugoslavia did not file any objections, but claimant, through his attorneys, requested a hearing, submitted Objections to the Proposed Decision, Assignments of Errors, a Brief in Support of the Claim, and a Sworn Opinion on Foreign Law. Claimant's position is that he owned since before World War II certain property--a library--in the family home at St. Vid, Yugoslavia, and that his father Rudolf Treo, Sr. owned real property, furnishings and another library in the family home, which the father donated to the claimant on April 10, 1941 in a document in writing. The Government of Yugoslavia admits the taking of the real property and the personal property as having been owned by Rudolf Treo, Sr.; as to the personal property owned by the claimant since before World War II, the Government of Yugoslavia denies a taking and asserts that the claimant's library was destroyed during the war.

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The Commission has carefully considered the records of the hearings of September 30, 1954 and of October 5, 1954, the briefs, the opinions on foreign law, and all the other evidence and the argument on record in support of the claim. The Commission is not persuaded that claimant's father actually transferred the real property to the claimant. Even if it were possible, under the law of the situs, to transfer an interest in real property by an instrument in writing which was neither verified nor recorded, such transfer of an interest would be recognized only if the transferee had obtained possession of such real property or exercised any power with respect to such property. However, the record shows that claimant never obtained possession of the real property nor did he exercise any rights of ownership thereon. As a matter of fact, he never saw the property after 1941. His father continued to stay and to enjoy the property until January 29, 1945 when he left St. Vid. From this date until early September 1945, the former housekeeper lived in the house. At this time the house was "confiscated" by Partisan forces who used it for official purposes and as living quarters. Consequently, claimant's father lost possession of the real property sometime early in September 1945, and claimant did not exercise any right, of ownership directly or indirectly, either before or after April 10, 1941.

We are therefore, of the opinion that no valid legal or beneficial transfer of the real property was executed between father and son on April 10, 1941 or any time. Claimant did not acquire title nor any interest with respect to the real property in question and his claim for that property was properly denied.

As to the furniture and the two libraries, Rudolf Treo, Sr. noted in his affidavit that all this personal property was confiscated

or taken by Partisan forces in September 1945, and not destroyed as the result of military action as alleged by the Government of Yugoslavia. If we assume that the claimant had acquired or continued to hold title to the personal property, we must necessarily conclude that he lost such title by actual confiscation of his personal property in September 1945.

Claimant became a national of the United States on December 20, 1945. The Agreement of July 19, 1948, between the Governments of the United States and Yugoslavia settled "all claims of nationals of the United States" for the "nationalization or other taking by Yugoslavia of property" (Article 1), who were nationals of the United States "at the time of nationalization or other taking" (Article 2). It expressly excluded nationals of the United States "who did not possess such nationality at the time of the nationalization or other taking" (Article 3). Since claimant Rudolf Treo, Jr., was not a national of the United States at the time of taking his claim for personal property was not settled by the Agreement of July 19, 1948, and it is not, therefore, within the jurisdiction of this Commission.

For the foregoing reasons, in full and final disposition of the claim, Proposed Decision No. 796 is hereby affirmed and adopted as the Final Decision of the Commission.

Dated at Washington, D. C.

DEC 29 1954