

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

In the Matter of the Claim of

JOSEPH P. ANTONCIC
45 Sawyer Avenue
Westerleigh 14
Staten Island, New York

Docket No. Y-921

Decision No. 1228

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

dc
9/7/54

PROPOSED DECISION OF THE COMMISSION

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sep 3, 1954

This is a claim for \$35,000 by Joseph P. Antoncic, a citizen of the United States since his birth in New York, New York, on March 19, 1917, and is for the taking by the Government of Yugoslavia of property consisting of three pieces of realty, described as a fully equipped hotel, an outbuilding, and land in the vicinity.

The Commission finds it established by extracts from the Land Register of the County Court of Krk (Docket Nos. 409, 667, 1598 and 1600, Cadastral District of Omisalj) filed by the claimant and by the Government of Yugoslavia, and admissions of that Government that claimant's father and mother, Grga and Mara Antoncic, both deceased, were the record owners of five parcels of land, with a hotel on one of the parcels, and a house (No. 583) on another parcel, each in a one-half share, when they were taken by the Government of Yugoslavia on April 28, 1948, pursuant to the Second Nationalization Act of April 28, 1948 (Official Gazette No. 35 of April 29, 1948). Subsequently, according to the reports of the Government of Yugoslavia and of the Commission's own investigators and as evidenced by a Decision of June 14, 1948 from the People's Republic of Croatia, the house (No. 583) was returned to the claimant

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and placed at his disposal, as it was established that it was not part of the hotel enterprise, which alone was nationalized.

According to evidence of record, claimant's mother died on August 23, 1931, and claimant's father died on December 12, 1937. It is further stated, by affidavits from a relative and a friend of claimant, that the claimant was the only child and the sole surviving heir. This latter fact was later judicially established by decisions of the County Court of Krk.

On August 12, 1954 claimant filed with the Commission photostatic copies of original documents issued by the County Court of Krk and English translations thereof, among which were four certified extracts from the Land Registry of Krk covering the above-mentioned Docket Nos. 409, 667, 1598 and 1600 of the Cadastral District of Omisalj. These extracts show that by decree of the County Court of Krk of October 9, 1950, title to real property theretofore recorded in the name of claimant's father, Grga, was transferred to the claimant, and that by decree of the County Court of Krk of June 17, 1954, title to real property theretofore recorded in the name of claimant's mother, Mara, was also transferred to the claimant.

The claimant in his letter of August 12, 1954 has withdrawn his claim for all the property owned by him other than the hotel building and its inventory.

Claimant has filed as corroborating evidence of the value of the hotel, the house, and the furniture and inventory an insurance policy, dated August 20, 1938, in the amount of 700,000 dinars. Experts designated by local Yugoslav authorities appraised the land on which the hotel is situated at 3,144 dinars, the hotel building at 367,760 dinars, furniture at 59,240 dinars, and the inventory of the hotel at 29,852 dinars. An investigator for this Commission appraised the land at 6,975 dinars, the furniture at 59,240 dinars, the hotel inventory at 29,852 dinars and

the hotel building at 400,000 dinars. Both appraisals were made on the basis of 1938 values.

The Commission is of the opinion, on the basis of all evidence and data before it, that the fair and reasonable value of all property of claimant which was taken by the Government of Yugoslavia was 496,067 dinars as of the year 1938.*

Under the laws of Yugoslavia, persons who succeed to property by inheritance, such as claimant herein, are obligated to pay inheritance taxes on the value of the property. (See Law Concerning Direct Taxation, effective January 1, 1946, Article 24, Official Gazette No. 854, November 20, 1945.) The People's Court is prohibited from transferring title to real property to an heir unless and until such inheritance taxes are paid (Revised Law Concerning Direct Taxation of August 14, 1946, Article 64, Official Gazette No. 67, August 20, 1946). Thus, the value under local law of an heir's interest in real property at the date of nationalization or taking must be regarded as being the value of the property less the inheritance taxes charged against it and which must be paid before the transfer of title can be accomplished. As awards may be made only for the value of the property taken, a deduction must be made for inheritance taxes, in order to reflect the value of the property at the time of taking.

Although it appears that, in 1954, claimant paid the sum of 13,862 dinars as inheritance taxes on property inherited from his father, that payment would not affect the value of claimant's interest in the property at the time of taking, such interest, as indicated, being the accepted appraised value, less inheritance taxes, at that time.

Under the applicable tax law (Inheritance and Gift Tax Law of March 18, 1947, Official Gazette No. 25, March 26, 1947), the tax on property valued at 496,067 dinars is 13% or 64,489 dinars. That amount deducted from the value of the property leaves 431,578 dinars as the

value of the claimant's interest in the property which, converted into United States dollars at the rate of 44 dinars to \$1, the rate adopted by the Commission in making awards based upon evaluations as of the year 1938, equals \$9,808.59.*

AWARD

On the above evidence and grounds, this claim is allowed and an award is hereby made to Joseph P. Antoncic, claimant, in the amount of \$9,808.59 with interest thereon at 6% per annum from April 28, 1948, the date of taking to August 21, 1948, the date of payment by the Government of Yugoslavia, in the amount of \$185.42.*

Dated at Washington, D. C.

SEP 7 1954

* For the Commission's reasons for the use of an exchange rate of 44 dinars to \$1 and the allowance of interest, see the attached copy of its decision in the claim of Joseph Senser.

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*OTC
S. W. S.
Nov 5, 1954*

*OK
11-9-54*

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. **NOV 10 1954**

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