

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

LAURA SCHMETTERLING

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. G-0221

Decision No. G-1943

Appeal and objection from a Proposed Decision entered on February 28, 1980. No Oral Hearing Requested.

Hearing on the Record held on March 4, 1981

FINAL DECISION

This claim in the amount of \$86,000.00 against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), is based upon the asserted loss of a five story apartment building with stores located at 54/55 Sebastian Strasse, East Berlin.

The Commission issued a Proposed Decision on this claim on February 27, 1980, awarding claimant the principal sum of \$2,000.00, basing its determination upon the fact that real property of which claimant owned a one-third interest, had been taken by the German Democratic Republic pursuant to the decree of December 18, 1951, effective in Berlin, which provided for the taking over of the administration of foreign owned property. The subject property was originally lost during the Nazi regime as a result of racial and religious persecution.

In reaching this determination, the Commission found that the property had a value of \$6,000.00 on the date of loss. The Commission considered such evidence as, a 1935 tax assessment of 49,800 reichsmarks, the fact that the building that was originally on the property was totally destroyed during World War II, (which under this program, losses due to war damage are not compensable), and the location of the property. The Commission found that as of 1951 if the building had still existed on the land, it would have had a value of approximately 100,000 marks and that 25% of this should be attributed to the land, which approximated \$6,000.00 at the exchange rate then current. Claimant has objected to the findings of the Proposed Decision and asserts that the valuation arrived at by the Commission for the building lot is "far too low". Claimant further objected to the use of a 6% simple interest per annum from December 18, 1951 until the date of the conclusion of an agreement for payment by the German Democratic Republic. Instead, claimant proposes that the Commission use a 6% compounded interest. Claimant asserted that an award should have been given for the loss of rental income for the use of the lot by the German Democratic Republic. In support of her objections, claimant has submitted no new evidence.

The Commission has reviewed the entire record herein, including claimant's objections and evidence obtained through the investigation of the Commission's field office in West Germany. On the basis of this review, the Commission finds that the value of \$6,000.00 for the land given in its Proposed Decision is a reasonable valuation, and that the evidence does not form a basis upon which the Commission could find otherwise. Therefore, the Commission finds that the record does not warrant a change in this portion of the Proposed Decision.

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With regard to the loss of rents for which claimant asserted in her objection an award should have been given, the Commission finds that there is no evidence that any rents accrued or that the land was used by the German Democratic Republic for rental purposes. The evidence indicates that the lot was first used for reconstruction purposes in 1959. Even if the land had been used for rental purposes after it had been taken by the German Democratic Republic, the Commission has held that after property is taken by the German Democratic Republic, all rents collected are therefore owned by the German Democratic Republic. Claimant therefore would no longer have had a ownership interest in the rents after such taking. Based upon the foregoing, the Commission finds that a claim for the loss of rental income must be denied.

In her objection, claimant asserted that the Commission should award compounded interest instead of a 6% simple interest. The basic rule under international law which the Commission is required to follow, is to award simple interest for such property claimed. This has been done uniformly throughout this program and past programs. In fairness to all claimants, the Commission will continue to award simple interest.

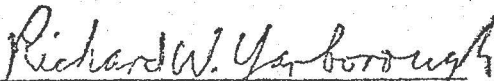
Full consideration having been given to the entire record, including claimant's objections, the Commission finds that the evidence of record does not warrant any change in the Proposed Decision and therefore restates the following award as the Final Decision of the Commission in this claim.

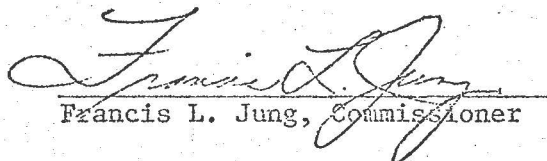
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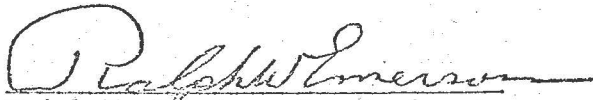
Claimant, LAURA SCHMETTERLING, is therefore entitled to an award in the amount of Two Thousand Dollars (\$2,000.00), plus interest at the rate of 6% simple interest per annum from December 18, 1951 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

Dated at Washington, D.C.  
and entered as the Final  
Decision of the Commission.

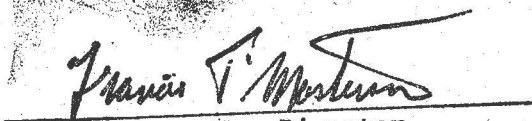
MAR 4 1981

  
Richard W. Yarborough, Chairman

  
Francis L. Jung, Commissioner

  
Ralph W. Emerson, Commissioner

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on MAR 4 1981

  
Executive Director

G-0221

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

LAURA SCHMETTERLING

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. G-0221

Decision No. G-1943

PROPOSED DECISION

This claim in the amount of \$86,000.00 against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), is based upon the asserted loss of a five story apartment building with stores located at 54/55 Sebastian Strasse, East Berlin.

The record indicates that claimant became a United States citizen on July 24, 1945.

Under section 602, Title VI of the Act the Commission is given jurisdiction as follows:

"The Commission shall receive and determine in accordance with applicable substantive law, including international law, the validity and amounts of claims by nationals of the United States against the German Democratic Republic for losses arising as a result of the nationalization, expropriation, or other taking of (or special measures directed against) property, including any rights or interests therein, owned wholly or partially, directly or indirectly, at the time by nationals of the United States whether such losses occurred in the German Democratic Republic or in East Berlin. . ."

Section 603 of Title VI of the Act limits the Commission's jurisdiction as follows:

"A claim shall not be favorably considered under section 602 of this title unless the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss, and if favorably considered, the claim shall be considered only if it has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission."

At the time of filing, claimant LAURA SCHMETTERLING stated that she was one of the original owners of the property at 54/55 Sebastian Strasse. Based upon the evidence of record, including a report from the Commission's field office in Munich, the Commission finds that claimant and three others, one being her mother, were part owners to the extent of a  $\frac{1}{4}$  interest in the subject property as recorded in 1932. Claimant's mother was however declared legally dead in 1945 as the result of Nazi persecution, leaving claimant and two others as heirs of a  $\frac{1}{3}$  interest each in the subject property.

The record in this claim indicates that legal title to the subject property was originally lost during the Nazi regime as a result of racial and religious persecution. The Commission has held in the Claim of MARTHA TACHAU, Claim No. G-0177, Decision No. G-1071, that such persecutory losses will not be considered by the Commission to have cut off all rights of the original owners or their heirs, and that the persecuted owners retained a beneficial interest in the property.

The Commission has also held in the Claim of MARK PRICEMAN, Claim No. G-2116, Decision No. G-1073, that decrees of September 6, 1951, effective in the German Democratic Republic, and December 18, 1951, effective in Berlin, which provided for taking over the administration of foreign owned property, and the decree of July 17, 1952, confiscating or taking under administration property of former residents of the GDR, constituted a governmental program which terminated all rights of restitution of former persecutees or their heirs. The Commission found such a termination of rights to be a taking of the property interests of such persons; and, where the property interests were owned by United States nationals at the time of loss, the termination of rights would form the basis of a compensable claim.

The Commission therefore finds that the subject property in East Berlin was taken by the German Democratic Republic as of December 18, 1951, and based upon the evidence of the entire record, claimant LAURA SCHMETTERLING is entitled to an award for the loss of a 1/3 interest in the subject property at 54/55 Sebastian Strasse, under section 602 of the Act.

Based upon all of the evidence of record including the report from the Commission's field office in Munich, with evidence of a 1935 tax assessed value and evidence of the building being destroyed during World War II, the Commission finds that the apartment building claimed had a value of \$6,000 on the date of loss.

The Commission has concluded that in granting awards on claims under section 602 of Title VI of the Act, for the nationalization or other taking of property or interests therein, interest shall be allowed at the rate of 6% per annum from the date of loss to the date of settlement. (Claim of GEORGE L. ROSENBLATT, Claim No. G-0030, Decision No. G-0100 (1978)).

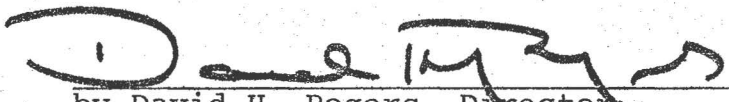
A W A R D

Claimant, LAURA SCHMETTERLING, is therefore entitled to an award in the amount of Two Thousand Dollars (\$2,000.00) plus interest at the rate of 6% simple interest per annum from December 18, 1951 until the date of the conclusion of an agreement for payment of such claims by the German Democratic Republic.

Dated at Washington, D.C.  
and entered as the Proposed  
Decision of the Commission.

FEB 27 1980

For Presentation to the Commission

A handwritten signature in dark ink, appearing to read "David H. Rogers", is written over a horizontal line.

by David H. Rogers, Director  
German Democratic Republic Claims  
Division

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, a Final Decision based upon the Proposed Decision will be issued upon approval by the Commission any time after the expiration of the 30 day period following such service or receipt of notice. (FCSC Reg., 45 C.F.R. 531.5 (e) and (g), as amended.)

G-0221

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MARGOT G. BUTCHART

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. G-0445

Decision No. G-1944

Counsel for Claimant:

Peter J. Krebs, Esquire

AMENDED PROPOSED DECISION AND ORDER

This claim in the amount of \$29,300.00 dollars against the Government of the German Democratic Republic, under Title VI of the International Claims Settlement Act of 1949, as amended by Public Law 94-542 (90 Stat. 2509), is based upon the loss of improved real property in Rudolstadt at Teichweidner Strasse 3, two parcels of agricultural property in Schweinskopf and Poerztal, two mortgages and two bank accounts.

The Commission's original Proposed Decision in this claim in the name of Herman Max Goetze was issued on February 27, 1980, granting an award in the amount of \$13,602.51 to Herman Max Goetze. Subsequently, the Commission was informed that Herman Max Goetze had died after filing his claim with the Commission. The Commission has received evidence which establishes that the sole heir of Herman Max Goetze's right to claim for the loss of property in the German Democratic Republic is MARGOT G. BUTCHART.

Accordingly, it is

ORDERED that MARGOT G. BUTCHART be substituted as the proper party claimant and that the award be amended as follows:

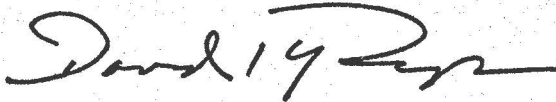
A W A R D

Claimant, MARGOT G. BUTCHART, is therefore entitled to an award in the amount of Thirteen Thousand Six Hundred Two Dollars and Fifty-One Cents (\$13,602.51), plus interest at the rate 6% simple interest per annum from January 9, 1968 until the date of the conclusion of an agreement for payment for such claims by the German Democratic Republic.

Dated at Washington, D.C.  
and entered as the Amended  
Proposed Decision and Order  
of the Commission.

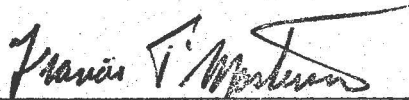
**MAY 21 1980**

For Presentation to the Commission



by David H. Rogers, Director  
German Democratic Republic Claims  
Division

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on SEP 10 1980



Executive Director

G-0445