

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

IN THE MATTER OF THE CLAIM OF

ATTILA CHARLES DOMOKOS

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. HUNG-2-1087

Decision No. HUNG-2-0167

Counsel for claimant:

Rhodes, King and Feder  
by Robert S. Feder, Esquire  
Samuel Herman, Esquire  
of Counsel

Appeal and objections from a Proposed Decision entered on September 17, 1975. Oral Hearing held on June 23, 1976; brief submitted and considered.

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FINAL DECISION

This claim in the amended asserted amount of \$127,000.00 is based upon the loss of certain real property at Kunszentmarton, Hungary, improved by a dwelling house and several farm buildings. Claimant states that he acquired nationality of the United States on April 15, 1955, by naturalization.

In the Proposed Decision of September 17, 1975, the Commission held that the subject property was taken by the Government of Hungary in or prior to 1952 by merging it into the tract assigned to the local collective farm. Accordingly, the claim was denied for the reason that the loss complained of occurred in or prior to 1952, a date prior to August 9, 1955, the first date of the period during which the loss must have occurred in order to be compensable under subsection 303(5), Title III of the International Claims Settlement Act of 1949 (69 Stat. 570 (1955), 22 U.S.C. subsections 1641-1641q (1971)), as further amended by subsection (3) of Public Law 93-460, approved October 20, 1974, (88 Stat. 1386 (1974)).

A portion of the claim based upon loss of income was withdrawn (Memorandum in Support of Objections to Proposed Decision, p. 2, submitted by counsel's letter of May 13, 1976.)

The claimant bases his objections upon information contained in a letter, dated August 15, 1969, from the District Land Office in Szolnok, Hungary. By this letter the claimant's petition for rent in arrears from 1950 and monetary compensation for the loss of the subject property was denied, in essence, for the reason that subsequent to 1948 the subject property came into the use of the local collective farm and since the claimant did not avail himself of the remedies provided by Law-Decree 1957:10 tvr., the subject property was deemed, under the provisions of Law-Decree 1957:52 tvr., as having been nationalized.

The issues upon which the compensability of this claim hinges are as follows:

1. Did the claimant lose ownership of the subject property by the fact that it was merged into the tract assigned to the local collective farm, or not?
2. What is the importance of the letter received from the District Land Office of Szolnok and of the legal provisions cited therein?

The answers are available in the work of Imre Seres, entitled A Föld Tulajdonjoga a Magyar Mezőgazdasági Termelőszövetkezetben (Ownership of Land in the Hungarian Collective Farm), published in Budapest by Közgazdasági és Jogi Könyvkiadó in the year of 1958. It is of importance to note that the work, published in 1958, considered the provisions of Law-Decree 1957:10 and 52 tvr. (See op. cit. p. 97).

According to the model by-laws, issued for the agricultural collective farms in 1955, the joint farming area of the collective farm consists of the following:

(a) land owned, used, rented or actually possessed by the members, except the household garden plot;

(b) land granted to the collective farm by the State for permanent and free use, and land given into the management or use of the collective farm for any reason.

Consequently, it is clear that the jointly farmed area of the collective farm represents a unit from the point of use but not from the point of ownership. The land used by the collective farm is owned either by

- (aa) the State;
- (bb) the members of the collective farm; or
- (cc) third persons not associated with the collective farm.  
(pp. 78-79)

The legal procedure for transferring land owned by the State into the permanent and free use of the collective farm is a governmental and administrative act, called grants in the Hungarian land-law (juttatas) (p. 83).

A formal requirement of the grant (juttatas) is that it must be in writing, in the form of a memorandum or recordation of the grant (p. 87). A common occurrence is that a greater amount of State-owned land is transferred into the use of the collective farm in the course of a pooling or redistribution of farmland (tagositas). In such case no memorandum of grant is made because it is correctly substituted, from the legal point of view, by the memorandum taken in the course of the pooling and redistribution (tagositas) (p. 90).

In the Case of the claimant's land involved in this claim, the grant (juttatas) occurred in the year of 1952 when it was merged into the tract granted to the local collective farm in the course of a pooling and redistribution of arable land in the locality. (See entries 16 and 9 in Libers No. 4810 and 5775 of Kunszentmarton, respectively, in Claim HUNG-21,786.)

In consequence of having granted the subject property to the collective farm in the year of 1952, no property remained in Liber Nos. 4810 and 5775 to be recorded. Therefore, the next entry, made under No. 1101/1961 tksz. is a notation that the lot Nos. of the subject property have been canceled in consequence of the land reform and the Libers have been closed.

In view of the foregoing, the conclusion is inescapable that the claimant lost ownership of the subject property in the year of 1952. <sup>1/</sup>

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<sup>1/</sup> It is noted by the Commission that the extracts of Liber Nos. 4810 and 5775, dated March 24, 1976, and submitted recently in support of the claim now under consideration, are incorrect and misleading.

The extracts dated November 24, 1958, filed in Claim No. HUNG-21,786 and obtained through the Commission's own independent efforts, show that the subject property was granted to the local collective farm in

It is noted that the claim, No. HUNG-21,786, filed by Nandor Frank Domokos, the claimant's father on behalf of the then minor claimant, under subsection 303(2) of the Act, supra, the first Hungarian Claims Program, was denied for the very same reason. The owner was not a national of the United States at the time of loss.

In a letter dated June 27, 1969, (Exhibit A to counsel's letter of October 1, 1975), the claimant, through his father, requested (a) indemnification for the loss of the subject property and (b) payment of unpaid rent from the year of 1950.

The petition was denied by a letter dated August 15, 1969, (Exhibit B to counsel's letter of October 1, 1975), because the claimant

"failed to avail himself of the opportunity offered by Decree 10:1057, by which he could have settled the question of ownership with the authorities. Since he failed, by virtue of Decree 52:1057 his estate is to be considered as transferred to the ownership of the Government."

The phrase that the claimant "could have settled the question of ownership with the authorities" under the provisions of Law-Decree 1957:10 tvr. might lead the reader to the conclusion that the ownership of the subject property was unsettled and may have returned to the claimant. This, however, would be an incorrect conclusion.

The ownership of the subject property was not an issue; it was well settled. It was admitted by the claimant in his petition of June 27, 1969, requesting compensation and rentals in arrears from the District Land Office in Szolnok, that the ownership of the subject property was acquired by the local collective farm (par. 2 of the petition). Moreover, Law-Decree 1957:10 tvr. did not provide for the

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the course of pooling and redistribution of farmland (tagositas) in the year of 1952. (See Entry Nos. 16 and 9, respectively.) This is identically stated in the extract of Liber 4810, dated June 25, 1969. (See enclosure to letter of May 12, 1975, in Claim No. HUNG-2-1087.)

The recently submitted land extracts, dated March 24, 1976, state under Entry Nos. 17 and 10, respectively, and referring to court order No. 1101/1961, that the subject properties "have been redistributed", implying that the "taking" took place in the year of 1961. This is an obvious error, because the land extract, dated June 25, 1969, clearly shows that court order No. 1101/1961 canceled the Lot Nos. assigned to the subject property and closed the Libers now in question for lack of property.

return of nationalized arable land. The Law-Decree provided for compensation in kind for working peasants and low-income individuals (kisember) only (Sec. 3), qualifications which clearly did not fit the claimant. The fact is that ownership of a property already nationalized or otherwise taken by the Government of Hungary was not settled under Law-Decree 1957:10 tvr. Only compensation to certain classes of former owners was provided for. This is further obvious from the provision that the limit of compensation was 10 hold of land for a professional farmer and 1 hold of land for a working low-income individual (sec. 3(3)).

It has been stated above that the collective farms in Hungary were using not only land which was granted to them by the State, as it was done in the claimant's case, but also land of third persons who were not associated with the collective farm.

Such third persons still had record title to their land notwithstanding the fact that the land came into the use of the collective farm by some governmental action. It would appear that the government had no intention to return any land which was already in the possession of a collective farm. Therefore, Law-Decree 1957:10 tvr. was amended by Law-Decree 1957:52 tvr. providing, with respect to the issue now under consideration, as follows:

Section 2 provided, in essence, that arable land and its improvements which are in the record ownership of a person who does not qualify as a working peasant or working low-income individual (kisember) and came under the management of a collective farm, shall be declared as having been nationalized.

Section 3 deals with the property to which working peasants and low-income individuals have record title and which remained under governmental management or in the use of a collective farm after the completion of the program provided for by Law-Decree 1957:10 tvr. Such property property has to be nationalized.

None of these provisions applied to the claimant's petition for compensation and unpaid rentals. Section 2 did not apply because the claimant did not have record ownership to the subject property since 1952. Therewas nothing to be "declared as having been nationalized"

because the subject property was already owned by the State by the grant (juttatas) made to the local collective farm in 1952. Section 3 also did not apply to the claimant because he was neither a working peasant nor a working low-income (kisember). Obviously, reference to Law-Decree 1957:52 tvr. in the letter of August 15, 1969, denying the claimant's petition for compensation and unpaid rentals, was nothing else than an attractive argument for the denial, even if the cited legal provision did not apply to the case.

Accordingly, it is concluded that the letter, dated August 15, 1969, from the District Land Office in Szolnok and the legal provisions cited therein have importance with respect to the subject and within the scope of the petition only, namely, with respect to the claimant's right to compensation for the loss of the subject property in 1952 and unpaid rentals therefrom. The claimant did not petition the return of the subject property; there was no legal provision providing for such return. Therefore his ownership of the subject property was not adjudicated by the District Land Office in Szolnok in its letter of August 15, 1969. Consequently, no conclusion may be drawn from this letter as to the claimant's ownership of the subject property or the date of its loss.

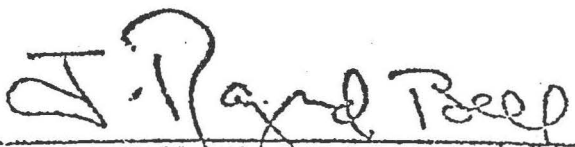
Therefore, full consideration having been given to the entire record, including the claimant's objections, the Commission finds that the evidence of record does not warrant any change in the Proposed Decision.

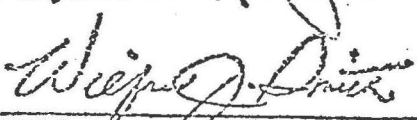
Accordingly, it is

ORDERED that the Proposed Decision denying this claim be and it is hereby affirmed.

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

28 JUL 1976

  
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J. Raymond Bell, Chairman

  
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Wilfred J. Smith, Commissioner

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

IN THE MATTER OF THE CLAIM OF

ATTILA CHARLES DOMOKOS

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. HUNG-2-1087

Decision No. HUNG-2-0167

Counsel for claimant:

Rhodes, King and Feder  
by Robert S. Feder, Esq.

PROPOSED DECISION

This claim in the asserted amount of \$252,000.00 against the Government of Hungary, under subsection 303(5), Title III of the International Claims Settlement Act of 1949, as amended, is based upon the loss of certain real property at Kunszentmarton, Hungary, improved by a dwelling house and several farm buildings.

Claimant states that he acquired United States nationality on April 15, 1955, by naturalization.

Under section 303, Title III of the International Claims Settlement Act of 1949, (69 Stat. 570 (1955)); 22 U.S.C. §§1641-1641q (1971), as amended by section (3) of Public Law 93-460, approved on October 20, 1974 (88 Stat. 1386 (1974)), and which implements certain provisions of the Hungarian Claims Agreement of March 6, 1973, (TIAS 7569), 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 of nationals of the United States against the . . . [Government of Hungary] . . . arising out of the failure to ---

(5) pay effective compensation for the nationalization, compulsory liquidation or other taking of property of nationals of the United States in Hungary, between August 9, 1955, and the date the United States-Hungarian Claims Agreement of March 6, 1973, enters into force.

Therefore, this new section of the Act does not confer jurisdiction upon the Commission to consider all claims which were settled and discharged under the Hungarian Claims Agreement of 1973, but rather, provides for a limited class only, namely, those which arose between August 9, 1955, and March 6, 1973, as a result of the nationalization, compulsory liquidation or other taking of property.

It is important to note that other classes of claims settled and discharged by the Agreement which arose prior to August 9, 1955, were provided for pursuant to subsections (1), (2) and (3) of section 303 of the Act, supra. The Commission's authority with respect to claims arising before August 9, 1955, under Public Law 84-285, expired, by law, on August 9, 1959.

On October 1, 1956, Nandor F. Domokos filed claim No. HUNG-21,786 under subsection 303(2) of the International Claims Settlement Act of 1949, as amended by Public Law 84-285 (69 Stat. 570) on behalf of himself and his son, ATTILA CHARLES DOMOKOS, then a minor, the claimant herein. A portion of this claim, made on behalf of ATTILA CHARLES DOMOKOS, was based upon the identical real property involved in this claim, namely the real property recorded in Liber 4810 of Kunszentmárton, Hungary, as Lot Nos. 9608-9614. By Proposed Decision dated December 30, 1958, which became the Commission's Final Decision on February 16, 1959, the Commission ruled that the real property recorded in Liber 4810 of Kunszentmárton was taken by the Government of Hungary not later than 1952 and the claim was denied because the said property was not owned by a national of the United States at that time.

In his Statement of Claim it is admitted by the claimant that the real property involved in this claim was appropriated by the Government of Hungary in the year of 1950. It is further stated that "the appropriation became official under Decree 52 in 1957." A review of Hungarian Law-Decree 1957:52 tvr., however, reveals that the provisions of this Law-Decree did not confer finality upon the otherwise final appropriation by which the claimant's property was taken in or about 1950, but prior to 1952.



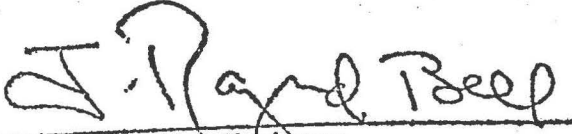
In view of the foregoing, the Commission concludes that it does not have jurisdiction to grant compensation for the loss of the property involved in this claim because it was taken with finality not later than 1952 by the Government of Hungary, on a date prior to August 9, 1955, the first date of the period during which the loss must have occurred in order to be compensable under the Act, supra.

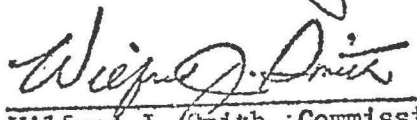
Accordingly, this claim must be and it is hereby denied.

The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

17 SEP 1975

  
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J. Raymond Bell, Chairman

  
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Wilfred J. Smith, Commissioner

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, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5 (e) and (g), as amended.)