

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

IN THE MATTER OF THE CLAIM OF

JOZSEF KARPATI  
KATALIN KARPATI

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. HUNG-2-720  
HUNG-2-750

Decision No. HUNG-2-688  
HUNG-2-689

Counsel for claimants:

Bergson, Borkland, Margolis & Adle  
by Robert A. Burka, Esquire

Appeal and objections from Proposed Decisions entered April 7, 1976.  
Oral hearing held on November 10, 1976.

FINAL DECISION

These claims in the asserted amounts of \$4,050.00 and \$4,900.00, respectively, against the Government of Hungary under subsection 303(5), Title III of the International Claims Settlement Act of 1949, as amended, are based upon the asserted ownership and loss of property in Hungary as follows:

1. A one-half interest in the improved real property at 7/a Wekerle Street in Budapest IV (formerly Ujpest);
2. The entire fee in the improved real property at No. 32 Kolozsvár Street in Budapest XV (formerly Rakospalota);
3. A one-third interest in 8.3 hold of farmland with equipment in Zalkod; and
4. A one-half interest in certain personal furnishings at No. 28 Dembinszky Street, Budapest.

Claimants, JOZSEF KARPATI and KATALIN KARPATI, state that they acquired United States nationality on March 23, 1964, and February 3, 1964, respectively, by naturalization.

By separate Proposed Decisions, dated April 7, 1976, these claims were denied for reasons as follows:

1. The real property at 7/a Wekerle Street in Budapest IV was nationalized in the year of 1952, a date prior to August 9, 1955, the first date of the period during which the loss must have occurred in order to compensable under the Act, supra;

2. The real property at 32 Kolozsvár Street in Budapest XV was taken by the Government of Hungary in the year of 1960, a date prior to February 3, 1964, the date when its owner, KATALIN KARPATI, acquired nationality of the United States;

3. JOZSEF KARPATI failed to establish that his interest in the real and personal property in Zalkod was taken by the Government of Hungary between the date of his acquisition of United States nationality and March 6, 1973; and

4. Each of the claimants failed to establish that any personal property, owned by them, was nationalized or otherwise taken by the Government of Hungary between the date when they acquired nationality of the United States and March 6, 1973.

The claimants, through their counsel, objected to the Proposed Decisions and argued as follows:

1. Although the physical takeover of the real properties at 7/a Wekerle Street and 32 Kolozsvár Street took place prior to 1964, the year when the claimants assertedly acquired nationality of the United States, the claimants retained rights in the properties under Hungarian law, which rights are subject of monetary valuation, and were extinguished in May 1971, a date following the claimants' acquisition of United States nationality;

2. The statute, which provides for a taking of "any property, right or interest" is not limited to the Hungarian Government's taking physical possession of the property, but is broad enough to include the instant claim.

The portions of these claims which are in excess of the real properties mentioned above were voluntarily relinquished by the claimants.

In the course of the oral hearing, held on November 10, 1976, counsel argued and embellished these cases with further details. On the basis of the entire record, including the claimants' arguments and new evidence, the facts of these cases, the issue involved, and the arguments may be summarized as follows:

The real properties at 7/a Wekerly Street and 32 Kolozsvár Street were nationalized or otherwise taken by the Government of Hungary in 1952 and 1960, respectively. In the year of 1957 the Government of Hungary enacted Law-Decree 1957:28 tvr. providing for the return of previously nationalized dwelling houses having no more than six dwelling rooms, if certain other conditions were present.

KATALIN KARPATI stated in her affidavit of January 8, 1977, that in May 1971 she went to Hungary and in the office for District IV (formerly Ujpest) of Budapest requested "the appropriate nationalization exemption", namely the return of the nationalized properties to her. Her request, made orally, however, was rejected by the person in charge who "refused to process any papers without explanation."

The claimants do not claim the loss of the real properties now in question. They admit that they were nationalized or otherwise taken by the Government of Hungary in 1952 and 1960, respectively, on dates which render their losses not compensable under the Act, supra. Rather they are claiming the value of a right, they believe they had in 1971 under Law-Decree 1957:28 tvr. and which was destroyed, in their view, by the competent Hungarian official by refusing to process any papers without explanation.

In view of the foregoing, it must be determined what, if any, right the claimants acquired under Law-Decree 1957:28 tvr.

On its very face it is apparent that Law-Decree 1957:28 tvr. did not provide for the automatic return of any nationalized property. At first, it provided that an application for the return of property be filed not later than August 31, 1957 (Sec. 7 (1)). The Commission is not aware that such a deadline to file an application would have been extended by the Government of Hungary to a date including May 1971, the date of KATALIN KARPATI's visit to Hungary. Since the issue is the alleged effectiveness of Law-Decree 1957:28 tvr. in May 1971, it is immaterial that the Government of Hungary was or is now returning nationalized property to its former owners, because the Government of Hungary may do so on the basis of another statutory provision, not applicable to the claimants, or even without any.

Secondly, Law-Decree 1957:28 tvr. set several conditions for the return of nationalized real estate. One, and probably the most important, of the conditions was that only dwelling houses of no more than six rooms may be returned to the former owner by exempting such from nationalization. This limitation is in conformity with one of the basic principles of a people's democracy which limits private ownership to a one family dwelling house. (cf. Section 92 (1) of the Hungarian Civil Code, Law 1959:IV tv.) In the Statement of Claim as well as in the affidavit, dated January 8, 1977, by KATALIN KARPATI, it is admitted that each of the real properties, now under consideration, had four separate apartments, suitable for four separate families. Consequently, none of the real properties qualified as a "dwelling house of no more than six rooms", a concept for a one family dwelling, as contrasted with multi-family apartment buildings which are considered to be capitalist enterprise.

The Commission does not share the claimants' view that the "right" to apply for the return of nationalized property under Law-Decree 1957:28 tvr. had a monetary value. The error of the claimants' view is apparent from the fact that no claimant who filed an application for compensation under subsection 303(5) of the Act, supra, has a right - by virtue of his application - in the Hungarian Claims Fund. Such monetary interest is created by the Commission's favorable determination only, by having granted an award to the claimant, if so warranted by the applicable law. As it has been shown above the claimants failed to establish that in May 1971 Law-Decree 1957:28 tvr. was still in force and applications for the return of nationalized property may have been timely filed. Furthermore, even if a timely application could have been filed, the two real properties now under consideration were multi-family apartment houses and not a "dwelling house of no more than six rooms" and for that reason would not have met the primary condition, necessary for a favorable determination and return.

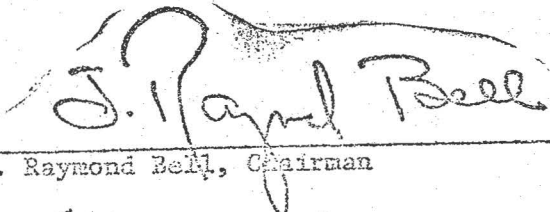
In view of the foregoing, the Commission concludes that the claimants have failed to establish that any property, including rights, owned by them, was nationalized or otherwise taken by the Government of Hungary between August 9, 1955, and March 6, 1973, on a date when the claimants, the owners of such property, were nationals of the United States, as required for compensation under subsection 303(5) of the Act, supra.


Therefore, it is


ORDERED that the Proposed Decisions of April 7, 1976, denying these claims, be affirmed and entered as the Commission's Final Decision on these claims.

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

22 APR 1977

  
\_\_\_\_\_  
J. Raymond Bell, Chairman

  
\_\_\_\_\_  
Wilfred J. Smith, Commissioner

  
\_\_\_\_\_  
Robert E. Lee, Commissioner

This is a true and correct copy of the decision  
of the Commission which was entered as the final  
decision on \_\_\_\_\_  
22 APR 1977

  
\_\_\_\_\_  
Francis T. McGowan  
Executive Director