

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

IN THE MATTER OF THE CLAIM OF

ALBERT B. CSONKA
JOHN J. CSONKA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. HUNG-2-862

Decision No. HUNG-2-0730

Counsel for claimants: Laszlo Varga, Esquire

Appeal and objections from a Proposed Decision entered on May 5, 1976.
No Oral Hearing Requested.

Hearing on the Record held on April 27, 1977.

FINAL DECISION

This claim in the asserted amount of \$822,000.00 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 alleged ownership and loss of 20 "technical products, all museum pieces", which were located in Budapest, Hungary.

Claimants state that they acquired United States nationality on April 7, 1959, by naturalization.

By Proposed Decision dated May 5, 1976, the Commission denied this claim for the reason that the claimants had failed to establish that the articles involved in this claim were nationalized or otherwise taken by the Government of Hungary on or after April 7, 1959, the date when the claimants, the asserted owners, acquired nationality of the United States, as required for compensation under subsection 303(5) of the Act, supra.

Claimants, through counsel, filed objections to the Proposed Decision contending that:

1. There is no evidence to establish that the personal property claimed was, in fact, nationalized prior to the date claimants acquired United States nationality; and,

2. That the law of adverse possession did not start to run, as indicated in the Proposed Decision, in 1948, when claimants left Hungary and the factory in which the personal property was located was nationalized. Rather, the period of 10 years required to obtain ownership by adverse possession started in 1960, when citizens were allowed to institute actions against the government for the taking of land or property.

In support of their objections claimants submitted the statement of Maria Farago, a former employee of the Csonka Company, who states that she was employed at the factory from 1939 to 1956 and that the machine parts on display in the lobby of the factory were only taken out "several years" after the plant was nationalized in 1948.

Full consideration having been given to the entire record, the Commission finds that the evidence submitted and arguments made in support of the claimants' objections do not warrant any change in the Proposed Decision.

Accordingly, it is


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


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

27 APR 1977

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 27 APR 1977


Executive Director


J. Raymond Bell, Chairman


Wilfred J. Smith, Commissioner


Robert E. Lee, Commissioner

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Counsel for Claimants:

Laszlo Varga, Esquire

PROPOSED DECISION

This claim in the asserted amount of \$822,000.00 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 alleged ownership and loss of 20 "technical products, all museum pieces", which were located in Budapest, Hungary.

Claimants state that they acquired United States nationality on April 7, 1959, 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 subsection (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.

Moreover, under well established principles of international law, applicable to this claim under section 303 of the Act, in order for a claim to be compensable, the property upon which the claim is based must have been owned by a national of the United States at the time the nationalization or other taking occurred and the claim which arose therefrom must have been continuously owned thereafter by a United States national until its filing with the Commission.

It is stated by the claimants, ALBERT B. CSONKA and JOHN J. CSONKA, that the property on which this claim is based was nationalized or otherwise taken by the Government of Hungary in the 1960's and that they became nationals of the United States on April 7, 1959, by naturalization.

By letter dated November 20, 1975, the Commission informed the claimants, through counsel, that it would be in their interest to submit documentation to establish the method and date when the personal property, involved in this claim, was taken by the Government of Hungary.

At an interview held with counsel on April 7, 1976, a letter dated December 3, 1975, signed by ALBERT B. CSONKA was submitted, together with a partial copy from the 1971 Yearbook of the Museum of Transportation (Közlekedési Múzeum) in Budapest, Hungary. This document assertedly shows that most of the personal property, involved in this claim, was first exhibited by the Government of Hungary in the year of 1966. In the course of the interview counsel stated that the claimants have no further evidence to submit.

The exhibition of the articles involved in this claim in the Transportation Museum may be deemed as an indication of the Hungarian Government's ownership. However, it is insufficient evidence to establish that the articles in question were nationalized or otherwise taken by the Government of that country on the date when they were exhibited, namely in the year of 1966.

It is stated by the claimants in their Statement of Claim that the articles now in question were exhibited in the lobby of their manufacturing plant in Budapest; when that plant was nationalized in 1948 they did not have time to remove these articles, and that to their knowledge, the articles were kept for a long time in the plant's lobby and were transferred into museums only in the 1960's.

It is admitted that the articles involved in this claim came into the possession of the Government of Hungary in the year of 1948 in connection with the nationalization of the plant owned by the claimants. It is reasonable to assume that the nationalization of the manufacturing plant embraced the articles which were exhibited in its lobby. Even if that was not the case, the possession of the Government of Hungary, acquired in 1948 in the course of the plant's nationalization, over the articles involved in this claim was anything but custodial. In fact, as shown by the exhibition of the articles in 1966, the possession was adversary toward

the claimants, the former owners. Under section 121 of the Hungarian Civil Code, Law 1959:IV tv., ownership may be acquired by 10 years of adverse possession. Such adverse possession would have been completed in the year of 1958, a date prior to April 7, 1959, the date when the claimants, assertedly, acquired United States nationality.

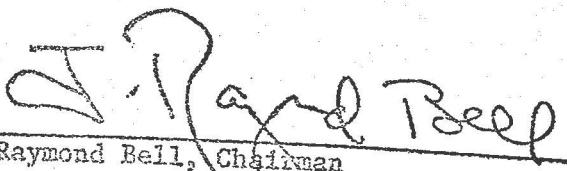
In view of the foregoing, the Commission concludes that the claimants have failed to establish that the articles involved in this claim were nationalized or otherwise taken by the Government of Hungary on or after April 7, 1959, the date when the claimants, the asserted owners, acquired nationality of the United States, as required for compensation under section 303(5) of the Act, supra.

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

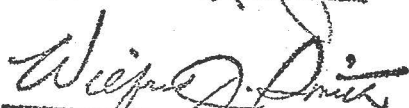
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

5 MAY 1976



J. Raymond Bell, Chairman



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.)