

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

IN THE MATTER OF THE CLAIM OF

JOSEPH SZABO
MARIA SZABO

Claim No. HUNG-2-967

Decision No. HUNG-2-1034

Under the International Claims Settlement
Act of 1949, as amended

Counsel for Claimant:

Gary Neil Asteak, Esquire

Appeal and objection from a Proposed Decision entered on September 15, 1976. No Oral Hearing Requested.

Hearing on the Record held on March 30, 1977

FINAL DECISION

This claim in the asserted amount of \$22,591.70 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 in Szombathely, Hungary. Claimants, JOSEPH SZABO and MARIA SZABO, stated that they acquired United States nationality on November 28, 1960, by naturalization.

In its Proposed Decision dated September 15, 1976, the Commission denied this claim for the reason that the loss in question occurred in the year of 1950, 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) of the Act, supra.

By letter dated September 30, 1976, claimants, through counsel, objected to the Proposed Decision. However, no additional evidence was submitted.

It is claimants' contention that: (1) they were not advised of the taking of their property in Hungary prior to the expiration of the Commission's First Hungarian Claims Program for losses prior to August 9, 1955, and therefore, they were unable to file

a claim under the first program; and (2) that since there was a surviving widow's usufruct interest (an encumbrance) still recorded against the property until March 31, 1955, it was only after this date that the taking of the property by the Government of Hungary occurred.

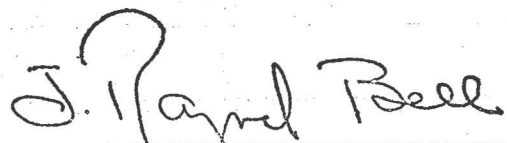
Full consideration having been given to the entire record, including the claimants' objections, the Commission finds that neither the evidence of record nor claimants' contentions warrant any change in the Proposed Decision.

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.

30 MAR 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 30 MAR 1977



HUNG-2-967

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Under the International Claims Settlement
Act of 1949, as amended

Claim No. HUNG-2-967

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Counsel for Claimants:

Gary Neil Asteak, Esquire

PROPOSED DECISION

This claim in the asserted amount of \$22,591.70 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 in Szombathely, Hungary.

Claimants, JOSEPH SZABO and MARIA SZABO, state that they acquired United States nationality on November 28, 1960, 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.

In support of this claim the claimants, JOSEPH SZABO and MARIA SZABO, submitted, through counsel, certified extracts from the pertinent land records of Szombathely, Hungary, which show that claimants owned property as follows:

<u>Liber No.</u>	<u>Lot Nos.</u>	<u>Owner</u>	<u>Interest owned</u>
4524	2458/105	Jozsef Szabo	1/2
	2458/146	Maria Szabo	1/2
224	4817	Maria Szabo	1/5
	4818		
	2513		
	4961/1		
223	4712	Maria Szabo	1/10
	4713		

The said land extracts further show, and on the basis of which the Commission finds that the interests, owned by the claimants as stated above, were taken by the Government of Hungary in the year of 1950.

In view of the foregoing, the Commission concludes that it has no authority to grant compensation for the loss in question because it occurred in the year of 1950, 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) of the Act, supra.

In a letter, dated July 15, 1976, counsel advances the following argument: The real property, involved in this claim, was encumbered by a usufruct in favor of Mrs. István Szekér nee Mária Marovics, which was terminated by her death on March 31, 1955. It was only after that time that the vested rights in the subject property, a contingency, could be disposed of by any lawful authority.

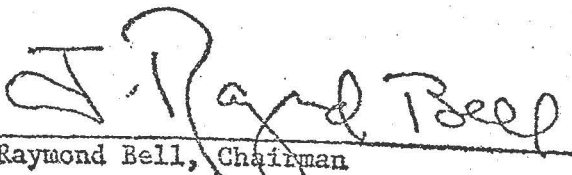
Under Hungarian law a surviving widow's usufruct is an encumbrance on the property owned by the decedent and not a contingency. It is a right which decreases the value of the fee, as would any other encumbrance (e.g. mortgage). However, the vesting of the fee is not contingent upon the death of the holder of the usufruct. Therefore, the argument, based upon the alleged contingent character of the claimants' ownership in the subject property, cannot be sustained. In that connection it is also noted that the real property recorded in Liber 4524 of Szombathely was not encumbered by any usufruct in favor of Mrs. István Szekér nee Mária Marovics and for that reason counsel's argument, even if valid, would not apply to that property.

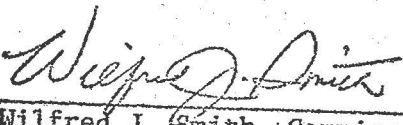
In view of the foregoing, the Commission concludes that this claim must be and it is hereby denied.

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.

15 SEP 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.)

The regulations also provide that after a Final Decision is entered denying a claim in whole or in part, the claimant may petition to have his claim reopened for further consideration if new and compelling evidence becomes available. Such petition must be filed at least 60 days prior to May 15, 1977, the statutory deadline for the completion of the Hungarian Claims Program. (FCSC Reg., 45 C.F.R. 531.5(1), as amended.)

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