

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

FRED BRETH  
Breezy Acres Farm  
P.O. Box E  
Hobart 1, New York

Claim No. CZ-2,930

Decision No. CZ-1,891

Under the International Claims Settlement  
Act of 1949, as amended

GPO 942329

Counsel for Claimant:

Charles M. Siegfried, Esq.  
515 Madison Avenue  
New York 22, New York

FINAL DECISION

The Commission issued its Proposed Decision on his claim on December 23, 1960, denying the claim for the reason that claimant had failed to establish that his claim was compensable under Section 404, Title IV, of the Act. Full consideration having been given to the objections of claimant and to the additional evidence presented at and subsequent to an oral hearing held before the Commission on July 25, 1961, it is

ORDERED that the Proposed Decision be amended as follows:

This is a claim in the amount of \$35,000.00 asserted against the Government of Czechoslovakia which was filed by FRED BRETH, a national of the United States since his naturalization on December 27, 1943. The claim is based on the asserted nationalization or other taking by the Government of Czechoslovakia of an apartment house located on Masaryk Square, 57 Dvur Kralove n.l., Czechoslovakia, stated to have been inherited from ERNEST BRETH, late father of claimant.

The claim was filed under the provisions of Section 404,

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Title IV, of the International Claims Settlement Act of 1949, as amended. Section 404 of the Act provides, inter alia, for the determination by the Commission, in accordance with applicable substantive law, including international law, of the validity and amount of claims by nationals of the United States against the Government of Czechoslovakia for losses resulting from the nationalization or other taking on and after January 1, 1945, of property, including any rights or interests therein, owned at the time by nationals of the United States.

Section 405 of the Act provides as follows:

A claim under Section 404 of this title shall not be allowed unless the property upon which the claim is based was owned by a national of the United States on the date of nationalization or other taking thereof and unless the claim has been held by a national of the United States continuously thereafter until the date of filing with the Commission.

Evidence of record, including several affidavits, letters and other information, discloses that the late ERNEST BRETH, father of claimant, owned the subject property, described as a three story house with shops, six apartments and other facilities; that following his death in 1942, or thereabouts, and the demise of other members of the Breth family during World War II, the claimant and his brother FRANCISCO BRETH, a non-national of the United States, became the sole owners of the subject property with respective one-half interests therein. The evidence of record also discloses that the property was seized by the forces of Germany during World War II and following the cessation of hostilities the property was not restored to claimant or his brother, FRANCISCO BRETH, a resident of Ecuador, South America. Accordingly, the Commission adopts December 21, 1949, as the date of taking of the subject property by the Czechoslovakian Government without compensation, since no favorable action was taken by that government after that date for the restitution of the subject property to its rightful owners.

The record contains a purported Waiver of Interest, dated December 19, 1958, signed by FRANCISCO BRETH, whereby he "renounced" his ownership rights in the subject property in favor of his brother, the claimant herein. However, as stated, the record indicates that said FRANCISCO BRETH was not a national of the United States prior to or at the time of taking of the subject property by the Government of Czechoslovakia. Accordingly, the Commission finds that such assignment or renouncement cannot be utilized herein as an effective transfer of interest in the instant claim within the contemplation of the provisions of Section 404 and 405 of the Act, Supra.

In arriving at the value of the subject property, the Commission considered oral testimony of claimant at the hearing and the evidence submitted in the record. Evidence of record includes pictures of the improvements and correspondence from residents of Czechoslovakia during the postwar period as well as data on the size and dimensions of the improvements and the lot in Kralove n.l., Czechoslovakia. The Commission also considered information received from overseas on similar properties in Czechoslovakia. On the basis of all evidence and data of record the Commission finds that the total value of the subject property was Twenty-Four Thousand Dollars (\$24,000.00) and concludes that the claimant herein is entitled to an award under Section 404 of the Act in an amount commensurate with his one-half interest therein.

In view of the foregoing, it is hereby

ORDERED that the Proposed Decision dated December 23, 1960, as hereinabove amended, be and the same is hereby entered as the Final Decision on this claim and that claimant be and he is hereby granted an award under Section 404 of the Act as follows:

A W A R D

Pursuant to the provisions of Title IV of the International Claims Settlement Act of 1949, as amended, an award is hereby made

to FRED BRETH in the principal amount of Twelve Thousand Dollars (\$12,000.00), plus interest thereon at the rate of 6% per annum from December 21, 1949, to August 8, 1958, the effective date of Title IV of the Act, in the amount of Six Thousand Two Hundred Thirteen Dollars and Ninety-Six Cents (\$6,213.96), for a total award in the amount of Eighteen Thousand Two Hundred Thirteen Dollars and Ninety-Six Cents (\$18,213.96) and it is

ORDERED that the award granted herein be certified to the Secretary of the Treasury.

Dated at Washington, D. C.

AUG 16 1961

*Edward J. Al*  
*Theodore Jaffe*

*Lavern R. Dilweg*

COMMISSIONERS

*W.H.*  
*lylo*  
*[Signature]*

THIS DECISION WAS ENTERED AS THE COMMISSION'S  
FINAL DECISION ON AUG 16 1961

*Francis A. Macpherson*

Clerk of the Commission

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON 25, D. C.

IN THE MATTER OF THE CLAIM OF

FRED BRETH  
Breezy Acres Farm  
P. O. Box E  
Hobart 1, New York

Claim No. CZ-2,930 ✓

Decision No. CZ- 1891

Under the International Claims Settlement  
Act of 1949, as amended

GPO 16-72126-1

Counsel for Claimant:

CHARLES M. SIEGFRIED, Esquire  
515 Madison Avenue  
New York 22, New York

PROPOSED DECISION

This is a claim against the Government of Czechoslovakia, filed pursuant to the provisions of Section 404, Title IV, of the International Claims Settlement Act of 1949, as amended, by FRED BRETH. The claim is based on the nationalization or other taking of real property located at Kralove n.l., Czechoslovakia, stated to have been inherited by claimant.

Section 404 of the Act provides, inter alia, that the Commission shall determine the validity and amount of claims by nationals of the United States against the Government of Czechoslovakia for losses resulting from the nationalization or other taking on and after January 1, 1945, of property, including any rights or interests therein, owned at the time by nationals of the United States.

Claimant has failed to submit evidence sufficient to form the basis for findings by the Commission of facts essential to an award under Section 404 of the Act.

Section 531.6(d) of the Commission's regulations (45 CFR) provides that --

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The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim.

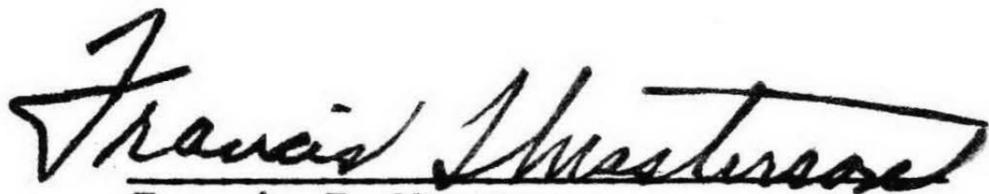
Claimant herein has not established that he owned property in Czechoslovakia, or, if he did own such property, that it was nationalized or otherwise taken by the Government of Czechoslovakia on or after January 1, 1945. Accordingly, the claim is hereby denied.

The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

Dated at Washington, D. C.

DEC 23 1960

BY DIRECTION OF THE COMMISSION:



Francis T. Masterson  
Clerk of the Commission

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