

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

IN THE MATTER OF THE CLAIM OF

EDITH NEUMAN de VEGVAR
Round Hill Road
Greenwich, Connecticut

Claim No. HUNG-21,189

Decision No. HUNG- 2093

Under the International Claims Settlement
Act of 1949, as amended

GPO 16-72126-1

Counsel for Claimant:

Steckler, Frank & Gutman
60 East 42nd Street
New York 17, New York

Irving R. M. Panzer, Esquire
1735 DeSales Street, N. W.
Washington 6, D. C.

PROPOSED DECISION

This is a claim for \$1,403,477.14 by EDITH NEUMAN de VEGVAR against the Government of Hungary under Section 303 of the International Claims Settlement Act of 1949, as amended.

Claimant became a citizen (national) of the United States by naturalization, on August 9, 1946.

Claimant states that she was the owner of certain real property known as "Zalaber" located in the Counties of Zala and Vas, in Hungary, consisting of a castle and its surrounding gardens, as well as farmland, forests and estates totalling 1589.337 cadastral yochs (holds), together with livestock, farm animals, machinery, equipment, harvested crops, logs and timber of said lands and the household furnishings and art works in said castle, and that at various times starting in 1944 through 1947, almost all of these lands and items of personal property as well as her life estate in land owned by her sons GEZA E. and CHARLES H. were confiscated by the Hungarian authorities.

H 2
R 7

The claim is divided into two parts as follows:

(a) \$945,243.74, under Section 303(2) of the Act, for land, buildings and a statue, and for claimant's life estate in the land owned by her aforementioned sons, all of which assertedly was "confiscated subsequent to August 9, 1946", with the proviso that if this portion of the claim is disallowed under Section 303(2), claim is made therefor, in the alternative under Section 303(1) in the amount of \$630,162.50.

(b) \$458,233.40, under Section 303(1) of the Act, for land, furnishings, livestock, machinery and produce all of which was assertedly "confiscated prior to August 9, 1946".

Claim under Section 303(2)

Section 303(2) of the Act provides, inter alia, for the receipt and determination by the Commission, in accordance with applicable substantive law, including international law, of the validity and amounts of claims of nationals of the United States against the Government of Hungary, arising out of the failure of such government to pay effective compensation for the nationalization, compulsory liquidation, or other taking, prior to August 9, 1955, of the property of nationals of the United States in Hungary.

Under well established principles of international law, in order for a claim to be compensable, the property upon which the claim is based must have been owned by a national or nationals of the United States at the time of loss and the claim which arose from such loss must have been owned by a United States national or nationals continuously thereafter.

In support of that part of the claim for property assertedly confiscated subsequent to August 9, 1946 (item (a) above), claimant relies on (1) six photostatic copies of land extracts (transcripts) from Hungarian local land registers for the Counties in which the property is located (Exhibit Nos. 1, 2, 5, 8, 9, and 10), and (2) the affidavit of Charles Szladits, a former member of the Hungarian bar.

The land extracts contain entries dated July 5, 1947, July 15,

1947, February 11, 1947, February 11, 1947, September 30, 1947 and August 2, 1947, respectively. In substance, these entries provide that the then record parcel numbers be cancelled and that the land be subdivided and renumbered as per submitted blue prints or subdivision schedules. Additionally, the entries in Exhibits Nos. 5, 8, 9, and 10 direct that the parcels, as renumbered be relisted in favor of new (unnamed) individual beneficiaries.

Mr. Szladits expresses the opinion that "acquisition and loss of ownership of real property can only take place (in Hungary) by recordation in the land register". Accordingly, claimant urges that her aforementioned real property, which she acquired between 1932 and 1942, was confiscated on the respective dates of the recorded entries referred to above.

The Commission holds that recordation in the land register was not essential to accomplish "acquisition and loss of ownership". The confiscation complained of arose when the Hungarian Government, as sovereign, actually took over claimant's property for its own use and benefit, or when it turned over said property for the use and occupation by others. The date when the owner is deprived of his ability to exercise dominion and control over his proprietary rights and interests in his property is the yardstick to be employed in determining the date of taking (confiscation).

On March 15, 1945, the Hungarian Government enacted a Land Reform Decree, No. 600/1945, which had for its purpose the abolition of ownership of large estates and the subdivision and transfer thereof to peasants. Chapter X of the decree reads as follows:

"The present decree comes into force on the day of its publication and its execution shall begin without delay. (emphasis supplied).

The decree was published on March 18, 1945. It provided, inter alia (1) that all agricultural estates, the area of which exceeds 1000 hold shall be expropriated in their entirety; (2) that 100 hold of agricultural property are exempt from expropriation out of estates, the area of which is between 100 and 1000 hold; and (3) that life

estates "with regard to estates subject to expropriation [shall] expire simultaneously with the execution of land reform, but not later than on October 15, 1945".

It appears that claimant's real property came within the purview of Decree 600/1945 and that it was taken under that decree. The question arises as to the date of such taking.

On October 24, 1946 claimant addressed a letter to the Department of State in which she stated:

"The property in question [which belonged to her] consists of farmland, buildings, livestock and equipment, and is located in Zalamogye and Vasmegeye, Hungary". . . .

"My local representative, Mr. Bela Ferenczi of Zalaber, advised me several months ago that the Government of Hungary had seized the property described above."

Additionally, among the records transmitted to the Commission by the Department of State, relating to this claim, is a document signed by Dr. Gyula German as legal representative of the claimant. This document was written in the Hungarian language. It was dated December 20, 1946, Zalaszentgret, and addressed to the American Legation, Budapest. A translation thereof reads in part as follows:

"According to decisions of the Land Reform Council of Vas County, 100 acres real estate are left to the family [Edith Neuman de Vegvar, Gaza Edward Neuman de Vegvar and minor Charles Neuman de Vegvar], quite at the edge of the estate, not in accordance with the choice of the owners and without any agricultural outfit, while the rest was given to farmers and the forest to the Treasury. The Land Reform Council of Zala gave the whole real estate to private persons, and the forest to the Treasury as well. And the agricultural outfit was given to several farmers associations founded on this special purpose".

"The same Council took in property the castle, the tenement houses and the steamwell, i.e., the castle for the Ministry of Public Education, the tenements for Zalaber village, and the mill for the Farmers Associations, the overseer's house with the belonging park and courtyard top. No. 183 of Pakod to Pakod-village for teachers' flat and cultural club. All these gifts are not yet definitely and finally settled; because they all are under appeal, under third-grade judgment at National Land Reform Council residing in Budapest".

Considering all facts and all circumstances, the Commission finds that the property in question was actually taken by the Hungarian Government prior to the dates of entries in the land records referred to above.

The burden of proof in establishing a claim rests on the claimant. Since she has failed to establish that the property, subject of this claim, was owned by a national of the United States at the time of its nationalization, compulsory liquidation, or other taking by the Hungarian Government, the claim must be and hereby is denied under Section 303(2) of the Act.

Alternative Claim under Section 303(1) of the Act

Section 303(1) of the Act provides, inter alia, for the receipt and determination by the Commission in accordance with applicable substantive law, including international law, of the validity and amounts of claims of nationals of the United States against the Government of Hungary, arising out of failure of such government to restore or pay compensation for property of nationals of the United States as required by articles 26 and 27 of the treaty of peace with Hungary.

Article 26 of the treaty of peace with Hungary provides, inter alia, for the restoration of rights and return of property in Hungary of the United Nations and their nationals, and for the payment of compensation to United Nations nationals whose property in Hungary suffered war damage or can not be returned, and United Nations nationality is made to depend upon nationality in any one of the United Nations on January 20, 1945, the date of the armistice with Hungary. Article 27 provides relief to persons whose property in Hungary had been the subject of sequestration, confiscation and control by that Government on account of racial origin, religion, or other Fascist measures of persecution. However, claims under Section 303(1) of the Act are restricted by the language of the Act itself to those of United States nationals arising out of ownership of property by nationals of the United States.

The reference in Section 303(1) to article 26 of the Treaty, effects a modification of the well settled rule of international law which requires ownership of a claim by a national or nationals of the espousing nation continuously from its inception as a condition for compensation thereof. Thus, a claim arising under article 26 or 27 of the Treaty may be found compensable under Section 303(1) if the property on which it is founded, or the claim arising from such ownership, was owned at the time of the armistice and continuously thereafter by a person who was a national of the United States on January 20, 1945, the date of the armistice with Hungary. In the instant case, however, it is found that neither the property which is the subject of the claim nor the claim was owned at the time of the armistice with Hungary by a person who was a United States national on January 20, 1945, and the claim may not, therefore, be considered compensable under Section 303(1).

Accordingly, for the foregoing reasons, this claim is likewise denied under Section 303(1) of the Act.

In view of the foregoing the Commission deems it unnecessary to determine other elements of the claim.

Dated at Washington, D. C.

APR 20 1959

FOR THE COMMISSION:

Copy
mgs
William Barrett
William Barrett, Acting Director
Balkan Claims Division

RECEIVED