

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

In the Matter of the Claim of

LUCIE C. ROSENBERG,
c/o Mr. Manfred Sternberg,
Apt. 3-A,
300 Riverside Drive,
New York 25, New York.

Docket No. Y-1090

Decision No. 1307

Under the Yugoslav Claims Agreement
of 1948 and the International Claims
Settlement Act of 1949.

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PROPOSED DECISION OF THE COMMISSION

This is a claim for \$130,497.97 by Lucie C. Rosenberg, a citizen of the United States since her naturalization on July 25, 1946, and is for the taking by the Government of Yugoslavia of real property located in Zagreb and Osijek, and valued at \$120,000; personal property located in Zagreb, and valued at \$7,876; and a one-half interest in a mortgage on real property located in Zagreb, valued at \$2,300.

Claimant alleges that Miroslav Frankl was the brother of her mother's foster mother and that, on information and belief, in November or December, 1940, Miroslav Frankl made his last will and testament which was drawn up by one Dr. Alexander Licht, now deceased. Claimant further alleges that since Miroslav Frankl had no children, he bequeathed to her and to her brother, Mario Sorell (Sternberg), all of the real property involved in the claim, subject to a life estate in favor of his wife, Klara Frankl. Miroslav Frankl died on March 11, 1944, and claimant alleges that her brother, Mario Sorell, was killed on July 9, 1944. Claimant also alleges that her father, Manfred Sternberg, and her mother, Lilly Sternberg, relinquished and abandoned any rights they might have had as Mario Sorell's parents in favor of claimant upon being advised in 1950 by Klara Frankl of the terms of the aforementioned will of Miroslav Frankl.

Handwritten initials: "PR" and "JAK" with a signature.

Claimant has filed the affidavit of Klara Frankl, who swears that in 1938 Miroslav Frankl executed his will, leaving to his grand-nephew, Mario Sorell, and his grand-niece, the claimant, all of his real estate, subject to a life estate in favor of the affiant. She also swears that the will was witnessed by Otto Wachslar and Felix Berger, and that it was lost, as it was either left behind when she and her deceased husband fled Zagreb, or was lost later in Cantu, Italy. Claimant has also filed the affidavits of Otto Wachslar and Felix Berger, who confirm the execution of such a will and their witnessing it.

The Yugoslav Government has filed a certified copy of a decree of inheritance issued by the County Court for Precincts II and III, Zagreb, dated March 23, 1948, with respect to the estate of Miroslav Frankl, deceased. This decree awards the real property of the decedent (Docket No. 11288, Zagreb, and Nos. 1295, 1392 and 1393, Osijek), to the decedent's widow, Klara Frankl, who is stated to be represented by her attorney, Dr. Oscar Fisher of Zagreb. Permission is granted for recordation in her name "with a notation forbidding right of alienation to all these properties until the said Klara Frankl returns to Yugoslavia and the simultaneous notation of the right of the Government of the F.P.R.Y. to manage those properties until her return to Yugoslavia."

Instead of attempting the re-execution of the will in proceedings before the Yugoslav court having jurisdiction, the claimant has adopted the course of attempting to do so before this Commission. However, in the absence of any showing that the County Court of Zagreb lacked jurisdiction or that the decree was otherwise invalid, we shall not give effect to a collateral attack on the decree and shall allow it full faith and credit. Accordingly, the claimant has not proved that she was the owner of any real property which was taken by the Government of Yugoslavia and the claim for such property is denied.

With respect to the personal property, claimant alleges that it was last located on the premises of her mother, Lilly Sternberg, at Jelacic Trg. 15, Zagreb. Claimant alleges this property was confiscated in 1941 by the Chief of the Zagreb Police under the authority of the Ustasi, but was later restored to claimant by the present Yugoslav Government, and that that Government "took it" as of July 19, 1948. In this connection, it is noted that in the claim filed by claimant's father, Manfred Sternberg (Docket No. Y-1092), he states with respect to his own personal property located at Jelacic Trg. No. 15: "In 1941 the Chief of the Ustasi Police by the name of Cerovsky, drove up with police trucks and took away everything." (Claimant's underscoring.) Also, in the claim of claimant's mother, Lucy Sternberg (Docket No. Y-1090) the latter has filed the affidavits of Klara Frankl and Felix Sorell confirming the taking of Mrs. Sternberg's personal property by the Ustasi.

The Agreement of July 19, 1948, between the Governments of the United States and Yugoslavia settled claims for the "nationalization and other taking by Yugoslavia of property" (Article 1). The "Ustasi" referred to was the militia of the puppet State of Croatia, and we have held that the taking of property by that State, and damage to property while under its control and administration, are not compensable under the Agreement (Decision No. 993, In the Matter of the Claim of Socony-Vacuum Oil Company, Inc., Docket No. Y-304).^{*} Furthermore, even if a taking of property by the State of Croatia were to be considered a taking by the Government of Yugoslavia, claimant was not at such time a national of the United States, and her claim would therefore not be within the jurisdiction of this Commission.

As to the taking of the personal property by the present Government of Yugoslavia, claimant has submitted no supporting evidence whatsoever in this regard. The Yugoslav Government reports that such property was "entirely plundered and carried off, by the occupator"

^{*} A copy of this decision is enclosed

and this Commission's investigator reports that local public officials stated that the personal property was taken by the Ustasi. Claimant has not shown that the personal property was taken by the Government of Yugoslavia and the claim therefor is denied.

As to the claim for a one-half interest in a mortgage, the Commission finds it established by a certified extract from the Land Register of the County Court of Zagreb (Docket No. 4923, Zagreb), filed by the Government of Yugoslavia, and admissions of that Government, that claimant and Mario Sternberg (Sorell) owned a mortgage in the amount of 230,000 dinars with 8% interest per annum on real property consisting of 2 parcels of land with an area of 3577 square meters, with structures on the parcels, and that the real property and the mortgage on the real property were nationalized on April 28, 1948, pursuant to the Nationalization Law of April 28, 1948 (Official Gazette No. 35 of April 29, 1948).

The Commission is of the opinion, on the basis of all evidence and data before it, that a claim has been established for \$3,240.91 as the value of claimant's interest in the mortgage.

AWARD

On the above evidence and grounds, this claim is allowed to the extent indicated, and an award is hereby made to Lucie C. Rosenberg, claimant, in the amount of \$3,240.91 with interest thereon at 6% per annum from April 28, 1948, the date of taking, to August 21, 1948, the date of payment by the Government of Yugoslavia in the amount of \$61.27.

Dated at Washington, D. C.

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FINAL DECISION

A Proposed Decision was entered in this claim in which an award was made to Lucie C. Rosenberg, claimant, in the amount of \$3,240.91 plus \$61.27 interest. Subsequent to the issuance of the Proposed Decision the Government of Yugoslavia filed a brief, as amicus curiae. While the claimant filed no objections, she petitioned the Commission to amend the claim by adding a claim for a one-half interest in a mortgage recorded under Docket No. 6264, Zagreb.

A certified extract from the Land Register of the County Court of Zagreb (Docket No. 6264, Cadastral District of Zagreb) which was filed in a related claim (Docket No. Y-1092) does show an encumbrance in the amount of 200,000 dinars in favor of Mario and Lucie Sternberg. However, that extract also shows that it had been cancelled both under this docket number and also in the "main entry" under Docket No. 3502, Zagreb. Its cancellation is further confirmed by an extract

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furnished by the Yugoslav Government which shows the cancellation of this mortgage entry. The claim with respect to this mortgage is, therefore, denied.

Thirty days having elapsed since the claimant herein and the Government of Yugoslavia were notified of the Commission's Proposed Decision on the above claim, and the brief filed by the Yugoslav Government having received due consideration, the Commission hereby adopts such Proposed Decision as its Final Decision on the claim.

Dated at Washington, D. C.

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