

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

IN THE MATTER OF THE CLAIM OF

JOHN KORNFELD
ELISABETH KORNFELD

Claim No. Y2-0565

Decision No. Y2-1193

Under the Yugoslav Claims Agreement of 1964
and Title I of the International Claims
Settlement Act of 1949, as amended

Counsel for claimants:

Rotraud M. Perry

Appeal and objections from a Proposed Decision entered on November 6, 1968.

Hearing on the record held on June 3, 1969.

FINAL DECISION

This claim, in the amount of \$2,950.00, is based upon the asserted ownership and loss of certain improved real property with furniture, household goods, livestock, poultry, and a vegetable garden in Nova-Palanka, Yugoslavia. Claimant, JOHN KORNFELD, has been a national of the United States since his naturalization on August 29, 1960. No information has been furnished concerning the nationality of claimant ELISABETH KORNFELD.

By Proposed Decision dated November 6, 1968, the Commission denied this claim for the reason that claimants failed to establish that they owned property which was nationalized or otherwise taken by the Government of Yugoslavia within the effective period of the Yugoslav Claims Agreement of 1964. Claimants, through counsel, filed objections to the Proposed Decision, submitting extracts from the land records of Nova Palanka in support thereof.

An examination of the evidence submitted establishes, and the Commission so finds, that claimant ELISABETH KORNFELD and one Franje Marijana Adamov, jointly owned real property listed in liber No. 277, parcel 692/2 in Nova Palanka and consisting of 1205 square meters of arable land. The Commission further finds on the basis of pertinent entries in the

aforementioned land extract that subject property was confiscated by the Government of Yugoslavia on March 4, 1946 pursuant to the Enemy Property Law of February 6, 1945.

It is noted that claimant, ELIZABETH KORNFELD, has not established her citizenship status in this record. Moreover, the records submitted do not show property interests under the ownership of claimant, JOHN KORNFELD.

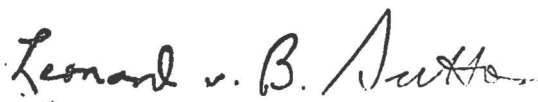
The Commission has held that claims for the nationalization or taking of property which arose prior to July 19, 1948 are excluded under the Yugoslav Claims Agreement of 1964. (See the Claim of Eugenia D. Stupnikov, Claim No. Y2-0071, 1967 FCSC ANN. REP. 79; and the Claim of Mary Tscherne, Claim No. Y2-0865, 1967 FCSC ANN. REP. 85.)

In view of the foregoing, the Commission finds that this claim, based on real property which was confiscated by the Government of Yugoslavia under the Enemy Property Law of February 6, 1945, is outside the scope of the Yugoslav Claims Agreement of 1964. (Sl. List (Yugoslavia), No. 2, Item No. 25, February 6, 1945.) Accordingly, this claim is denied.


The Proposed Decision is, in all other respects, affirmed.

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

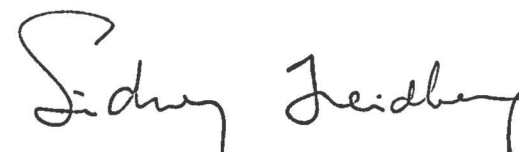
JUN 18 1969



Leonard v. B. Sutton, Chairman



Theodore Jaffe, Commissioner



Sidney Freidberg, Commissioner

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Settlement Act of 1949, as amended

Counsel for claimants:

Rotraud M. Ferry

PROPOSED DECISION

This claim, in the amount of \$2,950.00, is based upon the asserted ownership and loss of certain improved real property with furniture, household goods, livestock, poultry, and a vegetable garden in Nova-Palanka, Yugoslavia. Claimant, JOHN KORNFELD, has been a national of the United States since his naturalization on August 29, 1960. No information has been furnished concerning the nationality of claimant ELISABETH KORNFELD.

Under Section 4(a) of the International Claims Settlement Act of 1949, as amended (64 Stat. 13 (1950), 22 U.S.C. §1623(a) (1964)), the Commission is given jurisdiction over claims of nationals of the United States included within the terms of the Yugoslav Claims Agreement of November 5, 1964 and the Commission is directed to apply the following in the following order:

(1) The provisions of the applicable claims agreement as provided in this subsection; and (2) the applicable principles of international law, justice and equity.

Among other things, the Agreement provides as follows:

Article I. (a) The Government of Yugoslavia agrees to pay and the Government of the United States agrees to accept, the sum of \$3,500,000 United States currency in full settlement and discharge of all pecuniary claims of nationals of the United States, whether natural or juridical persons, against the Government of Yugoslavia, on account of the nationalization and other taking of property and of rights and interests in and with respect to property which occurred between July 19, 1948 and the date of this Agreement.

Article II. The claims of nationals of the United States to which reference is made in Article I of this Agreement refer to claims which were owned by nationals of the United States on the date on which the property and rights and interests in and with respect to property on which they are based was nationalized or taken by the Government of Yugoslavia and on the date of this Agreement. (Agreement between the Government of the United States and the Government of the Socialist Federal Republic of Yugoslavia Regarding Claims of United States Nationals, November 5, 1964, [1965] 16 U.S.T. 1, T.I.A.S. No. 5750 (effective January 1, 1965).)

Thus, where property was owned by a natural person at the time of its nationalization or other taking, a claim based upon such loss of property is not compensable under the Agreement unless such person was a national of the United States at the time of nationalization or other taking which must also have occurred between July 19, 1948, and the date of the Agreement.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) as amended, 32 Fed. Reg. 412-13 (1967).)

The issues involved in this claim before the Commission include the nationality of ELISABETH KORNFELD, claimants' ownership of the subject property or the extent of such ownership interest therein, the dates and circumstances of the asserted loss, and the value of the property at the time of loss. To sustain the burden of proof, claimants are required to submit evidence upon which the Commission can base findings of fact and conclusions of law with respect to each of the elements discussed above.

Claimants assert that the property on which this claim is based was nationalized or otherwise taken on a date unknown to them. However, no evidence has been submitted to date other than an affidavit by Maria Relinger and Irma M. Brandt, in which affiants state, among other things, that all statements made by claimants in their Statement of Claim are true.

In view of the foregoing, the Commission finds that claimants have failed to establish that they owned property which was nationalized or otherwise taken by the Government of Yugoslavia between July 19, 1948 and January 20, 1965, the effective date of the Yugoslav Claims Agreement, on a date when it was owned by a national of the United States as required for compensation under the terms of the Agreement discussed above. Accordingly, the claim is denied with respect to both claimants.

The Commission deems it unnecessary to consider other elements of this claim.

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

NOV 6 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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, 32 Fed. Reg. 412-13 (1967).)