

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

IN THE MATTER OF THE CLAIM OF

ALICE STEIN

Claim No. CZ-2-0373

Decision No. CZ-2-0805

Counsel for Claimant:

Samuel Herman, Esquire

AMENDED FINAL DECISION

By Proposed Decision issued October 17, 1983, the Commission denied this claim on the ground that the property had been taken by the Government of Czechoslovakia when it was placed under national administration on January 1, 1952. Claimant filed an objection to the Proposed Decision, but, after a hearing on the record, the denial was affirmed by Final Decision issued on April 26, 1984.

Claimant, who acquired United States nationality on November 28, 1955 by naturalization, has now submitted, through counsel, additional evidence from the Government of Czechoslovakia which indicates and from which the Commission finds that the property on which this claim is based was taken by the Government of Czechoslovakia on June 1, 1961. The Commission further finds, based upon the evidence of record, that claimant, ALICE STEIN, had acquired the claim for the property upon the death of her husband, Walter Stein, a United States national from February 26, 1956 until his death in 1978. Accordingly, the Commission concludes that ALICE STEIN is entitled to compensation under subsection 5(a) of the Act, above, for the loss.

With respect to the value of the property on the date of loss, the Commission notes that Walter Stein filed a claim based upon the same property interest in the first Czechoslovakian Claims Program under Public Law 85-604 for losses before August 8,

1958. At the time of filing his claim in 1959, he asserted that a one-half interest in the property, which is described as a four story apartment building with eleven apartment units and two stores on the ground floor located in Prague-Vinohrady, had a value of \$10,064. This value is corroborated by a report from the Commission's field office in the first Czechoslovakian Claims program which indicated that the subject property had a value of 80,650 reichsmarks, or \$20,162.50. This field office report was based upon pre-World War II evidence and did not include any encumbrances upon the property, because they didn't arise until after World War II.

Counsel has submitted argument in support of claimant's asserted value for her loss of \$45,000. Counsel, who represented Walter Stein at the time he filed his claim under Public Law 85-604, now states that Walter Stein's valuation "was a patent undervaluation" and that it was based upon the deduction of 454,000 Czechoslovak crowns (\$9,080.00) in mortgages and encumbrances owed in 1948. He argues that after the property in question was put under national administration in 1952 the use of the property by the Czechoslovak Government was derived from a "constructive lease" or by operation of law. Therefore, he concludes that, since the rental obligations were extinguished during the ten year period from the date of national administration to the date of taking, Walter Stein's obligation to pay the encumbrances was also extinguished. Whether it was extinguished in 1951 or 1961 or whether such a loss would give rise to a claim by the mortgagee against the Government of Czechoslovakia, if the mortgagee were a United States national is, not addressed. Suffice it to say that, the Commission did grant awards in the first Czechoslovakian Claims Program for the loss of mortgage interests on nationalized property and has done so in the current program under Public Law 97-127. However, in no such case has the award been made to the obligor, that is the person who had

borrowed money using real property as collateral. Accordingly, the Commission concludes that claimant is only entitled to compensation for the equity interest for her late husband in the subject property on the date of loss.

Having reviewed all the evidence of record, including the evidence in the file in Claim No. CZ-4251 and in the report received from the Government of Czechoslovakia, as well as considering thoroughly counsel for claimant's arguments in support of the claimant's asserted value for her property interest, the Commission concludes that the value of the real property identified as house No. 733, Prague-Vinohrady, Scaduskeho 3 was \$30,000 on the date of loss.

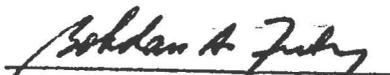
The Commission has concluded that in granting awards under subsection 5(a) of Public Law 97-127, for the nationalization or other taking of property, interest shall be allowed at the rate of 6% simple interest per annum from the date of loss to February 2, 1982, the date the claims settlement agreement between the United States and Czechoslovakia entered into force.

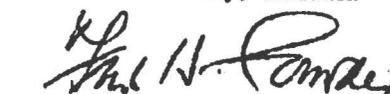
Therefore, the Commission concludes that the Final Decision previously issued on this claim must be and it is hereby amended in accordance with the foregoing, and that in all other respects it is affirmed.

Claimant ALICE STEIN is therefore entitled to an award in the principal amount of Thirty Thousand Dollars (\$30,000.00), plus interest at the rate of 6% simple interest per annum from June 1, 1952 to February 2, 1982, in the amount of Thirty-Seven Thousand Two Hundred Five Dollars and Ten Cents (\$37,205.10), for a total award in the amount of Sixty-Seven Thousand Two Hundred Five Dollars and Ten Cents (\$67,205.10).

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

JAN 23 1985


Bohdan A. Futey, Chairman


Frank H. Conway, Commissioner


Joseph W. Brown, Commissioner

This is a true and correct copy of the decision of the Commission which was entered as the final decision.

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

IN THE MATTER OF THE CLAIM OF

ALICE STEIN

Claim No. CZ-2-0373

Decision No. CZ-2-0805

Counsel for Claimant:

Samuel Herman, Esq.

Hearing on the Record held on **APR 26 1984**

FINAL DECISION

This claim in the amount of \$45,000.00 against the Government of Czechoslovakia under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981 (Public Law 97-127, 95 Stat. 1675) is based upon the loss of an apartment house with ten apartments and two stores on the ground floor at No. 733 Praha-Vinohrady, Scaduskeho 3, Prague.

Under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981, the Commission is given the following jurisdiction:

"The Commission shall receive and determine, in accordance with applicable substantive law, including international law, the validity and amount of claims by nationals of the United States against the Government of the Czechoslovak Socialist Republic for losses resulting from the nationalization or other taking of property owned at the time by nationals of the United States, which nationalization or other taking occurred between August 8, 1958, and [February 2, 1982]."

Accordingly, under the law the Commission can grant awards only for property which was taken after August 8, 1958.

By Proposed Decision issued October 17, 1983, the Commission denied this claim on the ground that the property had been taken by the government of Czechoslovakia when it was placed under national administration on January 1, 1952. By letter dated October 20, 83, claimant, through counsel,

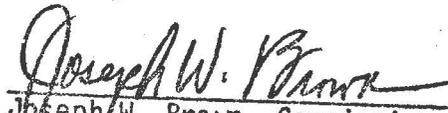
objected to the Proposed Decision, although it was not clear from the letter whether an oral hearing was requested. By subsequent letter dated November 15, 1983, counsel withdrew his request for an oral hearing.

The Commission forwarded an official request to the government of Czechoslovakia in this claim and received a response therefrom, which to the Commission's satisfaction, established that the property was taken under national administration on January 1, 1952. No evidence has been submitted, nor in the Commission's view is there any reason to believe that the government of Czechoslovakia took any action concerning this property which could be considered as a nationalization or other taking of the property after August 8, 1958. The Commission has no alternative but to affirm its original denial as its final determination of this claim.

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

APR 26 1984


Frank H. Conway, Commissioner


Joseph W. Brown, Commissioner

This is a true and correct copy of the decision of the Commission which was entered as the final decision.

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

IN THE MATTER OF THE CLAIM OF

ALICE STEIN

Claim No. CZ-2-0373

Decision No. CZ-2-0805

Counsel for Claimant:

Samuel Herman, Esquire

PROPOSED DECISION

This claim in the amount of \$45,000.00 against the Government of Czechoslovakia under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981 (Public Law 97-127, 95 Stat. 1675) is based upon the loss of an apartment house with ten apartments and two stores on the ground floor at No. 733 Praha-Vinohrady, Scaduskeho 3, Prague.

Claimant acquired United States nationality on November 28, 1955 by naturalization.

Under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981, the Commission is given the following jurisdiction:

"The Commission shall receive and determine, in accordance with applicable substantive law, including international law, the validity and amount of claims by nationals of the United States against the Government of the Czechoslovak Socialist Republic for losses resulting from the nationalization or other taking of property owned at the time by nationals of the United States, which nationalization or other taking occurred between August 8, 1958, and [February 2, 1982]."

Accordingly, under the law the Commission can grant awards only for property which was taken after August 8, 1958.

At the time of filing, it was stated that no evidence of the date and manner of the taking of the subject property was available. The Commission notes that claimant's predecessor in interest, Walter Stein, who died on June 17, 1978, had filed Claim No. CZ-4251 under Public Law 85-604 for losses in Czechoslovakia before August 8, 1958. The Commission found in that claim that the record contained no evidence to establish that the apartment

building in question was taken between February 26, 1956, the date Walter Stein became a United States citizen, and August 8, 1958. Accordingly, since in order for a claim to be compensable under Public Law 85-604 the evidence of record had to establish that property was taken by the Czechoslovakian government at a time when it was owned by a United States national, that claim was denied.

Upon request of counsel for claimant, the Commission sent an inquiry to the Czechoslovakian government pursuant to the terms of Article IV of the United States-Czechoslovak Claims Settlement Agreement, which went into effect February 2, 1982. The Commission has received a response to that request which states as follows:

"By decision of the ONV (District Natl. Committee) in Prague 12, dated January 1, '52 the above mentioned property was put under the national administration in the accordance with the decree No 5/1945."

Based upon the foregoing, the Commission finds that the property in question was placed under national administration by the Czechoslovakian government on January 1, 1952 at a time when the owner, claimant's predecessor in interest, was not a United States national. The Commission further finds that the record in this claim contains no evidence of any later action by the Government of Czechoslovakia which could be considered as a nationalization or other taking of the subject property within the meaning of subsection 5(a) of the Act, above.

Subsection 531.6(d) of the Commission's regulations provides:

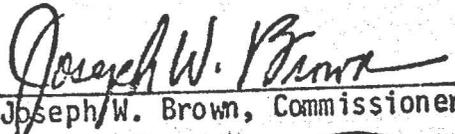
"The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim."

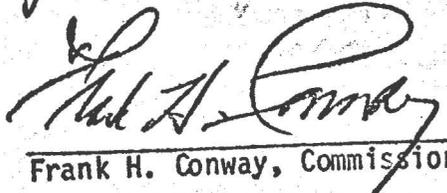
Based upon the foregoing, the Commission has no alternative but to conclude that the claimant has not met the burden of proof in that she has failed to submit evidence to establish that the property on which this claim is based was nationalized or otherwise taken by the Government of Czechoslovakia after August 8, 1958 as required for compensation under subsection 5(a) of the Act, above. Accordingly, the Commission finds that this claim must be and it is hereby denied.

The Commission finds it unnecessary to make determinations with respect to other aspects of this claim.

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

OCT 17 1983


Joseph W. Brown, Commissioner


Frank H. Conway, 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.)

CZ-2-0373