

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

IN THE MATTER OF THE CLAIM OF

JOHN R. SEMIVAN  
ANN KLIMKO

Claim No. CZ-2-0677  
CZ-2-0678

Decision No. CZ-2-0296

Hearing on the Record held on January 24, 1984.

FINAL DECISION

These claims in an unstated amount against the Government of Czechoslovakia under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981 (Public Law 97-127, 95 Stat. 1675) are based upon the loss of real property in the town of Jenkovce, Czechoslovakia.

Claimants stated they both acquired United States citizenship by birth.

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]."

By Proposed Decision issued June 7, 1983, the Commission denied these claims on the ground that it had not been established that property had been taken after August 8, 1958. By letter dated June 17, 1983, claimant ANN KLIMKO objected and requested an oral hearing which was scheduled for 9 a.m. on January 24, 1984. By subsequent postcard, claimant stated she would not attend the hearing but requested the matter to be considered as an objection on the record.

The Commission has reviewed the entire record, including the files previously submitted pursuant to claims CZ-4696 and CZ-4697, relating to claims previously filed with the Commission for the same loss under Title IV of the International Claims Settlement Act of 1949, as amended.

The evidence establishes that claimants' parents purchased certain unimproved real property in Czechoslovakia in 1920 at a time when they were United States citizens. Claimants have submitted the purchase/sale contract and verification of the approval and registry of the sale in the land book entries of the town of Jenkovce. Following the death of claimants' mother in 1953 and claimants' father in 1954, by will, the property passed in equal shares to claimants.

Claimants previously filed claims for the loss of this property under Title IV of the International Claims Settlement Act of 1949, as amended. For a claim to have been compensable in that program, it would have had to be established that property had been taken prior to the passage of that statute which was August 8, 1958. Although certain evidence was submitted to the Commission indicating that the property may have been taken shortly after the death of their grandmother, Helen Lahita, who died in the month of April 1958, the Commission determined that this was not sufficient to establish that the property, in fact, had been confiscated prior to August 8, 1958. Therefore, the claim was denied on the ground that the property had not been confiscated prior to the date of the previous statute.

Although no specific evidence has been submitted to establish the exact date of confiscation, from the Commission's general knowledge of history and events in Czechoslovakia, the Commission concludes there is no doubt that, in fact, this property has been taken by the Government of Czechoslovakia at

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some time prior to February 2, 1982, the effective date of the Agreement Between the United States and Czechoslovakia Concerning the Settlement of Claims.

As it therefore appears clear to the Commission that, in fact, the property was confiscated at a time when it was owned by a United States national and as the Commission has previously determined that this did not occur prior to August 8, 1958, the Commission appears warranted in presuming that the property was taken after August 8, 1958 and that, therefore, a compensable claim has been established. The Commission, therefore, finds, for the purpose of adjudication under Public Law 97-127, that the property in question was nationalized or otherwise taken by the Government of Czechoslovakia within a year of the date of the death of claimants' grandmother and for ease of computation of interest finds the property was taken on February 2, 1959.

The only evidence submitted concerning the value of the property is the purchase price of \$1,800.00, which was paid in 1920. Lacking other evidence, the Commission has consulted the index of building cost increases for neighboring property in Germany and determines that it is warranted in increasing the 1920 purchase price by two and one-half times and, therefore, determines the property had a value as of February 2, 1959 in the amount of \$4,500.00 and that each claimant is entitled to a principal award of one-half of that amount.

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 six percent 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.

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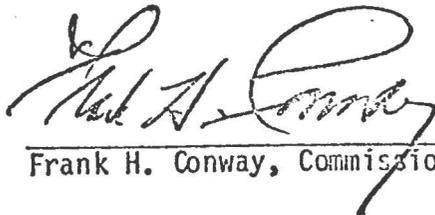
AWARDS

Claimant, JOHN R. SEMIVAN, is therefore entitled to an award in the principal amount of Two Thousand Two Hundred Fifty Dollars (\$2,250.00), plus interest at the rate of six percent simple interest per annum from February 2, 1959 to February 2, 1982 in the amount of Three Thousand One Hundred Five Dollars (\$3,105.00), for a total award of Five Thousand Three Hundred Fifty-five Dollars (\$5,355.00).

Claimant, ANN KLIMKO, is therefore entitled to an award in the principal amount of Two Thousand Two Hundred Fifty Dollars (\$2,250.00), plus interest at the rate of six percent simple interest per annum from February 2, 1959 to February 2, 1982 in the amount of Three Thousand One Hundred Five Dollars (\$3,105.00), for a total award of Five Thousand Three Hundred Fifty-five Dollars (\$5,355.00).

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

JAN 24 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.

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

IN THE MATTER OF THE CLAIM OF

JOHN R. SEMIVAN

ANN KLIMKO

Claim No. CZ-2-0677  
CZ-2-0678

Decision No. CZ-2-0296

PROPOSED DECISION

These claims in an unstated amount against the Government of Czechoslovakia under subsection 5(a) of the Czechoslovakian Claims Settlement Act of 1981 (Public Law 97-127, 95 Stat. 1675) are based upon the loss of real property in the town of Jenkovce, Czechoslovakia.

Claimants stated they both acquired United States citizenship by birth.

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

At the time of filing their claims, claimants did not provide any information about the date that their properties were taken over by the Government of Czechoslovakia. However, claimants had filed claims under the Commission's first Czechoslovakian claims program, conducted under Public Law 85-604,

in which they asserted the loss of same property in Czechoslovakia. In Decision No. CZ-2687 issued on their claims, the Commission found that the evidence of record was insufficient to establish when their property had been nationalized or otherwise taken by the Government of Czechoslovakia. For that reason, the Commission denied the claimants' claims.

In reviewing the evidence of record in the files submitted under Public Law 85-604, the Commission notes that the claimants stated that their property was taken by the authorities in 1948. In affidavits subsequently submitted they stated that they had been advised by relatives who visited Czechoslovakia in the spring of 1958 that the property at that time had already been confiscated. Other affidavits the claimants submitted, executed by third persons, stated that their property had been taken in the latter part of 1957.

Based upon the foregoing, the Commission concludes that the property which is the subject of this claim was taken by the Government of Czechoslovakia prior to August 8, 1958. Since, under subsection 5(a) of the Act, awards may be granted only when the subject property was taken after August 8, 1958, the Commission finds that these claims must be and hereby are denied.

The Commission finds it unnecessary to make determinations with respect to other aspects of these claims.

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

JUN 7 1983

J. Raymond Bell, Chairman

Frank H. Conway, Commissioner

Joseph W. Brown, 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.)