

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

IN THE MATTER OF THE CLAIM OF

LAWRENCE ALBERT BELL

Claim No. CZ-2-1268

Decision No. CZ-2-1039

Counsel for Claimant:

Ernest L. Parker, Esquire

Hearing on the Record held on SEP 25 1984

FINAL DECISION

This claim in the amount of \$3,000,000.00 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 improved real property, a business enterprise, and various items of personalty, all located in Prague.

Claimant became a United States citizen by naturalization on October 31, 1953.

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, and which was owned by a United States citizen at the time.

By Proposed Decision issued January 25, 1984 the Commission denied this claim on the ground that the business had been taken by the Czech Government before August 8, 1958 and that the rest of the property was not taken at the time when it was owned by a United States citizen.

By letter dated February 13, 1984 counsel for claimant objected and requested an oral hearing. By letter dated May 21, 1984 counsel submitted additional documentation including affidavits and copies of photographs. The matter was set for an oral hearing at 9:30 a.m. on August 8, 1984. At the time set for hearing no appearance was made by counsel or claimant. The Commission has therefore considered this objection as an objection on the record.

The record discloses the following facts which are not in dispute. All the property for which claims are made was originally owned by claimant's parents who left Czechoslovakia in 1949 and became United States citizens in 1969 and 1971. Claimant's parents had owned a fur business which was taken in 1949 when it was placed under national administration with all legal rights of the owners being cancelled. In addition claimant's parents had interests in two pieces of real property, title to which was transferred to the Czechoslovak Government. In one instance this occurred in January 1961. Although it is not completely clear when the other property was transferred, it was at or about the same time. Claimant's parents remained the record owners of the property until the title was transferred to the Czech State. As claimant's parents were not United States citizens when title was taken by the Government of Czechoslovakia, the Commission held that the property was not owned by a United States citizen on the date of loss as required by the statute for a claim to be held compensable.

Claimant's mother submitted an affidavit made in 1982 stating in rel^evant part that in 1949 before leaving Czechoslovakia she and her husband "legally executed a transfer of our joint vast properties and holding...into ownership of son Lawrence Albert Bell." Claimant has submitted affidavits from various individuals who state the claimant's parents stated at various times after they left Czechoslovakia that they had transferred their property to their son before leaving Czechoslovakia. It is claimant's contention that he acquired legal title to the property in 1949, and as he became a United States citizen in 1953, the property was in fact owned by a United States citizen when it was taken in 1961.

The Commission concludes that for three separate reasons they cannot except claimant's contention.

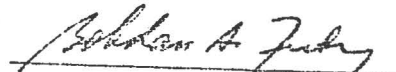
1. Although the Commission does not doubt the recollection of claimant's mother that she and her husband signed a document before leaving Czechoslovakia, without being able to examine the contents of this document the Commission is not in a position to determine its import. While the document could have been an attempt to make an immediate inter vivos gift of property, it could also have been a conditional transfer or an intent to make a will effective upon the death of the parents. It is for the Commission to determine the legal import of the document which it is not in a position to do without being able to review the contents.
2. No record of the transfer of ownership was made in the land record nor was the document itself recorded. It appears that recordation of title was a requirement for the transfer of property in Czechoslovakia (Claim of Joseph Singer CZ-3993, Decison No. CZ-2556). The Commission notes that the property was confiscated according to a decision of the "Popular Court in Pribran" dated June 10, 1953, although the actual transfer of ownership was not entered in the land records until 1961. Although the details of the decision of the Peoples Court is not before the Commission it appears to have been a decision taken against claimant's parents which ultimately resulted in the confiscation of all property recorded as having being owned by claimant's parents. Had claimant himself, as a United States citizen, been recorded as the legal owner there is no basis to believe that the property would have been expropriated at the time that it was.

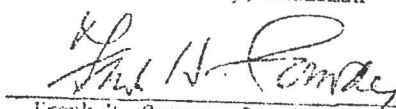
3. Even if the Commission were to assume that the documents signed by claimant's parents clearly evidence an intent to make an inter vivos gift and even if the Commission were to disregard the fact that the document was not recored, the document was never transferred to the intended recipient of the gift. The Commiission concludes that the preparation of the document evidencing an intent to make a gift does not and cannot constitute a avalid gift until some actual or symbolic transfer is made to the recipient.

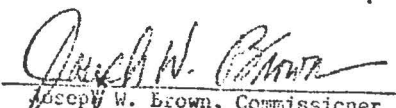
For the above stated reasons the Commission holds that the title to the real propertyat issue did not pass from claimant's parents to claimant prior to the date the property was taken by the Government of Czechoslovakia and therefore the property was not owned by a United States citizen as required for a claim to be compensable under Public Law 97-127. For this reason the Commission affirms its original denial as its final determination of this claim.

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

SEP 25 1984


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.

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OF THE UNITED STATES
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IN THE MATTER OF THE CLAIM OF

LAWRENCE ALBERT BELL

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PROPOSED DECISION

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

The record establishes that the claimant's parents, Vojtech and Hermine Belohlavek, were the owners in equal 1/2 interests of a seven-story commercial and residential building

at No. 81 Londynska Ulice in Prague-Vinohrady, as well as a mansion house and adjoining garden at No. 11 U Platenice in Prague-Smichov. The record also indicates that Vojtech Belohlavek was the sole owner of a business enterprise called "Kozesiny Belohlavek" (Belohlavek House of Furs) located in the above building at No. 81 Londynska Ulice in Prague-Vinohrady. The claimant asserts that his parents also owned extensive household furnishings, art collections, cash, stocks and bonds, and other valuables, although the record contains no evidence of any particular items of personalty that were owned by Vojtech and Hermine Belohlavek.

The record indicates that the claimant's parents emigrated from Czechoslovakia for political reasons in or around January 1949. They subsequently resettled in the United States, where Vojtech Belohlavek was naturalized as a United States citizen on November 10, 1969 and Hermine Belohlavek was naturalized as a United States citizen on February 3, 1971. The record indicates that the claimant's father died on March 10, 1970.

The claim file includes a copy of an order from the Central National Committee of the City of Prague, dated January 8, 1949, placing the "Belohlavek House of Furs" under national administration. The "Textilia Enterprise, National Industry" of Prague I, Rytirska was appointed national administrator. According to the Central National Committee's order: "All legal rights of owners, their managers or representatives of properties which are placed under national administration are cancelled It is the obligation of the national administrator to take control of the enterprise and secure immediately all assets, bank accounts, and other monetary instruments and receivables from the owners or their representatives."

Based on this document the Commission finds that the subject business enterprise was taken by the Government of Czechoslovakia on January 8, 1949. Since the Commission is authorized under subsection 5(a) of Public Law 97-127 to grant awards only for property which was nationalized or otherwise taken after August 8, 1958, the loss of property in 1949 is not compensable under the Act. Accordingly, this part of the instant claim must be denied.

The record includes a copy of a land record extract, issued by the State Notary of Prague I in 1963, containing an entry dated January 16, 1961 which registered the Czechoslovak Government as the owner of the building (No. 309) and land (parcel No. 373) at No. 81 Londynska Ulice in Prague-Vinohrady. The evidence also includes an English translation of a purported land record extract relating to the house and garden at No. 11 U Platenice in Prague-Smichov stating that the new owner of this property was also the Czechoslovak Government. Although this document is undated, the claimant asserts that the language at the end reading "together with insert 309 Vinohrady" indicates that the house and garden in Prague-Smichov was transferred to the Czechoslovak Government at the same time as the building and land in Prague-Vinohrady.

According to the land record extracts, the claimant's parents were still the registered owners of the foregoing properties at the time they were taken over by the Czechoslovak Government. If such was the case, they would not have been owned by United States nationals at the time of loss, as required for compensation under subsection 5(a) of Public Law 97-127. The claimant has asserted, however, that Vojtech and Hermine Belohlavek transferred all of their property to him on January 1, 1949, shortly before their emigration from Czechoslovakia.

The claimant's mother has submitted a notarized statement, dated August 17, 1982, indicating that she and her husband executed a transfer of all their property in Czechoslovakia to their son in January 1949 since he already resided outside the country. According to the claimant's mother, the instrument of conveyance was prepared by a Czechoslovakian official in the Ministry of Finance and placed in a safe deposit box in a bank in Prague. The claimant's mother asserts that she and her husband were unable to forward a copy of this document to their son for fear that its discovery by Czechoslovakian officials would jeopardize their departure from the country. Nor were they able to take the document with them upon their emigration.

Thus, the instrument of conveyance purportedly transferring the property of Vojtech and Hermine Belohlavek to their son is not included in the claim file. Nor does the record contain any contemporaneous documentation, such as correspondence from the Czechoslovakian official in the Ministry of Finance or the claimant's parents in 1949, evidencing a transfer of ownership at that time. Indeed, the only evidence of the alleged transaction in 1949 is the statement prepared by the claimant's mother 33 years after the fact.

In the absence of any supporting documentation and in view of the land record extracts in the file indicating that Vojtech and Hermine Belohlavek were the record owners of the subject properties until their transfer to the Czechoslovak Government, the Commission concludes that claimant LAWRENCE ALBERT BELL never became the owner of the building and land in Prague-Vinohrady or the house and garden in Prague-Smichov. Therefore, neither of these properties was owned by a United States national at the time of taking by the Government of

Czechoslovakia, as required for compensation under subsection 5(a) of Public Law 97-127. Accordingly, these parts of the instant claim must also be denied.


As for the household furnishings, art collections, cash, stocks and bonds, and other valuables assertedly owned by the claimant's parents, the Commission has already noted that the record contains no documentation relating to any of this property. There is no evidence of ownership nor any evidence that such property was nationalized or otherwise taken by the Czechoslovakian Government after August 8, 1958 and at a time when it was owned by a United States national, as required for compensation under subsection 5(a) of the Act. Accordingly, the Commission finds that this part of the claim must be denied as well.

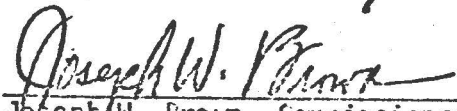
The Commission determines, therefore, that the instant claim must be and it hereby is denied in its entirety.

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.

JAN 25 1984


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.)