

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

IN THE MATTER OF THE CLAIM OF

LEONA KOHN
ELLA STEIN
ZITA MARX

Claim No. CZ-2-1591

Decision No. CZ-2-0879

Hearing on the Record held on JUL 18 1984

FINAL DECISION

This claim for 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) is based upon the loss of a one-story house and store with a storage room, tavern and two-room apartment on the first level and a three-room apartment on the second level located at Prehorov, number 29 in the District of Sobeslav, Czechoslovakia.

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 November 17, 1983 the Commission denied this claim on the ground that the evidence failed to show that claimants were the owners of the property when it was taken in 1961.

By letter dated December 1, 1983 the claimant LEONA KOHN objected to the Proposed Decision of the Commission and requested an oral hearing. An oral hearing was set for 9 a.m. on April 26, 1984, but by postcard subsequently received claimant indicated she would not appear at the oral hearing, but requested that the matter be considered as a hearing on the record.

The Commission has therefore reviewed the entire record including additional evidence submitted after the Proposed Decision was issued.

The claimant LEONA KOHN on behalf of herself and claimants ELLA STEIN and ZITA MARX filed a claim for the loss of fractional ownership interests in property described as no. 29 in Prehorov, a building consisting of four rooms for living space, a store, and storage space. Claimant submitted a Document of Delivery issued by the District Court of Sobeslav on April 19, 1947 concerning the inheritance of house no. 29 previously owned by Karel Luft, who had been declared dead as of July 20, 1943. The property was valued at 119,798 Czechoslovakian crowns (\$2,395.96 at the then existing exchange rate). The estate was distributed 1/3 to Marie Libalova, 1/6 to Jirina Stankova (Czechoslovakian citizen who died in 1962) and 1/6 each to the present claimants, LEONA KOHN, ELLA STEIN, ZITA MARX. The claimant submitted a "protocol" stating that house no. 29 had been physically seized by Government authorities on May 3, 1961 and transferred to Ladinslov Hron. This document states that the owner and transferring party was Marie Libalova. In response to an official request to the Government of Czechoslovakia for information concerning this claim, that Government responded stating the house no. 29 belonged to Karel Luft from 1935 and from 1947 belonged to Marie Libalova. No reference is made in this document to any ownership interest of claimants.

By letter dated October 27, 1983, claimant LEONA KOHN stated "first I will try to explain why my aunt, Maria Libalova, who died in August 1979, treated the property as hers and preceeded to reclaim it as she would be the sole owner." Claimant than stated, as Marie was the sole proprietor of the store, still living in Czechoslovakia, it was only natural for her to deal with the authorities as the owner.

Therefore it appear that although 1/6 interests in the inheritance of Karel Luft were to be recieved by claimants, in

fact the house no. 29 was listed in the land record in the sole ownership of Maria Libalova. Based upon this record and the fact that Maria Libalova was not a United States citizen at the date of loss the Commission originally denied this claim.

Claimant LEONA KOHN has submitted copies of letters written by Maria Libalova to Czech authorities in 1968 and 1975 seeking the return of the property. In these letters Maria Libalova makes reference to "Unpaid shares from the inheritance of my nieces. About this fact I have and can produce documents (from the Court and Notary public)".

Although normally ownership of property is determined by establishing who is the legal owner as recorded in land records, the Commission is also aware of a common practice in Czechoslovakia where such inherited property was placed in the name of one heir and the inheritance interests of other heirs constitute a lien upon such property. Although it is not clear that liens in the name of the present claimants were actually recorded in the land record, the response from the Government of Czechoslovakia does not necessarily negate that possibility. It is clear that Maria Libalova in both her letters to the Czechoslovakian authorities recognized that there were unpaid shares from inheritance "on the expropriated property". The Commission is therefore willing to consider that the interest inherited by each of the three claimants did constitute a charge upon the property in the nature of a lien which was extinguished with the seizure of the property in 1961. The Commission therefore finds that each of the claimant is entitled to and award for 1/6 of the value of the inheritance from Karel Luft. It appears from the protocol forwarded by claimant that the actual seizure of the property and the cancellation of the liens occurred on September 3, 1961.

As the evidence shows that the value of the estate of Karel Luft as of the date of inheritance was in the amount of \$2,395.96 each claimant is entitled to an award in the principal sum of \$399.33 which the Commission rounds off at \$400.00.

In addition the Commission has held the claimant is entitled to simple interest at the rate of 6% per annum from the date of loss until February 2, 1982, the date of the claims settlement agreement between the United States and Czechoslovakia.

Therefore as the Final Decision on this claim the Commission makes the following awards:

AWARD

Claimant, LEONA KOHN, is entitled to an award in the principal amount of Four Hundred Dollars (\$400.00), plus interest at the rate of 6% simple interest per annum from September 3, 1961 to February 2, 1982 in the amount of Four Hundred Ninety-Eight Dollars (\$498.00), for a total award of Eight Hundred Ninety-Eight Dollars (\$898.00).

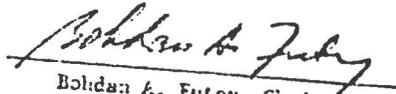
Claimant, ELLA STEIN, is entitled to an award in the principal amount of Four Hundred Dollars (\$400.00), plus interest at the rate of 6% simple interest per annum from September 3, 1961 to February 2, 1982 in the amount of Four Hundred Ninety-Eight Dollars (\$498.00), for a total award of Eight Hundred Ninety-Eight Dollars (\$898.00).

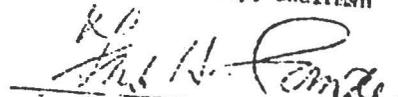
Claimant, ZITA MARX, is entitled to an award in the principal amount of Four Hundred Dollars (\$400.00), plus interest at the rate of 6% simple interest per annum from September 3, 1961 to February 2, 1982 in the amount of Four Hundred Ninety-Eight Dollars (\$498.00), for a total award of Eight Hundred Ninety-Eight Dollars (\$898.00).

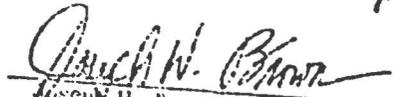
Dated at Washington, D.C.
and entered as the Final
Decision of the Commission.

JUL 18 1984

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


Bohdan A. Futey, Chairman


Frank L. Conway, Commissioner


Joseph W. Brown, Commissioner

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
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IN THE MATTER OF THE CLAIM OF

LEONA KOHN
ELLA STEIN
ZITA MARX

Claim No. CZ-2-1591

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PROPOSED DECISION

This claim for 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) is based upon the loss of a one-story house and store with a storage room, tavern and two-room apartment on the first level and a three-room apartment on the second level located at Prehorov, number 29 in the District of Sobeslav, Czechoslovakia.

Claimant LEONA KOHN acquired United States nationality by naturalization on April 6, 1953 and claimants ELLA STEIN and ZITA MARX acquired United States nationality by naturalization on March 24, 1944.

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 when the property, or interest therein, was owned by a United States national.

At the time of filing this claim, claimants stated that their property was taken on May 3, 1961 by the Government of Czechoslovakia; that their aunt, Marie Libalova, was operating a store on this property; and that their aunt was a 1/3 owner in the property. Claimants further stated that they each owned a 1/12th interest in the property at the time of loss.

In support of their claim claimants submitted a document dated April 19, 1947, issued by the District Court of Sobeslav, Department I, entitled "Document of Delivery". In this document it is stated that "by the document of delivery in the book of land registry of Prehorov. . .house number 29 in Prehorov is included. . .[and]. . .belongs solely to Marie Libalova". Claimants also submitted a copy of a document dated December 2, 1961 entitled "Protocol" in which it is stated that the date of physical seizure is May 3, 1961 and that the name and address of the transferring party is Marie Libalova. The name of the receiving party was listed as Dr. Ladislav Hran.

The Commission has received a reponse from the Government of Czechoslovakia to a request made for information and evidence concerning this claim. In that response it is stated that the subject property, house number 29 in Prehorov, was owned by Marie Libalova from 1947 until January 9, 1961, when the property was "effected" pursuant to governmental Decree 15/1959.

By letter dated August 29, 1983, claimants were advised that it appeared from the record in this matter that the property on which their claim is based was solely owned by Marie Libalova at the time of its transfer and that, even assuming that the transfer of property on May 3, 1961 could be deemed to have been a taking by the Government of Czechoslovakia, unless Marie Libalova was a United States national on the date of such taking, the Commission could not grant an award for this loss. Claimants were invited to submit any additional evidence or information they might have within 60 days from the date of the letter. To date, no additional evidence has been submitted which would establish that the property

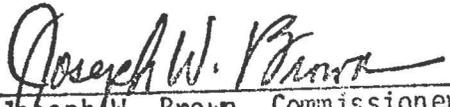
on which this claim is based or any interest therein was taken by the Government of Czechoslovakia when it was owned by a United States national as required for compensation under subsection 5(a) of the Act, above.

Accordingly, based upon the foregoing, the Commission concludes that the property on which this claim is based was not owned by a United States national on the asserted date of loss as required for compensation under the Act. Therefore, 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.

NOV 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.)

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