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

In the Matter of the Claim of

CATHERINA REPP
1528 North Keystone Avenue
Chicago, Illinois

Docket No. Y-798

Decision No. 1492

Under the Yugoslav Claims Agreement of 1948 and the International Claims Settlement Act of 1949

Counsel for Claimant:

CLIFFORD K. RUBIN, Esquire
77 West Washington Street
Chicago, Illinois

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12-21-54

FINAL DECISION

Thirty days having elapsed since the claimant(s) herein and the Government of Yugoslavia were notified of the Commission's Proposed Decision on the above claim, and the claimant(s) having filed no objections thereto, and a brief filed by the Government of Yugoslavia having received due consideration, such Proposed Decision is hereby adopted as the Commission's Final Decision on the claim.

Done at Washington, D. C. DEC 29 1954

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Nov 12, 1954

PROPOSED DECISION OF THE COMMISSION

This is a claim for $41,237 by Catherina Repp, nee Sottrel, a citizen of the United States since her birth in Chicago, Illinois on August 6, 1911, and is for the taking by the Government of Yugoslavia of a lot and house and merchandise in an electrical appliance and supplies store, in which she owned the entire interest, 1 1/2 yochs of land and equipment and material in a factory and foundry owned by Philipp Sottrel, in which she acquired a 1/2 interest by inheritance, and 15 1/2 yochs of land, 2 duplex apartment buildings, a factory building and house, and a bank account owned by Philipp and Elizabeth Sottrel, in which she acquired a 1/4 interest by inheritance.

The Commission finds it established by a report of its investigator and certified extracts from the Land Register of the County Court of Kikinda (Docket Nos. 2681, 20536, 10030, 18417, 7394, 2425, 14717 and 2915, Cadastral District of Kikinda) filed by the claimant and the Government of Yugoslavia, and admissions of that Government that claimant owned a one-half interest in 1 parcel of land with an area of

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585 square fathoms, with a house on the parcel (Docket No. 2681), that her father, Philipp Sottrel owned the entire interest in 1 jutar, 533 1/3 square fathoms of land (Docket No. 20536), and that her parents, Philipp and Elizabeth Sottrel, owned a one-half interest each in 10 parcels of land with a total area of 15 yutars, 551 square fathoms, with structures including 3 houses and a small factory building on the parcels, when they were taken by the Government of Yugoslavia on February 6, 1945, pursuant to the Enemy Property Law of November 21, 1944 (Official Gazette No. 2 of February 6, 1945).

As evidence of her inheritance of a one-half interest in her father's estate, claimant has filed the affidavits of John Hubert, Peter Barba, and her mother, Elizabeth Sottrel. Peter Barba swears that he resided in Kikinda until October 2, 1944, and was a friend of claimant's late father, Philipp Sottrel, who was killed in 1944. John Hubert swears that he was a friend of Philipp Sottrel, saw him almost daily until 1944, and that he was killed in 1944, leaving him surviving, his widow, Elizabeth Sottrel and his two daughters, claimant and Elizabeth Kupfner. Elizabeth Sottrel, claimant's mother, swears that she is the widow of Philipp Sottrel, who was killed on November 11, 1944, that she and the decedent were married only once and then to each other, and that two children were born of the marriage, claimant and Elizabeth Kupfner.

We find claimant's evidence persuasive that her father, Philipp Sottrel, died in 1944 and was survived by his widow and two daughters, one of whom was the claimant. Under the law of the situs of the property, which is the customary law of Hungary, the widow would receive a life estate and each daughter a one-half interest in the estate of the decedent.

Upon the death of the decedent, claimant, under Yugoslav law, became entitled to the ownership of the real property as an heir. Although under Yugoslav law, title does not vest in the heir until the issuance of an inheritance decree by the local probate court having jurisdiction, the right to the inheritance is embraced within "rights and interests in and with respect to property" within the meaning of Articles 1 and 2 of the Yugoslav Claims Agreement of 1948. Accordingly, the claimant was the owner of a right and interest in and with respect to the real property owned by her deceased father when it was taken by the Government of Yugoslavia on February 6, 1945.

As corroborating evidence of value, claimant has filed the affidavits referred to above. Both John Hubert and Peter Barba swear that they were well acquainted with the value of all the property and that its total value was 3,810,000 dinars, 2,310,000 dinars being allocated to the real property. Elizabeth Sottrel values the interest of claimant in the property at 1,088,750 dinars. Claimant has also filed a sales contract, dated May 20, 1940, covering her one-half interest in the property registered under Docket No. 2681 showing that the purchase price was 40,000 dinars. The Government of Yugoslavia has filed an appraisal made by a three-party committee designated by local authorities which finds the value of the property to be 148,573 dinars or 74,286.50 dinars for her one-half interest. An investigator for this Commission has appraised the real property as follows:

	Appraisal	Claimant's Interest
Docket No. 2681	98,625 dinars	49,313 dinars
Docket No. 14717	99,210 "	24,803 "
Docket No. 2915	218,250 "	54,563 "
Docket No. 10030	175,900 "	43,975 "
Docket No. 2425	24,000 "	6,000 "
Docket No. 20536	15,960 "	7,980 "
Docket No. 7394	15,480 "	3,870 "
Docket No. 18417	107,400 "	26,850 "
Total	754,825 dinars	217,354 dinars

As stated above, all parcels, with the exception of that registered under Docket No. 2681, were subject to a life estate in favor of Elizabeth

Sotrell, claimant's mother. While the record contains no evidence as to the date of her birth, it will be assumed that she was 20 years of age at the birth of claimant on August 6, 1911. Accordingly she would be 54 years of age at the time of taking. Since the claimant's interest in the inherited property was a remainder interest, the value of that interest must be determined.

The Commission does not have actuarial and income data with respect to Yugoslavia and so far as it has been able to determine, reliable data for Yugoslavia is not available. It has, therefore, adopted as a basis for the valuation of life and remainder interests the Makehamized mortality table, appearing as Table 38 of United States Life Tables and Acturial Tables 1939-41, and a 3½% interest rate, compounded annually, as prescribed by United States Treasury Department regulations of June 3 and 4, 1952 for the collection of gift and estate taxes, respectively. (See 17 F.R. 4980, 26 C.F.R. 86.19 (f); 17 F.R. 5016, 26 C.F.R. 81.10 (1).) According to that method of valuation a remainder interest in property which is subject to a left estate of a person aged 54 years is valued at 47.157% of the entire estate. Therefore, since the value of the encumbered property is 168,041 dinars, the remainder interest is 52.843% of that amount, or 87,381 dinars.

Under the laws of Yugoslavia, a person who succeeds to real property by interitance, such as claimant, is obligated to pay inheritance taxes on the value of the property (See Law Concerning Direct Taxation, effective January 1, 1946, Article 24, Official Gazette No. 854, November 20, 1945). The Peoples Court is prohibited from transferring title to the heirs unless and until such inheritance taxes are paid (Revised Law Concerning Direct Taxation of August 14, 1946, Article 64, Official Gazette No. 67, August 20, 1946). Thus, the value under local law of an heir's interest in real property must be regarded as being the value of the property less the inheritance taxes charged against it and which must be paid before the transfer of title can be accomplished. As awards may be made only for the value of the property taken or, as is the case here, for the value of an interest in property, a deduction must be made for inheritance taxes.

Under the applicable tax law (Inheritance and Gift Tax Law of March 18, 1947, Official Gazette No. 25, March 26, 1947) the tax on property valued at 87,381 dinars is 7%, if inherited by a child, or 6,117 dinars. That amount deducted from the value of the property leaves 81,264 dinars. The value of claimant's interests in all the property, therefore, is 81,264 dinars plus 49,313 dinars or 130,577 dinars, which converted into United States dollars at the rate of 44 dinars to $1, the rate adopted by the Commission in making awards based upon evaluations as of the year 1938, equals 2,967.66.*

With respect to the merchandise in an electrical appliance and supplies store, alleged to have been owned by claimant, and equipment and material in a factory and foundry, alleged to have been owned by claimant's father, the Yugoslav Government has submitted a report that the former was "taken away and plundered during the war operation", but has submitted no report concerning the personalty allegedly owned by claimant's father. The existence of such property is confirmed by the affidavits of John Hubert, Peter Barba and Elizabeth Sottrel. Claimant does not describe the manner in which her father's personalty was taken, nor does the affidavit of Elizabeth Sottrel, merely stating it was "confiscated". As to the merchandise in her own store, claimant swears that her assistant, Lajos Micsik, was ordered by Yugoslav authorities to turn over the keys to the store and did so turn them over and that the Government took possession of all merchandise and supplies. Likewise, Elizabeth Sottrel swears that:

> "The said store was confiscated by the (Yugoslav authorities who ordered her daughter's assistant Lajos Micsik, (to turn the keys over to the Government. The keys were turned over and (the Government took possession of the store."

We do not find that the evidence establishes the taking by the Government of Yugoslavia of personalty owned by claimant's deceased father. We do conclude, however, that claimant has proved the taking by the Government of merchandise and supplies in her electrical appliance and supplies store; and that the date of taking was February 6, 1945, pursuant to the Law of November 21, 1944, supra, since that law applied to all property of persons subjected to it as having German citizenship or ethnic origin.

As to the value of claimant's personalty, John Hubert and Peter Barba, in their affidavits, estimate its "conservative" value at 300,000 dinars. Claimant swears that the major items which she recalls were worth at least 384,000 dinars. Claimant has filed an insurance policy of April 25, 1944, insuring the merchandise for 200,000 dinars. However, the figure of 200,000 dinars (and most likely the dinar evaluations of the affiants and of claimant) was expressed in terms of the so-called "occupation" or "Serb" dinar in force at the time. By Article 3 of the Law on Currency Exchange Rates for the Withdrawal of Occupation Currency and for the Settlement of Obligations of April 5, 1945 (Official Gazette No. 23 of April 19, 1945), 100 Serb dinars equal 5 dinars of the present Yugoslav Government. Consequently, figures expressed in occupation currency are not supporting evidence of the dollar value of claimant's property, since she has arrived at these figures by converting at the rate of 50 dinars to $1, the official Yugoslav rate of exchange at the date of taking from dinars of the present Government. On the basis of the evidence and data available, we find the value of the merchandise taken to be $1,000.

The Government of Yugoslavia concedes that claimant owned two bank deposits, one in the "Centralna Stedionica" of Velika Kikinda and one in the "Pucka banka" of Pancevo. While it admits the confiscation of the latter deposit under the Enemy Property Law of November 21, 1944, supra, the Government of Yugoslavia states that the deposit in the "Centralna Stedionica" is "free and at the claimant's disposal". However, as we have previously mentioned, the Law of November 21, 1944, applied to all property of persons of German ethnic origin or citizenship. Consequently, we find that the deposit in the "Centralna Stedionica" was likewise confiscated on February 6, 1945, pursuant to that Law.

Furthermore, the Government of Yugoslavia has valorized both deposits pursuant to the Pre-War Obligations Settlement Law (Decree No. 66, Official Gazette No. 66, August 16, 1946). However, the effective date of that law was November 13, 1945, and could not affect bank deposits confiscated on February 6, 1945. Therefore, we find that the amounts of the deposits taken were 11,430 dinars in the "Centralna Stedionica" and 54,863 dinars in the "Pucka banka" with a total dollar value of $1325.86.

The Commission, therefore, finds that the value of all property of claimant which was taken by the Government of Yugoslavia was $5,293.52.

Claimant's counsel has requested the Commission, in writing, to determine his fee. An agreement of record authorizes a fee of 10% of the award.

AWARD

On the above evidence and grounds, this claim is allowed and an award is hereby made to Catherina Repp, claimant, in the amount of $5,293.52 with interest thereon at 6% per annum from February 6, 1945, the date of taking, to August 21, 1948, the date of payment by the Government of Yugoslavia, in the amount of $886.22.*

The Commission determines that 10% of the total paid pursuant to such award shall be paid to Clifford K. Rubin, counsel for claimant.

Dated at Washington, D. C.

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* For the Commission's reasons for use of 1938 valuations, use of exchange rate of 44 to 1, and the allowance of interest, see the attached copy of its decision in the claim of Joseph Senser.