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Decision no. 872a/2013

Application

Applicant, Status

Eythan D., Recommendation

Renee-Anna G., Recommendation

Public owner

Stadtgemeinde Schwechat

Type of property

immovable

Real estate in

KG Schwechat (05220), Schwechat, Niederösterreich | [show on map](#)

Decision

Number

872a/2013

Date

11 Dec 2013

Reason

Award of a comparable asset pursuant to Sec. 34 of the GSF Law

Type

substantive

Decision in anonymous form

Entscheidung 872a 2013 (PDF, 114.77 KiB)

Related decision

Decision no. 872/2012

Press release

Press Release Decision No. 872a/2013

Schwechat, Lower Austria

On 11 December 2013, in supplementation of its decision 872/2012, the Arbitration Panel for In Rem Restitution recommended that the applicants each be awarded an asset of 92,400 Euros. In decision no. 872/2012, the application for restitution of a one half share of properties owned by the Municipality of Schwechat had, in part, been granted. As several of the property parcels in question are currently designated public traffic areas, the Arbitration Panel did not consider in rem restitution of these areas to be practical. In such cases, the Entschädigungsfondsgesetz (“General Settlement Fund Law” – GSF Law) provides for the award of a comparable asset.

On 17 December 2012, the Arbitration Panel for In Rem Restitution recommended the restitution of areas of properties in Schwechat. The subject of the decision is a property, one half of which had been owned by the Jewish lawyer Dr. Arthur D. in March 1938. Following the Anschluss he sold his share to Karl K. Arthur D. was murdered in the Holocaust and after 1945 his son did not file any restitution claims. As a result, the collection agencies, established with the State Treaty of 1955, carried out investigations concerning the property.

However, in 1960 it waived restitution of the property. Karl K.'s heiress sold the property to the Municipality of Schwechat in 1990. In the subsequent years, a large number of property parcels were partitioned off. A new register number was opened for them and this register number was privately-owned on the cut off day. Other areas were transferred into the communal property of the Municipality of Schwechat. What remained of the historical property also continued to be owned by the Municipality of Schwechat on the cut off day and is designated as parkland.

The Arbitration Panel considered the sale of the one half share of the property to constitute a seizure and the waiver of the collection agencies to constitute an extreme injustice as defined by the GSF Law. For this reason, it recommended the in rem restitution of one half of the property, insofar as it had been owned by the Municipality of Schwechat on the cut off day 17 January 2001.

This recommendation therefore covers, firstly, one half of the existing historical property, less the areas which were assigned to it only after the seizure. This constitutes an area of 2,138 m².

Secondly, the recommendation was merited for in rem restitution of a one half share of the areas which originated from the historical property but which had since been partitioned off into the communal property of the Municipality of Schwechat or into the railway register. These constitute areas of around 1,580 m². In rem restitution of these areas is not possible, because they involve a road and a railway line. Therefore, the Arbitration Panel recommended the Municipality of Schwechat to award the applicants the current market value of the property as determined by the expert Dr. Rudolf O., M.Sc.

For use by media; not legally binding upon the Arbitration Panel for In Rem Restitution.

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