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Decision no. WA16/2016

Application

Applicant, Status

Johann G., Rejection

Public owner

Land Niederösterreich

Type of property

immovable

Real estate in

KG Breitenstein (23105), Breitenstein, Niederösterreich | [show on map](#)

KG Wald (19601), Pyhra, Niederösterreich | [show on map](#)

KG Nützing (19534), Pyhra, Niederösterreich | [show on map](#)

KG Michelbach Dorf (19523), Michelbach, Niederösterreich | [show on map](#)

KG Loitzenberg (19512), Pyhra, Niederösterreich | [show on map](#)

KG Heuberg (19480), Pyhra, Niederösterreich | [show on map](#)

KG Auern (19406), Pyhra, Niederösterreich | [show on map](#)

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

[Show all on map](#)

Decision

Number

WA16/2016

Date

14 Dec 2016

Reason

No new evidence/facts and circumstances pursuant to Sec. 21a (1) of the Rules of Procedure

Type

substantive

Decision in anonymous form

Entscheidung wa16 2016 (PDF, 225.12 KiB)

Related decision

Decision no. 853/2012

Press release

Press Release Decision No. WA16/2016

Lower Austria

On 14 December 2016, the Arbitration Panel for In Rem Restitution rejected an application for to reopen the proceedings that led to decision no. 853/2016. The original application for properties owned by the Province of Lower Austria had been rejected because a seizure of assets had not occurred as defined by the *Entschädigungsfondsgesetz* ("General Settlement Fund Law", GSF Law). The new documents that were submitted did

not serve to warrant the assumption that they would have brought about a different outcome if they had been submitted in the initial proceedings.

The siblings Hans K. and Paula M. and her brother-in-law Maximilian L. were co-owners of a family estate in Lower Austria. They had already had sold large areas of the K. Estate to a number of buyers prior to 1938, including the Province of Lower Austria, due to financial difficulties. Following the death of Paula M. in September 1938 and Hans K. in January 1939, their children and heirs continued these efforts to sell off land, owning at least in part to large inheritance tax demands. At the same time, from early 1939 onward sale negotiations were held with the soon-to-be Reich region Lower Danube. Following the takeover of the K. Estate by the Reich region Lower Danube in September 1939, initially in trust, it then went on to purchase the agricultural properties in the summer of 1940.

As descendants of the W. family, which was considered Jewish after the Anschluss of Austria to the German Reich, Hans K. and his sister Paula M. were affected by the Nuremberg Laws of 1935. Paula M. was considered a *Mischling I. Grades* ("first grade half caste") and, due to his marriage to a Jew, her brother was considered Jewish. The K. family took numerous steps in its efforts to gain a more beneficial "genealogical status". After the W. family had assigned a large number of assets to the German Reich, an ancestor of the K. family was declared to be "Aryan", as a result of which Hans K. was considered a *Mischling II. Grades* ("second grade half caste") and his three children "first grade half castes". The heirs of Paula M., who had in the meantime passed away, were then considered "Aryan".

In its decision no. 853/2012, the Arbitration Panel reached the conclusion that the descent of the K. family had not been a causal factor for the sale of the K. Estate to the Reich region Lower Danube. The run-up to the sale and the circumstances surrounding the purchase contract yielded no indications of discriminatory treatment. It could not be established that the vendors had been forced to sell by the Reich region or that other Nazi authorities had exerted their influence on them during the conclusion of the sale in a discriminatory way. The vendors had also received the purchase price, which had been adequate, in full. The Arbitration Panel also examined whether the K. family had felt forced into the sale through the imposition of a Jewish capital levy for Hans K., which was later cancelled. However, the Arbitration Panel was unable to identify any such indications of an indirect pressure to sell.

In the application for reopening one of the applicants submitted various documents as "new evidence", including private correspondence from the Nazi era and budgetary statutes and statements of account of the Reich region Lower Danube. She asserted that these proved that the sale of the K. Estate had occurred on grounds of descent and that the proceeds from the sale had not been paid in full.

In its judicial appraisal of the newly-submitted documents, the Arbitration Panel reached the conclusion that they did not contain any new indications that could go on to prove that the seizure had been seized on grounds of persecution as defined by the GSF Law. The newly-submitted documents did not warrant the assumption that they could have brought about a different outcome to the original proceedings if they had been submitted. Therefore, the application to reopen these proceedings was rejected.

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