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Decision no. 1527/2018

Application

Applicant, Status

Herbert W., Rejection

Public owner

Stadt Wien

Type of property

immovable

Real estate in

KG Leopoldstadt (01657), Wien, Wien | [show on map](#)

Decision

Number

1527/2018

Date

24 Apr 2018

Reasons

Outside the jurisdiction of the Arbitration Panel or the scope of application of the GSF Law  
No "extreme injustice" pursuant to Sec. 32 (2) item 1 of the GSF Law

Type

substantive

Decision in anonymous form

Entscheidung 1527 2018 (PDF, 290.90 KiB)

Press release

Press Release Decision No. 1527/2018

Vienna, Leopoldstadt

On 24 April 2018, the Arbitration Panel for In Rem Restitution rejected an application for in rem restitution one half of a property, some areas of which had been owned by the City of Vienna on the cut off day pursuant to the *Entschädigungsfondsgesetz* ("General Settlement Fund Law" – GSF Law), 17 January 2001. A settlement had been concluded in 1949, in which restitution was waived. The Arbitration Panel did not deem this settlement to be extremely unjust in accordance with the GSF Law.

In 1938, the property in Vienna, on which a residential building was situated, was owned by the Jewish spouses Ludwig and Irma W. (1/2) and the spouses Josef and Marie S. (1/2).

Before fleeing to the USA, Ludwig and Irma W. sold their share of the property to Marie S. for 27,360 Reichsmark. As per the purchase contract the proceeds from the sale were used as follows: 10,867 Reichsmark to pay off a mortgage taken out by the W. spouses in 1938 and around 1,214 Reichsmark for the so-called Jewish capital levy of Irma W. In addition, non-discriminatory taxes amounting to 2,087 Reichsmark were paid. After further expenses had been covered, for unknown reasons the balance of the proceeds from the sale of approx. 9,539 Reichsmark, which had been owed to the vendors, was transferred to Johann St.

In late 1948 Irma W. and her two children, as heirs of Ludwig W., including the present applicant, filed an application for restitution of one half of the property, which had been badly bomb-damaged during the war. In July 1949 the restitution claimants concluded a settlement with Johann St. and waived restitution of the one-half share of the property in exchange for a payment of 20,000 Schilling.

The house situated on the property was later demolished, a new building was built on the property and a part of the property was partitioned off and assigned to public property.

The applicant filed an application with the Arbitration Panel for *in rem* restitution of the half of the property formerly owned by Ludwig and Irma W. The Arbitration Panel had to examine whether the settlement concluded in 1949 had constituted an “extreme injustice” in accordance with the GSF Law. As it was not able to ascertain any discrepancy between the value of the property at the time of the settlement and the settlement amount and, in addition, there were no indications that the claimants had been limited in their freedom of contract, the Arbitration Panel had to reject the application.

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

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