CLAIM OF OTOICHI KONO

[No. 146–35–1492. Decided June 11, 1951]

FINDINGS OF FACT

1. This claim, in the amount of $253, was received by the Attorney General on March 14, 1949. When the claimant filed his affidavit of loss with the field office on March 28, 1950, he amended his claim for storage charges by raising it from $113 to $166. It involved the loss of a 1929 De Soto coupe and storage expenses incurred in an effort to preserve certain personal property. Claimant was married at the time of his evacuation and the property involved in this claim was the community estate of claimant and his wife, Kame Kono, who was born of Japanese parents. Claimant was born in Japan on November 25, 1887, of Japanese parents. At no time since December 7, 1941, has claimant or his wife ever gone to Japan. On December 7, 1941, and for some time prior thereto, claimant actually resided at 505 Wall Street, Los Angeles, California, and was living at that address when he and his wife were evacuated on May 8, 1942, under military orders pursuant to Executive Order No. 9066, dated February 19, 1942, and sent to Santa Anita Assembly Center and from there to Heart Mountain Relocation Center, Heart Mountain, Wyoming.

2. At the time claimant was evacuated, he drove his car to the Assembly Center where it was stored and later sold through the Federal Reserve Bank to the Army for $35. Its fair and reasonable value at the time was $75. His action was reasonable in the circumstances.

3. Other personal property which claimant was unable to take with him was stored on May 6, 1942, at Colyear's Van & Storage Company, 465 South San Pedro

Street, Los Angeles, of which Charles Van & Storage Co., 415 South San Pedro Street, Los Angeles, were the successor. Claimant was charged $156 for storage until November 6, 1946, and a cartage fee of $10. Claimant was released from Heart Mountain Relocation Center on September 23, 1945, but did not reclaim his property until November 6, 1946. Claimant's action in storing the remainder of his personal property was reasonable.

4. The loss on sale of the car was $40. The loss on storage charges was $156, which plus $10 paid for cartage, and the loss on sale, constitutes a loss of $206 not compensated for by insurance or otherwise.

REASONS FOR DECISION

Claimant and his wife were both eligible to claim. This claim includes all interest of the marital community in the subject property, since the wife is eligible to claim, but has made no claim, and since the husband under California law has the power of management and control of such property and may therefore claim for the whole. *Tokutaro Hata, ante,* p. 21.

The loss on sale of the car on the facts found is allowable. *Toshi Shimomaye, ante,* p. 1.

Claimant was represented by counsel at the time he filed his claim and thereafter. In his claim form he claimed $113 for storage, but at the field conference was able to prove $166 paid for storage and cartage charges. An unsigned receipt of the Charles Van & Storage Co., 415 South San Pedro Street, Los Angeles, successors to Colyear's Van & Storage Co., 465 South San Pedro Street, was put in evidence, which set out storage charges from May 6, 1942, through November 6, 1946, as $156 and "cartage and access charges" as $10, or a total of $166. The variance, however, is one solely of particularity and no question is presented of the amended claim being greater in total amount than the original claim. *Junichi Frank Sugihara, ante,* p. 87; cf. *Hideko Tateoka, ante,* p. 180. The next question is, were such charges reasonable? Stor-

age charges were held allowable in *Frank Kiyoshi Oshima, ante,* p. 24, where the limits of the doctrine were likewise adumbrated. Claimant's counsel stated the value of the stored property to have been about $500, so that the loss claimed of $166 for salvaging it was not unreasonable in proportion to the value of the property.

A final question remains, whether the period of storage continued beyond the time when it could have been reasonably brought to an end? From May 6, 1942, until November 6, 1946, was exactly 4½ years or 54 months. Claimant was free to return to Los Angeles and his property stored there at any time after the Exclusion Orders were rescinded and became effective at midnight, January 2, 1945. *Public Proclamation No. 21* (December 17, 1944), paragraph 4. The precise question, then, is whether claimant's payment of storage for 22 months after the day when he might conceivably have removed his property from storage was a reasonable and natural consequence of his evacuation. The claimant in fact did not return from the Relocation Center until September 23, 1945, and did not take his goods out of storage until November 6, 1946, when he had found a suitable dwelling. At a second conference in the field, at which the claimant was present, claimant's attorney stated that claimant returned to Los Angeles when he did only because a friend of his who operated a hotel in the city had offered him and his wife a room; that this accommodation was the best which claimant could get for some time; that claimant owned no house and "he was unable to set up housekeeping and use the articles that he had stored," which consisted of trunks, china, kitchenware, and a refrigerator. Not until November 1946 was he able to get "housing which was in some measure larger than the hotel room," and this was a small house owned by a friend. Undoubtedly housing conditions in September 1945 were such that claimant would have found great difficulty in findings space for his furniture. U. S. Department of Interior, War Relocation Authority, *People In*

Motion, pp. 179–186; cf. U. S. Department of Interior, War Relocation Authority, *Impounded People,* pp. 203, *et seq.* Undoubtedly there was a housing shortage in Los Angeles for there was a housing shortage throughout the country at the time, resulting from various causes, notably the interruption of normal building during the war and the increase of population. This shortage was more acute in urban areas. Since claimant had stored his property to protect it during his enforced absence, he should be entitled to a reasonable time after his return from the Relocation Center within which to remove his furnishings from storage. It must be supposed, unless the contrary appears, that claimant acted in his own interest and would not have incurred storage charges longer than necessary and, on this assumption, it would follow that his act of storing until November 1946 was necessary and reasonable. Moreover, the abstract theory is supported in this instance by concrete facts tending to show that he could not have procured a suitable house earlier than he did. Obviously, there would have been no need to look for convenient quarters but for his evacuation, so that the chain of causation required by the Act is complete. Storage in the amount claimed of $156 will therefore be allowed. The cost of cartage and access fees, $10, is allowable, both as to cartage to storage, *Ernest K. Iwasaki, ante,* p. 156, and therefrom, if such cartage was involved, *Yoshiharu S. Katagihara, ante,* p. 99.