

CLAIM OF KENICHI FUJIOKA

[No. 146-35-2737. Decided February 28, 1951]

FINDINGS OF FACT

This claim, in the amount of \$568, was received by the Attorney General on April 22, 1949, and is for loss through forced sale, involuntarily "gift," and destruction of personal property. Claimant was born in Japan of Japanese parents. On December 7, 1941, and for some time prior thereto, claimant actually resided at 2862 West Olympic Boulevard, Los Angeles, California, and was living at that address when evacuated on April 28, 1942, under military orders pursuant to Executive Order No. 9066, to the Santa Anita Assembly Center and from there to the Jerome Relocation Center. At the time of his evacuation, claimant, a chiropractor, was possessed of office furniture and equipment, together with household goods and effects, none of which items he was permitted to take with him to the relocation center. Shortly before his evacuation, therefore, claimant proceeded to sell as much of his property as he could find purchasers for, the sales encompassing the bulk of his goods. No free market was available to him for disposing of the items at their then fair value, namely, \$172.25, and claimant received only \$88 as proceeds from their sale, with resultant loss of \$84.25. Following the sale of these items, claimant was still possessed of office "odds and ends" consisting of office signs, Japanese books, business cards, and wooden file case, and also of miscellaneous items of furniture and furnishings, i. e., plants, curtains, drapes, paintings, etc. Claimant was unable to find a purchaser for this property and had no facilities for its storage. In consequence of these facts, claimant proceeded to burn up his office "odds and ends"

in his back yard, and to "give away" the remaining items to his landlord and one or two of his patients, the circumstances of both the destruction and the "gifts" being tantamount to abandonment. The then fair value of the property destroyed was \$32.50 and of the items "given away" \$59. Claimant would not have disposed of his property but for his evacuation and his several acts of disposition were reasonable in the circumstances. Claimant was unmarried and sole owner of the property involved at the time of loss and his losses have not been compensated for by insurance or otherwise. Claimant returned to Los Angeles following his release from the relocation center and continued to reside in the latter city until May 29, 1950, on which date he sailed from the United States for a visit to Japan.

REASONS FOR DECISION

Claimant's loss on sale is allowable, *Toshi Shimomaye, ante*, p. 1; as is also his loss through involuntary "gift," *George Tsuda, ante*, p. 90. Claimant's loss through the destruction of his office "odds and ends" is likewise allowable. As appears from the findings of fact, the instant case is distinguishable from *Shigeru Henry Nakagawa, ante*, p. 93, and *George Tsuda, supra*, in that claimant's act of destruction here bore a direct relation to his evacuation and was tantamount to abandonment. Claimant's visit to Japan does not affect his right to recover under the Statute. *Kumahichi Taketomi, ante*, p. 162.