

## CLAIM OF HARUTO TOMITA

[No. 146-35-3121. Decided February 27, 1951]

## FINDINGS OF FACT

This claim, alleging a loss in the sum of \$567.50, was received by the Attorney General on April 28, 1949. It involves a loss suffered by reason of the sale of personal property including a 1933 Ford coupe, various articles of household furnishings, and a camera; and an alleged loss on account of expenditures made by the claimant for the purchase of luggage and clothing in preparation for evacuation. The claimant and his wife were born in Hawaii of Japanese parents on September 30, 1909, and June 19, 1914, respectively. Since December 7, 1941, neither the claimant nor his wife has gone to Japan. Prior thereto they actually resided at 2634½ Gleason Avenue, Los Angeles, California, and were living at that address when they were evacuated on May 28, 1942, pursuant to military orders issued under authority of Executive Order No. 9066, dated February 19, 1942, and sent to the Colorado River Relocation Center, Poston, Arizona. Unable to take the aforementioned personal property with him to the evacuation center, the claimant acted reasonably in selling same, exclusive of the camera, for the sum of \$292 although the fair and reasonable value thereof at the time of sale was \$679. All of the property herein concerned is the community property of the claimant and his wife. None of the alleged losses have been compensated for by insurance or otherwise.

## REASONS FOR DECISION

The loss suffered by the claimant by reason of the sale of his Ford automobile and household furnishings is allowable. *Toshi Shimonmaye, ante*, p. 1.

No allowance can be made on account of the expenditures incurred by the claimant in preparation for his evacuation. *Mary Sogawa, ante*, p. 126.

The loss suffered on account of the sale of claimant's camera in April 1942 is not reimbursable under the Act. Pursuant to General DeWitt's Proclamation No. 3, claimant was not permitted to have a camera in his possession after March 31, 1942. Had the claimant sold or otherwise disposed of his camera in compliance with General DeWitt's order prior to March 31, 1942, any loss incurred as a result of such disposal could only be attributed to the aforementioned Proclamation No. 3. In fact on March 28, 1942, instructions were issued and published under which the United States Employment Service would have assumed custody of the item without cost and, presumably, without loss to the claimant. The sale of the camera shortly prior to claimant's evacuation in April 1942 was in fact but a belated compliance with General DeWitt's proclamation and any loss suffered by reason thereof obviously was neither a reasonable nor a natural consequence of the claimant's evacuation within the meaning of the Act. *Toshichi Nakamura, ante*, p. 108; *Seiji Bando, ante*, p. 68.

A husband may claim on account of damage to or loss of community property owned jointly with his wife. *Tokutaro Hata, ante*, p. 21.