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DUPLICATE
ORIGINAL
«نسخه برابر اصل»

CASE NO. 812

CHAMBER THREE

AWARD NO. ITL 72-812-3

ABRAHIM RAHMAN GOLSHANI,
Claimant,

and

THE GOVERNMENT OF THE ISLAMIC
REPUBLIC OF IRAN,
Respondent.

IRAN UNITED STATES CLAIMS TRIBUNAL
 دادگاه داوری دعوی ایران - ایالات متحده
 ثبت شد - FILED
 Date 30 JUN 1989
 ۱۳۶۸ / ۴ / ۹ تاریخ

INTERLOCUTORY AWARD

I. THE PROCEEDINGS

1. On 19 January 1982 ABRAHIM RAHMAN GOLSHANI (the "Claimant") submitted a Statement of Claim against THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN ("Iran") claiming U.S.\$1,710,712,450 for the alleged expropriation after May 1979 of his interests in the Tehran Redevelopment Corporation ("TRC") and other property. On 5 October 1982 the Claimant submitted an "Amended Statement of Claim" claiming a diminished amount of U.S.\$1,056,904,460. On 28 March 1983 the Claimant amended his Amended Statement of Claim to revise, among other items, the amount of monetary relief requested to U.S.\$1,057,904,460 plus interest. In its Order of 19 November 1982 the Tribunal requested Iran to submit its Statement of Defense by 17 March 1983. No Statement of Defense has yet been submitted by Iran.

2. In his Statement of Claim the Claimant contends that he is a United States national.

3. On 6 April 1984 the Full Tribunal issued a decision in Case No. A18, Decision No. DEC 32-A18-FT, p. 25, reprinted in 5 Iran-U.S. C.T.R. 251, 265, in which it determined that "it has jurisdiction over claims against Iran by dual Iran-United States nationals when the dominant and effective nationality of the claimant during the relevant period from the date the claim arose until 19 January 1981 was that of the United States."

4. On 28 June 1985 the Tribunal requested the Claimant to submit all written evidence he wished the Tribunal to consider in determining his dominant and effective nationality. On 29 August 1985 the Claimant submitted a memorial on the issue of his nationality. The Tribunal thereafter invited Iran to file "all evidence that it wishes the Tribunal to consider on the issue of Claimant's nationality." After granting three extensions of the original

deadline, the Tribunal on 6 February 1987 denied Iran's fourth request for extension and informed the Parties that it intended to proceed with its deliberations on the issue of jurisdiction in this Case as soon as its schedule permitted on the basis of the evidence then before the Tribunal, pursuant to Article 28, paragraph 3, of the Tribunal Rules.

5. On 16 May 1988 Iran requested the Tribunal to order the Claimant to produce certain evidence pertaining to the issue of the Claimant's dominant and effective nationality.

6. On 11 July 1988 the Claimant responded to Iran's 16 May 1988 request. Attached to his response is a photographic reproduction of his Iranian identity card and a photocopy of a deed of final settlement along with a certified translation thereof.

7. On 1 September 1988 Iran submitted a "Brief on Jurisdiction as to the Claimant's Nationality." Iran contends that the Claimant's dominant and effective nationality is that of Iran due to his birth in Iran to Iranian parents and due to the fact that he spent twenty-four years in Iran.

II. FACTUAL BACKGROUND

8. Abraham Rahman Golshani was born on 20 December 1945 in Tehran, Iran, to Iranian parents. He spent his childhood in Iran and received his education through high school in various Iranian schools.

9. In 1969, at the age of twenty-four, the Claimant left Iran and went to the United States to pursue his higher education. Upon his arrival in the United States, he enrolled in English language programs in Los Angeles, California, and Albany, California, and in the Fall of 1971 he enrolled in Cabrillo Junior College in Santa Cruz,

California. He also applied for and received a United States Social Security card. In 1972 the Claimant transferred on an athletic scholarship to the University of San Francisco in San Francisco, California, where he received a Bachelor of Arts Degree in Economics in the Spring of 1976.

10. During his time in San Francisco, the Claimant suspended his studies for a short time when he acquired an ownership interest in a restaurant, the "Red Roof," and a nightclub, the "Golden Grommet." The Claimant owned and managed these businesses for about one year, then decided to return to the University of San Francisco and complete his education.

11. While he was attending the University of San Francisco, the Claimant in 1973 married Catherine Vinci, a United States citizen by birth, in Reno, Nevada. Shortly after his marriage in mid-1974, he applied for and received permanent resident status in the United States. In June 1977 the Claimant and his wife purchased a home in Antioch, California. Later they also bought a house and properties in Palm Beach Gardens and North Palm Beach, both in Florida.

12. Upon his graduation from college, the Claimant was admitted in early 1977 to the School for International Training in Brattleboro, Vermont. According to the Claimant, part of the curriculum at the school was a six-month management internship with a United States or foreign company. During the period of internship the student was to remain enrolled in the school and submit written reports to his faculty advisors while performing employment services for the company. Because the Claimant had family connections with TRC in Tehran, he decided to perform his internship with that company. As a consequence, he went to Iran in 1978. After returning to the United States in early 1979, he received his degree from the school in August 1980.

13. The Claimant was naturalized as a United States citizen on 9 August 1978.

14. In August 1979 the Claimant formed the R.G. Corporation, a Florida corporation, for the purpose of engaging in real estate development and investment. In May 1980 the Claimant also participated in the formation of the Florida Reinvestment Corporation, a Florida corporation, the business of which is real estate, construction and development. According to the Claimant, he has since continued to be active in the management of both companies.

15. The Claimant alleges that during his time in the United States he has maintained his bank accounts at various banks in California and Florida. He further alleges that he has never had a bank account outside of the United States. He states that since his naturalization in 1978 he has voted in local and national elections in California and that he has paid United States income taxes since 1973. The Claimant further asserts that since coming to the United States in 1969 he has travelled only twice to Iran. The first time was a 15-day trip to visit his family in the Summer of 1975. The second occasion was in 1978 when he went to Iran for his educational internship.

16. The Claimant and his wife have three children, one of whom is a son from his wife's first marriage. The two other children were born in the United States, Kaveh Vince, born on 11 February 1979, and Veda Katherine, born on 10 September 1982. The Claimant asserts that the children and his wife do not speak Persian and that English is the only language spoken in their home. He further points out that the children are being raised as Roman Catholics with the older son already attending Catholic school.

III. THE TRIBUNAL'S DETERMINATION

17. The Tribunal has first to determine whether the Claimant was, from the time the Claim arose until 19 January 1981, a national of the United States or of Iran or of both countries. If the Tribunal concludes that the Claimant holds both nationalities, it will have to determine which one is "dominant and effective" during the relevant time and, consequently, must prevail for purposes of jurisdiction over the present proceedings. Case No. A18, Decision No. DEC 32-A18-FT, p. 25 (6 Apr. 1984), reprinted in 5 Iran-U.S. C.T.R. 251, 265.

18. It is clear from the record that under Article 976 of the Iranian Civil Code the Claimant is an Iranian national by virtue of his birthplace and the Iranian nationality of his father. At the same time it is clear that the Claimant is a United States national. As evidenced by the certificate of naturalization appended to the Claimant's memorial, he was naturalized as a United States citizen on 9 August 1978. The Claimant thus holds nationality of both Iran and the United States.

19. The pertinent issue thus becomes one of determining the dominant and effective nationality of the Claimant at the relevant time. In its decision in Case No. A18 the Tribunal noted that the determination of a claimant's dominant and effective nationality requires consideration of "all relevant factors, including habitual residence, center of interests, family ties, participation in public life, and other evidence of attachment." Id. In this Chamber's decision in Reza Said Malek and Islamic Republic of Iran, Interlocutory Award No. ITL 68-193-3, para. 14 (23 June 1988), the Tribunal held that "the entire life of the Claimant, from birth, and all the factors which, during this span of time, evidence the reality and the sincerity of the choice of national allegiance he claims to have made, are relevant."

20. Applying this standard to the facts before it, the Tribunal notes that, while spending the first twenty-four years of his life in Iran and attending Iranian schools through high school, the Claimant in 1969 went to the United States for the purpose of continuing his education in an American college. Upon meeting Catherine Vinci, a United States citizen, and marrying her in December of 1973, it appears that the Claimant made a decision to permanently reside in the United States and raise his family as United States nationals. This is evidenced by the fact that shortly after his marriage the Claimant applied for permanent resident status in the United States and became actively involved in the business communities in San Francisco and Florida through his ownership and management of a restaurant and nightclub in San Francisco and later in his development of real estate ventures in Florida.

21. While he did return to Iran in 1978 and early 1979, the evidence in the record indicates that his return was only for the limited purpose of performing an internship pursuant to his graduate studies. His lack of intent to remain permanently in Iran is further evidenced by the fact that he did not move his family there at the time, but rather went to Iran alone. Therefore, it appears from the record that the Claimant did not intend to settle in Iran but merely wished to perform a short-term internship and then return to his family.

22. Since 1969 the Claimant's social, employment, and academic attachments have been in the United States. As evidenced by copies of his federal tax returns and bank statements, he has paid taxes in the United States at least since 1973 and has held accounts in various United States banking institutions. Indeed, according to the Statement of Claim the property allegedly expropriated was obtained by the Claimant only in 1979 when his brother allegedly transferred title to him. Thus, his alleged holdings in Iran do

not suggest that the Claimant had maintained long-term business relationships in Iran subsequent to his initial departure in 1968.

23. The Tribunal therefore concludes that during the period from the date on which his Claim is alleged to have arisen until 19 January 1981 the dominant and effective nationality of Abraham Rahman Golshani is that of the United States.


IV. AWARD

24. In view of the foregoing,

THE TRIBUNAL AWARDS AS FOLLOWS:

- a. For the purpose of the Tribunal's jurisdiction, the dominant and effective nationality of the Claimant ABRAHIM RAHMAN GOLSHANI is that of the United States.
- b. The schedule for submission of the Respondent's Statement of Defense and the Parties' memorials and evidence on all remaining issues will be established by a separate order.

Dated, The Hague
30 June 1989




Gaetano Arangio-Ruiz
Chairman
Chamber Three

In the Name of God



Richard C. Allison



Parviz Ansari Moin
Dissenting Opinion