

Facts and Myths on Restitution of Property in Poland: part 3

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Abstract:

The article presents analysis of current social and legal circumstances of property restitution by pre-war owners or their heirs in Poland. The main issues concern the present legal environment of property restitution in Poland, recent experiences of pre-war owners or their heirs in their attempts to reconstitute their properties, the draft law on restitution presented recently by the Polish ruling party and various false concepts around restitution of property in Poland.

How to Uncover Your Property

Before dealing with the above-mentioned legal environment, every potential applicant has to gather information about his or her claim. The pre-war owners of property in Poland and their heirs have to brace themselves for a long journey through the past of their family, a thorough documentary research and a diligent analysis of legal and factual aspects of their reclaimed properties.

Basing on author's experience in assisting foreign and domestic families in uncovering lost real estate in Poland, the whole procedure may be presented in 5 simple steps:

1) Check your family albums

Firstly, it is important to decide what one wants to do in the long run. The primary step is to review all family documents, files, old photographs, letters or diaries. This should help with clarifying what assets were once owned by the family in Poland and what the

possible location and addresses are. Do not diminish the importance of anything you come across because it can lead to very important information.

2) *Talk to your grandma*

The second step is talking to grandparents and other elderly people in your family. They usually remember many stories and hold lots of valuable information. It could be that there are no documents but recollections of the living people may lead onto the right track. It is vital to be as inquisitive as possible. You might be lucky like Ron Balamuth who learned about his claims from John Paul II mentioning the Balamuth family during his speech in Wadowice.¹ But you might be like all other heirs – nobody will be interested in helping you.

3) *Establish the line of inheritance in your family*

The question of inheritance is very important. More often than not, pre-war property owners died in Poland hence the inheritance will be governed by Polish succession law. There is a main line of inheritance (children inherit from parents) but also a side inheritance (in the absence of children – e.g. a brother inherits from his childless sisters). It is important to check and verify who are the heirs under Polish law because they will be entitled to inherit the assets in Poland and pursue restitution.

4) *Collaborate and build a good team around you*

All the gathered information, pictures and stories may suffice to reconstruct the history of the family, including not only names and relations, but also certain rights. All the family, including those who do not inherit, should collaborate and agree on strategy. One

¹ *Infra* note 30-31.

may consider seeking the advice of a professional genealogist – they are very good at identifying the roots. Help will be needed from many professions: genealogists, historians, valuers, accountants, archivists, translators and, naturally, lawyers. Their experience, knowledge and assistance will be crucial to find out more information in Poland and finalize the assessment of potential claims.

5) *Hire good and experienced lawyers*

Among different kinds of experts, good and experienced lawyers in Poland are really indispensable for pursuing a claim. Polish solicitors are necessary for researching the national archives and ascertaining whether in fact there is any case.

The current political situation surrounding restitution cases in Poland is very unfavorable. Therefore, the outcome of particular case cannot be foreseen. Simultaneously, nothing should be expected before the thorough research on the family past is made. The most sensible solution is to make an application in accordance with present law and wait. Inaction causes a risk that the fraudsters may continue with their ‘wild reprivatization’ practices.

A Case Study of Ron Balamuth

There are several cases where heirs of pre-war owners managed to get their property back this amazing story provides a great example how the heirs of pre-war owners can get their property back on an *ad hoc* basis. Probably the most amazing story of them is the story of Ron Balamuth.

Ron Balamuth and Amosa Arad were the successors of the Balamuths, a Jewish family who rent out a flat in Wadowice, a town near Cracow, to Karol Wojtyła’s, known later as Pope John Paul II’s, family. The town house in which the flat was located was built in the first half

of the 19th century and bought in 1911 by Rozalia and Yechiel Balamuth. Yechiel and his son Chaim opened at the flat the very first bicycle shop in town.

Nearly all members of the Balamuth family were murdered under Nazi occupation during the World War II in a death camp in Belzec. There was just one survivor: Yechiel's son, Chaim, who had managed to escape on a motorbike, reaching the Soviet border. After his arrival there, he was arrested and sent to a labor camp. Once the war finished, he fled to Israel where his son Ron was born.

On 16th June 1999, on one of his papal visits, John Paul II travelled to his hometown, Wadowice. While addressing the crowds in the old town, reminiscing about his time living there, he mentioned the Balamuth family and their town house at 7 Koscielna Street. A journalist from the *New York Times* then telephoned Ron Balamuth asking whether he was aware that televisions around the world were broadcasting John Paul II's visit to Wadowice and him speaking about his childhood home. Ron Balamuth was until then oblivious to the existence of the Wadowice flat. He immediately flew out to Poland and took steps to reclaim his family's property. He informed the local authorities of his intention to try to get the property back, though he assured them he would not be attempting to change its use.²

A few months later, a 1966 court judgment was discovered at the Regional Court in Wadowice confirming title over the town house to Chaim Balamuth and his sister Pepe. The property therefore proved to still be owned by the Balamuths. Ron Balamuth simply applied for an update of the land and mortgage registers to reflect his title as the sole owner of the flat.

In 2009, Ron Balamuth sold his property in Wadowice to Ryszard Krauze, a Polish businessman, who then donated it to a Cracow church.³

² Stanisław Tyszka, *Restitution as a means of remembrance. Evocations of the recent past in the Czech Republic and Poland after 1989*, in PERFORMING THE PAST. MEMORY, HISTORY, AND IDENTITY IN MODERN EUROPE 327-330 (Karin Tilmans, Frank van Vree & Jay Winters eds., 2010).

³ Craig Whitlock, *Last Pope's Birthplace Shrine Will Honor Jews*, WASHINGTON POST, 28 May 2006, <http://www.washingtonpost.com/wp-dyn/content/article/2006/05/27/AR2006052700891.html> (last visited Nov. 3, 2017).

The moral of the story is be inquisitive, optimistic and pro-active. Sometimes even a small coincidence may allow one to find more about his or her past, which may later affect their future.