



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Nguyen Thi Hao

File: B-253096.3

Date: August 11, 1995

DIGEST

In April of 1975, the Department of State purchased piasters from its Vietnamese national employees prior to evacuating Vietnam. The employees were given receipts for payments in dollars to be issued subsequently. The claimant, the wife of a deceased Vietnamese national employee of the United States, has recently requested payment of \$2,000, based on a receipt issued by the finance office at the American Embassy in Saigon to her deceased husband on April 28, 1975, that piasters in the amount of \$2,000 were received from him. Since the claim accrued on April 28, 1975, and was not filed in the General Accounting Office until 1993, the claim is time-barred by the 6-year Barring Act, 31 U.S.C. § 3702(b)(1) (1988) and may not be paid. My Anh Company, 73 Comp. Gen. 111 (1994).

DECISION

The United States Agency for International Development (A.I.D.)¹ requests our opinion as to the proper disposition of \$2,000, as reimbursement for piasters deposited with it pursuant to a currency exchange transaction in Saigon, Vietnam, on April 28, 1975, with Mr. Dang Van Thi. He died in 1989, and is survived by his wife, Mrs. Nguyen Thi Hao, who has presented the claim. As discussed below, the claim is time-barred by the 6-year Barring Act, 31 U.S.C. § 3702(b)(1) (1988).

In anticipation of evacuating Saigon in April 1975, the United States Embassy began to accept deposits of money from foreign service national employees that were to

¹This matter was submitted to our Office by Mr. David D. Ostermeyer, an Authorized Certifying Officer, Office of Financial Management, U.S. Agency for International Development, Washington, DC, pursuant to 31 U.S.C. § 3529 (1988). It is now under the cognizance of Mr. Joseph J. Cicippio, Chief of that office.

be reimbursed when they were evacuated with the American employees.² The situation in Saigon deteriorated more quickly than expected, and a large number of foreign service national employees were stranded without reimbursement for the proceeds of their currency exchange transactions.

In the instant case, Mr. Dang Van Thi, a foreign service national employee of the Department of State, deposited 1,510,000 Republic of Vietnam (RVN) Piasters with the Department of State's A.I.D. Cashier on April 28, 1975,³ in return for which he received a "Receipt for Cash-Subvoucher," dated April 28, 1975 (hereinafter "Receipt"). On the Receipt it is noted that: "[r]eceived for P1,510,000.00 for T.C. [Treasury Check] in amount of \$2,000 to be issued subsequently." The reason that a Treasury Check was not issued, as had happened in other cases, was the impending evacuation. The cashier section of the A.I.D. office in Saigon ceased operations about noon on April 29, 1975, and the staff was evacuated that afternoon. Subsequently, the Socialist Republic of Vietnam did not permit Mr. Dang Van Thi or his family to leave. He died in the Socialist Republic of Vietnam on September 22, 1989.

Until recently, Mrs. Nguyen Thi Hao and her children were also prevented from leaving the Socialist Republic of Vietnam. However, they have now been resettled in the United States. Shortly after arriving in the United States in 1993, she requested that A.I.D. pay her the \$2,000 which Mr. Dang Van Thi was owed, and she forwarded the original Receipt, which had been issued by A.I.D. to her husband, Mr. Dang Van Thi.

The Barring Act, 31 U.S.C. § 3702(b)(1) (1988), with exceptions not relevant here, provides that a claim against the United States Government must be received by the Comptroller General within 6 years after the claim accrues. Although the instant claim was not received here within the 6-year period, A.I.D. suggests that the Barring Act should not be applied because the claimant did not have the opportunity to file the claim until 1993.

There is no authority for tolling the Barring Act even though the claimant was living in the Socialist Republic of Vietnam and thus not in a position to file the claim with

²Our statement of the facts here is based on the following: Letter from Authorized Certifying Officer, David D. Ostermeyer to the Comptroller General, dated April 5, 1993; Letters from Authorized Certifying Officer, Pamela L. Callen to the Comptroller General, dated November 24, 1993, March 2, 1994, March 17, 1994, and July 1, 1994, respectively; My Anh Company, 73 Comp. Gen. 111 (1994), and 56 Comp. Gen. 791 (1977).

³At the time of these events, A.I.D. was an office in the Department of State.

our Office within the 6-year period of its accrual. Thus, in My Anh Company, supra, we dismissed as untimely a claim filed by a Vietnamese Company where, as here, A.I.D. noted that the owners of the company had lived in Vietnam prior to the filing of the claim. We noted that the 6-year Barring Act is not a mere statute of limitations, but a condition precedent to the right to have the claim considered by our Office. See also Hai Tha Truong, 64 Comp. Gen. 155 (1984).

Accordingly, Nguyen Thi Hao's claim must be considered time-barred under the provisions of 31 U.S.C. § 3702(b)(1) (1988).

/s/Seymour Efros
for Robert P. Murphy
General Counsel