

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MARIA ROSA TURNER TAYLOR

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0643

Decision No. CU 3618

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$15,000.00, as amended, was presented by MARIA ROSA TURNER TAYLOR based upon the asserted loss of two lots and a house at Santa Clara and Esperanza in Cienfuegos, and two lots on Santa Elena in La Juanita, Cuba. Claimant has been a national of the United States at all times pertinent to this claim.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claim has been asserted for two lots known as 51 and 52 (fincas 11133 and 11132) on Calle de Santa Clara and Esperanza, Cienfuegos, Las Villas, Cuba, having a house No. 464 on lot 11133. Additionally, claim was asserted for two lots known as 720 and 721 on Santa Elena, in La Juanita. The record establishes that claimant had inherited these properties from her mother in 1935. The property known as finca 11133 with house, was rented.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15). The law further provided that if a tenant did not occupy the property, or had subleased or transferred its use to another, the property could be sold to the occupant; and further, that an occupant, whether a tenant or subtenant, or not, could purchase the property in the manner outlined (Article 9). Article 21 of the law provided that present owners of urban buildings sold under the law should receive the assigned price; however, under Article 25 ownership of so-called tenement houses would be transferred to the State without compensation to the erstwhile owners. Moreover, Article 30 provided that if urban buildings transferred under the law were mortgaged, execution of the contract of sale should have the effect of canceling the mortgage. Following Chapter VI of the law appears a section entitled "Temporary Provisions" and the third paragraph thereof provides that citizens of foreign countries who do not have the status of legal residents shall be excluded from the rights and benefits conferred by this law.

Based on the foregoing and the evidence of record, the Commission finds that claimant's improved real property known as lot 51, finca 11133, in Cienfuegos, Cuba, was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Official Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

Law 989, published in the Official Gazette on December 6, 1961, in its terms nationalized by confiscation all goods and chattels, rights, shares, stocks, bonds and other securities of persons who left the country of Cuba. In the absence of evidence to the contrary, the Commission finds that claimant's two lots known as 720 and 721 were taken by the Government of Cuba on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

Claimant valued the house at \$10,000 and the two lots 51 and 52 at \$4,000, apparently \$2,000 each. She has submitted the opinion of her former Cuban attorney that the plot and house had a value of \$13,000. Additionally, she has submitted documentation reflecting that the lot 51, finca 11133, was improved by a house of mortar, wood and tile roof, having a living room, sitting room, four bedrooms, bath, kitchen, dining room and servants' quarters, on land of an area said to be 1,250 square vara, but which is officially described as 698 square meters and 896 milimeters. It appears that the property was purchased in 1929, taxes being paid since that time, and that rents were \$96.00 per year in 1959.

On the basis of the entire record, and evidence available to the Commission from sources in Cuba as to value of real estate in that area, and of construction costs, the Commission finds that lot 51 had a value of \$1,400 and the house, after an appropriate factor of depreciation has been applied, had a value of \$4,690 at the time of taking.

With respect to the lots 720 and 721, the exact size of which is not of record, the Commission finds that these had a total value of \$1,000.

Accordingly, the Commission concludes that claimant suffered a loss in the total amount of \$7,090 as a result of the taking of her real property by the Government of Cuba.

With respect to the lot 52 (finca 11132) information from sources in Cuba reflects that this lot was sold in 1957. Further, claimant in her letter of January 29, 1968 concedes that she sold this lot. Accordingly, the Commission finds that claimant has sustained no loss in this connection as a result of any actions of the Government of Cuba, and this item of claim is denied.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that MARIA ROSA TURNER TAYLOR suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Seven Thousand Ninety Dollars (\$7,090.00) with interest at 6% per annum on \$6,090.00 from October 14, 1960 and on \$1,000.00 from December 6, 1961, to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

APR 23 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Feidberg

Sidney Feidberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)