

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

IN THE MATTER OF THE CLAIM OF

MARIA HORTENSIA RUIZ HALL

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -0687

Decision No. CU  
4564

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by MARIA HORTENSIA RUIZ HALL for \$8,333.33 based upon the asserted ownership and loss of certain improved real property in Cuba. Claimant has been a national of the United States since her naturalization on June 30, 1944.

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. 938 (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.

Claimant describes her loss as follows:

One-third interest in improved realty at #19 Leoncio Vidal Street, Santa Clara, Cuba - \$8,333.33.

Based upon the entire record, including a copy of an indenture executed by claimant and her father on September 26, 1946, and copy of document wherein claimant gave a life estate in her share of property in 1946, the Commission finds that claimant owned a one-third remainder interest in the property in question.

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). Moreover, Article 30 provided for the cancellation of mortgages. 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 real property in Santa Clara, 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 Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the

basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

The record includes, in support of the claimed values, a description of the realty as a 2-story duplex dwelling, each unit consisting of 9 rooms and usual facilities, located on a lot of 199 square meters. Claimant states that the fair market price in 1962 was at least \$20,000.00 and that at least \$5,000.00 in improvements had been added since its purchase in 1946. She also states that the United States Internal Revenue Service allowed a \$5,000.00 tax deduction in 1962 for the loss in question.

Based on the entire record including evidence available to the Commission as to the value of similar properties in Cuba, the Commission finds that the value of the dwelling including the added improvements was \$19,500.00 on the date of loss.

As stated above, claimant's one-third interest in the property was encumbered with a life estate in favor of her father, Dr. Joaquin Ruiz Mesa, a citizen of Cuba. The evidence of record indicates that he was 76 years old at the time of taking on October 14, 1960. Accordingly, the value of the life estate and of the remainder interest in the property must be determined.

The Commission has adopted as a basis for valuation of life and remainder interests the Makehamized mortality table, appearing as Table 38 of United States Life Tables and Actuarial Tables 1939-41, and a 3-1/2% interest rate, compounded annually, as prescribed by United States Treasury Department regulations of June 24, 1958, for the collection of gift and estate taxes, respectively. (See 23 F. R. 4547, 26 C.F.R. 2031-7.) According to the method of valuation, a life estate in property so encumbered is valued at .20698 of the entire estate, and the remainder interest

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is valued at .79302 of the entire estate. Therefore, since the value of one-third of the property in question is \$6,500.00 the life estate thereon is valued at \$1,345.37 which is .20698 of that amount and the remainder is valued at \$5,154.63 which is .79302 of that amount.

Therefore, the Commission finds that the interest of claimant in the improved real property which was taken by the Government of Cuba, had a value of \$5,154.63.

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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644), and in the instant case it is so ordered.

Although claimant's father died on January 2, 1970, his life estate in the property was not owned by a United States national on October 14, 1960, and thus is not certifiable under the Act.

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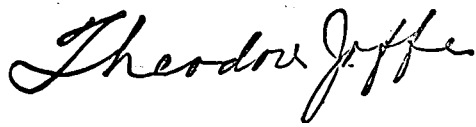
CERTIFICATION OF LOSS

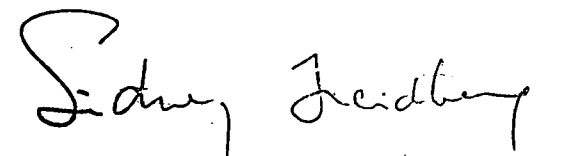
The Commission certifies that MARIA HORTENSIA RUIZ HALL suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Five Thousand One Hundred Fifty-four Dollars and Sixty-three Cents (\$5,154.63) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement.

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

MAR 4 1970

  
Kyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, 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).)

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