

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

IN THE MATTER OF THE CLAIM OF

ANA ROSA CANGELOSI,
EXECUTRIX OF THE ESTATE OF
R. A. CANGELOSI, DECEASED

Claim No. CU -0920

Decision No. CU

4274

**Under the International Claims Settlement
Act of 1949, as amended**

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented on December 27, 1966 by R. A. CANGELOSI for \$25,100.00 based upon the asserted ownership and loss of certain real and personal properties in Cuba.

R. A. CANGELOSI, a national of the United States since birth, died on January 20, 1969, and ANA ROSA CANGELOSI, Executrix, has been substituted as claimant herein.

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.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Claimant's loss has been described as follows:

Two lots located in Alturas de Boca Ciega, Havana, Cuba	\$ 7,000.00
Two-story house on one lot	15,000.00
Household furnishings and 1957 Buick Special	<u>3,100.00</u>
	\$25,100.00

Based upon the entire record, including a report from abroad, the Commission finds that pursuant to the Community Property Law of Cuba, decedent, prior to his death, was the owner of a one-half interest in the real and personal properties subject of this claim.

Decedent had stated that his family left Cuba on December 18, 1959 and also gave the date of December 18, 1960, and further, that about one month thereafter the maid whom they had left in the house was told by Cuban officials that the family had been given two weeks to return, and since they did not return the maid was evicted and the house was sealed.

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

all 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 subject real and personal property in Havana, Cuba was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and that the taking occurred on February 1, 1961. (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 report from abroad as regards the real properties in question and a general description of the personalty.

Based on the entire record, the Commission also finds that the two lots and house had a value of \$13,574.00, and that the personal property had a value of \$2,815.00. Accordingly, the Commission concludes that decedent suffered a loss in the total amount of \$8,199.50 within the meaning of Title V of the Act, as the result of the taking of his one-half interest in subject real and personal property by the Government of Cuba on February 1, 1961.

It is noted that decedent's widow, ANA ROSA CANGELOSI, has asserted a claim herein for the loss of her one-half interest in subject personal and real property which she owned pursuant to the Community Property Law of Cuba. However, since she states that she did not become a national of the United States until February 6, 1968, she was not a national of the United States at the time of loss. Accordingly, so much of the claim as is based on her

one-half interest therein must be and is hereby denied. (See Claim of Sigridur Einarsdottir, Claim No. CU-0728, 25 FCSC Semiann. Rep. 45 [July-Dec. 1966].)

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 ANA ROSA CANGELOSI, EXECUTRIX OF THE ESTATE OF R. A. CANGELOSI, DECEASED, 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 Eight Thousand One Hundred Ninety-nine Dollars and Fifty Cents (\$8,199.50) with interest at 6% per annum from February 1, 1961 to the date of settlement.

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

DEC 10 1969

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

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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