

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

IN THE MATTER OF THE CLAIM OF

CANDELARIA PALACIOS

Claim No. CU -0982

Decision No. CU 4233

Under the International Claims Settlement
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$31,813.12, was presented by CANDELARIA PALACIOS and is based upon the asserted loss of improved real property with certain personal property therein and a loss of rental income. Claimant, CANDELARIA PALACIOS, has been a national of the United States since her birth in Puerto Rico on February 2, 1902.

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.

The record contains the originals of title deeds, a power of attorney from Antonio A. Palacios to his wife, claimant herein, affidavits of claimant and her niece and itemized lists of the personal property claimed.

Based upon the entire record, the Commission finds that the claimant and her husband, Antonio A. Palacios, each owned a one-half interest in the following:

1. House at 392 San Jose Street, Arroyo Apolo, Havana, Cuba with certain household furniture and furnishings therein.
2. Apartment building at 118 Espeleta Street, Arroyo Apolo, Havana, Cuba.

On December 6, 1961 the Cuban Government published its Law 989 which provided for confiscation of all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who left the country.

The Commission finds, in the absence of evidence to the contrary, that the subject real and personal property at San Jose Street were taken by the Government of Cuba on December 31, 1966 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

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).

Based on the foregoing and the evidence of record, the Commission finds that claimant's real property at Espeleta Street 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 December 31, 1966. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

The Commission notes that claimant's husband, Antonio A. Palacios, a national of the United States since his naturalization on May 27, 1946, never filed a claim for his 1/2 interest in the subject improved and personal property. By Commission letter of June 18, 1968 addressed to Antonio A. Palacios at his reported address in New York City, he was invited to file a claim. Said letter was returned to the Commission by the United States Post Office Department marked "addressee unknown". In claimant's letter of March 24, 1968 she advised the Commission that his whereabouts are unknown to her. The Commission is constrained to find that Antonio A. Palacios is not a claimant before this Commission and that any claim predicated upon his 1/2 interest be and it is denied.

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. In determining the value of the improved real property at 392 San Jose Street, the Commission considered that it was a ranch type house of five rooms, porch, patio and cellar garage constructed of brick and cement with monolithic roof and flat ceiling and that it was purchased in 1954 for \$5,000.00. The Commission finds that at the time of loss it had a value of \$8,000.00.

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The Commission further finds that the personal property contained in this house, which was claimant's residence, consisted of household furniture and furnishings which were reasonable and necessary, and that at the time of loss they had a value of \$1,428.00, as stated by claimant.

As to the improved real property at 118 Espeleta Street, it consisted of a brick building of two stories with a cement roof and was constructed in 1958. There were two apartments on each floor and each apartment consisted of a living room, dining room, bedroom, kitchen and bathroom. The Commission finds that this property had a gross value of \$14,000.00.

According to claimant's statements there was outstanding, at the time of loss, a mortgage of \$10,000 against the Espeleta Street property. Accordingly, the amount of the mortgage must be deducted and the Commission finds that equity in this property is \$4,000.00

Recapitulation

	<u>Date of Loss</u>	<u>Value</u>
392 San Jose	December 31, 1966	\$ 8,000
Personalty	December 31, 1966	1,428
118 Espeleta	December 31, 1966	4,000
		<u>\$13,428.</u>
Claimant's Interest		\$ 6,714

With respect to the claim based on rental income, the file does not disclose that any rental income was due the claimant on October 14, 1960 and taken by the Government of Cuba. After that date the rental property belonged to the Government of Cuba.

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.

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CERTIFICATION OF LOSS

The Commission certifies that CANDELARIA PALACIOS 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 Six Thousand Seven Hundred Fourteen Dollars (\$6,714.00) with interest thereon at 6% per annum from December 31, 1966 to the date of settlement.

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

NOV 26 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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