

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

IN THE MATTER OF THE CLAIM OF

RACHEL GUTA GINZBURG

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-1095

Decision No. CU - 3459

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$125,000.00, was presented by RACHEL GUTA GINZBURG, based upon the asserted loss of improved real property at 511 Calle 2 in Vedado, Cuba. Claimant has been a national of the United States since her naturalization on October 18, 1927.

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 503(a) 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.

Real property tax notices for 1956-1958 issued by the tax officials of Cuba, and other evidence of record reflects and the Commission finds that claimant, RACHEL GINSBURG, owned the improved real property at 511 Calle 2, Vedado, Havana, Cuba, in October 1960.

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 in question, 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.

Accordingly, the Commission concludes that claimant suffered a loss of her real property within the meaning of Title V of the Act.

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.

Claimant valued the real property at 511 Calle 2 in Vedado at \$125,000.00. Claimant describes the property as having five floors and thirteen apartments with a nine-car garage.

It further appears that the property, prior to the advent of the seizure of power by the Castro Government, would have yielded a gross rental income of about \$12,480.00 per annum. In the absence of any other evidence upon which to determine value, a factor of 7 is used, as applied in Claim No. CU-0558, Claim of Sarkis K. Ayoob, and a value of \$87,360.00 is determined. This value is in line with an appraisal of an apartment building in Havana contained in the Claim of Sarah Plotnik Del Toro, Claim No. CU-1412, wherein the building and lot were valued at \$35,000.00 and there were 10 units, 9 of which were rented at a gross annual rent of \$4,860.00.

Based upon the entire record, the Commission finds that the real property at 511 Calle 2 in Vedado had a total value of \$87,360.00 on October 14, 1960, the date of loss, and concludes that claimant sustained a loss in such amount within the meaning of Title V of the Act, as a result of the taking of her realty by the Government of Cuba on October 14, 1960.

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 RACHEL GUTA GINZBURG sustained a loss, as a result of an action 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 Eighty-Seven Thousand Three Hundred Sixty Dollars (\$87,360.00) with interest thereon at 6% per annum from the date of taking to the date of settlement.

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

**JAN 14 1969**

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*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. (FGSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)