

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

IN THE MATTER OF THE CLAIM OF

THEODORE J. VAZQUEZ, SR.

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1138

Decision No. CU

3819

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 THEODORE J. VAZQUEZ, SR., for \$150,000,000.00 based upon the asserted ownership and loss of certain interest in real properties identified as Malecon, Carmelo and Manglar de Urrutia lands in Havana, Cuba. Claimant, THEODORE J. VAZQUEZ, SR., has been a national of the United States since his birth on May 5, 1905.

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 claimant failed to make a comprehensive presentation of the facts and issues involved in this claim. However, on the basis of the documents submitted by claimant and identified as (1) the brief on preliminary conclusions presented by Eugenio Cantero Herrera on behalf of John Paul Vazquez, (2) the comments of the Supreme Court of Cuba, No. 198, and (3) the petition of the Vazquez heirs to the Commission Depuradora y Liquidadora de la Dueda Flotante in Cuba, claimant's allegations and contentions may be summarized as follows:

The Malecon and Carmelo lands in Havana were granted to Dona Petronila Medrano Corbera de Sigler de Espinosa by the King of Spain on January 13, 1718. The Manglar de Urrutia lands were acquired by Don Alejo Sigler de Espinosa from Bernardo Urrutia y Matos in 1744.

Dona Petronila Medrano Corbera de Sigler de Espinosa left her two sons, Don Juan and Don Alejo Sigler de Espinosa as her heirs. Don Juan and Don Alejo Sigler de Espinosa at their death left their interest to their niece, Barbara Rodriguez de Ortega, who was succeeded by Dona Rosalia and Dona Josefa Gallegos. Dona Rosalia at her death left three children, Jose Yanez, Melchora Yanez and Sylvestra Yanez. Jose Yanez died without issue, and was succeeded by his two sisters, Melchora and Sylvestra Yanez. Dona Sylvestra Yanez married Jose Loreto Vazquez and died without issue, leaving her estate by her last will to Jose Loreto Vazquez, Prancisca Valdes, Maria Regla Valdez, Rufina Valdes, Carlos and Andres Valdes. Jose Loreto Vazquez left his estate to his children from a second marriage with Dona Lorenza Tangle, to wit: Jose Maria Vazquez Leonor Vazquez, Inez Vazquez and Manuel Laureano Vazquez. Laureano Vazquez's estate was inherited by John Paul Vazquez and others. John Paul Vazquez died on November 13, 1962 and claimant, THEODORE J. VAZQUEZ, SR., claims to be one of the decedent's heirs.

The property involved in his claim is stated to belong to the estates of Don Juan and Don Alejo Sigler de Espinosa y Medrano and Dona Barbara Rodriguez de Ortega. It is stated that the property was never divided

among the heirs but was recorded in the name of "future heirs" and was administered by joint administrators appointed by the majority of the interested parties, in accordance with the Cuban law then in force.

The events and actions by which the joint administrators lost the property to third persons may be summarized as follows:

(1) A number of heirs assigned their interests to a certain Adolfo Allo y Puyadas. In this way, Allo acquired, so it is stated, 7/10 of the entire estates. The remaining interest in the estates (approximately 3/10 part) remained in the Vazquez family and other heirs.

One Fernandez y Lamarche instituted a suit against Adolfo Allo y Puyadas for the recovery of moneys due. Subsequently, on May 22, 1909, he assigned all his rights and interests in the suit against Allo to Dona Maria Otaola y Verdecas. Since claimant appears to put special emphasis on Otaola's activities, it will be helpful to state how she disposed of her interest acquired from Fernandez.

On May 12, 1912 Otaola conveyed to Juan Nepomuceno Martinez 30% of what she was to recover against the estates.

On April 26, 1916 Otaola conveyed to Juan Francisco Rodriguez Arango another 30% of her rights.

Rodriguez caused certain surveys to be made for the benefit of the estates and assessed 7/10 of the \$12,000.00 fee or \$8,400.00 against Otaola as the owner of that portion of the estates. Otaola failed to pay and on March 7, 1918 the Court ordered the attachment of all rights held by Otaola. On June 19, 1918 auction was decreed, the property was advertised, bids solicited and in the absence of other bidders Rodriguez obtain the properties for \$4,000.00.

(2) On May 12, 1908 one Jose Guillermo Lorente y Bosca acquired from Alberto de Castro, an appraiser, a claim against the estates of Don Juan

and Don Alejo Sigler de Espinosa and of Dona Barbara Rodriguez de Ortega based upon unpaid fees. Lorente instituted a suit against the heirs and pursuant to such on July 6, 1916 he was adjudicated the rights and actions belonging to the defendants (heirs or co-heirs) of the estate of Dona Barbara Rodriguez de Ortega and those held by the heirs of Don Juan and Don Alejo Sigler de Espinosa. By a deed dated February 17, 1917, Lorente ceded his interest to Francisco Javier Villaverde y Hava. In turn, on March 8, 1918, Villaverde deeded his interest in the land known as Manglar de Urrutia (a portion of the estate) to Juan Francisco Rodriguez Arango, mentioned above.

On October 8, 1918 the Cia. de Terrenos del Pelar was formed by Villaverde and Arango. Rodriguez turned a portion of his interest acquired from Villaverde in the Manglar de Urrutia land into the company. By a "deed of exchange" dated November 16, 1918, Rodriguez ceded 50% of his remaining interest in the Manglar de Urrutia lands to Villaverde for 50% of Villaverde's rights in the estates of Dona Barbara Rodriguez de Ortega, with the exception of certain rights concerning lands in El Carmelo and Vedado in Havana. This deed of exchange was followed by a deed of April 19, 1919 by the terms of which the properties covered by the exchange were turned over to the Cia. de Terrenos del Pelar.

With respect to the date of loss, it is indirectly stated by claimant that his predecessors in interest were despoiled of their rights in 1917 by virtue of a criminal plot devised by Juan Francisco Rodriguez Arango and Francisco Javier Villaverde y Hava in agreement with others. For that reason in 1925 criminal action was instituted in the Court in Havana against the persons mentioned which, however, did not result in the conviction of any of the defendants.

John Paul Vazquez, claimant's asserted predecessor in interest, and others also attempted to enforce their asserted claim for their interest in

the real property now in question before the Commission Depuradora y Liquidadora de la Dueda Flotante (Commission for the Clarification and Liquidation of the Floating Debt), an agency of the Government of Cuba. That Commission was charged to consider claims which arose prior to October 10, 1940 against the Government of Cuba. A copy of the petition filed by John Paul Vazquez and others with that Cuban Commission has been made part of the record. There is no information available to this Commission concerning the outcome of such petition. For the purposes of this claim, it is, however, assumed that the petition was denied or otherwise did not result in redress of the claim now under consideration.

Title V of the International Claims Settlement Act of 1949, as amended, does not provide for the determination by this Commission of all claims against the Government of Cuba. Section 503 of the Act (supra) is clear that, apart from other conditions, only those claims are within the purview of the Act which arose on or after January 1, 1959. A careful consideration of all evidence of record failed to establish that claimant or his asserted predecessors in interest sustained any losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, the subject property on or after January 1, 1959. To the contrary, the evidence clearly shows the "criminal plot" by which claimant's rights, if any, were despoiled, occurred in or about 1917. Even assuming, ad arguendo, that the criminal action instituted in 1925 before the Court in Havana and the proceedings before the Commission Depuradora y Liquidadora de la Dueda Flotante in Havana resulted in a denial of justice for claimant, the instant claim would still not be within the purview of the Act because such actions occurred substantially prior to January 1, 1959.

In view of the foregoing, the Commission concludes that claimant has failed to establish that his loss occurred on or after January 1, 1959, as required by the Act for consideration of a claim.

In the Statement of Claim, under Item 14, the property upon which the claim is based is identified as "Mallocon Matanza Isle of Pines". None of the documents submitted by claimant or the material accumulated in the files of the Department of State in connection with the claim of the Espinosa heirs, which has been made a part of the record, has any reference to that property. Furthermore, in spite of the suggestions made by the Commission's letter of September 28, 1967, claimant has failed to submit evidence to establish his ownership interest, the loss, and value concerning such property.

In view of the foregoing, the claim must be and it is hereby denied in its entirety.

The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

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

AUG 19 1969

Leonard v. B. Sutton
Leonard v. B. Sutton, Chairman

Theodore Jaffe
Theodore Jaffe, Commissioner

Sidney Freidberg
Sidney Freidberg, Commissioner

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).)

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

IN THE MATTER OF THE CLAIM OF

ALLIED CHEMICAL INTERAMERICAN CORPORATION

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3212

Decision No. CU-3820

Counsel for claimant:

James H. Bennett, Esquire

FINAL DECISION

Under date of August 27, 1969, the Commission issued its Proposed Decision certifying a loss in favor of Allied Chemical Latin America Corporation, claimant's name of record, in the amount of \$154,974.08, plus interest.

By letter, dated September 10, 1969, counsel for claimant advised the Commission that as of July 1, 1969 claimant had changed its name to ALLIED CHEMICAL INTERAMERICAN CORPORATION. Moreover, it appears from counsel's communication that there are no objections to the Commission's Proposed Decision. Accordingly, it is

ORDERED that the certification of loss, as restated below, be entered and that the Proposed Decision be affirmed in all other respects.

CERTIFICATION OF LOSS

The Commission certifies that ALLIED CHEMICAL INTERAMERICAN CORPORATION 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 One Hundred Fifty-four Thousand Nine Hundred Seventy-Four Dollars and Eight Cents (\$154,974.08) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

OCT 1 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner