

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

IN THE MATTER OF THE CLAIM OF

ANDRES G. CARRILLO,
EXECUTOR OF THE ESTATE
OF ETHEL R. de CARRILLO,
DECEASED

Claim No. CU -1328

Decision No. CU 5530

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 \$100,000.00, was presented originally by ETHEL R. de CARRILLO based upon the asserted loss of certain real and personal property in Cuba. The deceased was a national of the United States from birth until her death on March 7, 1969. Since her husband has been duly appointed as Executor of her Estate, he has been substituted as claimant.

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.

Real Property

The evidence includes a copy of an original deed and pertinent statements of the deceased concerning the property in question. On the basis thereof, the Commission finds that the deceased and her husband, now the executor of her estate, each acquired a one-half interest in certain improved real property in Marianao, Havana, Cuba on June 9, 1950 pursuant to the community property laws of Cuba. (See Claim of Robert L. Cheaney and Marjorie L. Cheaney, Claim No. CU-0915.) Inasmuch as ANDRES G. CARRILLO was not a national of the United States on the date of loss, as indicated hereafter, he is ineligible under Title V of the Act, and no claim has been filed by him or on his behalf. However, it is noted that the deceased claimed sole ownership of the property. Accordingly, the portion of the claim for the one-half interest in the real property which was not owned by the deceased is denied.

On December 6, 1961, the Cuban Government published Law 989, which effected confiscation of all real property, personal property, rights, shares, stocks, bonds, securities and bank accounts of persons who had left the country. The record shows that ANDRES G. CARRILLO occupied the property until he left Cuba in June 1962. The Commission finds in the absence of evidence to the contrary that the property was taken by the Government of Cuba on June 15, 1962 pursuant to Law 989. The Commission further finds that as a result of said action the deceased sustained a loss of property within the meaning of Title V of the Act. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The deceased had asserted that the improved real property had a value of \$78,500.00, based upon a cost of \$48,500.00, improvements of \$20,000.00, and an increment in value of \$10,000.00 between the date of purchase and the date of loss.

It is noted that the property consisted of a one-family, two-story building and lot in Marianao, Havana, Cuba. A copy of the deed to the property discloses that the purchase price was 45,000.00 pesos, equivalent to \$45,000.00. It further appears from the deceased's statements that she had paid an additional amount of \$3,500.00 to cover taxes and commissions in connection with the purchase of the property. The evidence includes a statement from a Cuban contractor to the effect that he had caused the house in question to be improved and that the cost thereof was \$5,000.00. There is no evidence of record to establish that further improvements to the house in the amount of \$15,000.00 were made. Nor is there any proof that the real property increased in value to the extent of \$10,000.00.

On the basis of the entire record, the Commission finds that the value of the improved real property on June 15, 1962, the date of loss, was \$53,500.00. Therefore, a one-half interest therein had a value of \$26,750.00.

Personal Property

The Commission finds on the basis of the evidence of record that the deceased and her husband used the improved real property in Marianao, Havana as their residence, and that the house was furnished with furniture and various other items of personal property customarily found in a home. The Commission further finds that the deceased owned a one-half interest in said personal property, and that the personal property was taken by the Government of Cuba on June 15, 1962 when the real property was taken.

The deceased had asserted a loss of personal property in the amount of \$21,500.00, including a 1959 Fiat automobile maintained on the premises. The record contains a list of the items of personal property prepared by the deceased under date of July 16, 1967 in response to suggestions from the Commission. It was noted that the list merely lumped various items of

personal property for the purpose of valuation, but did not set forth the original costs thereof or the dates of acquisition. Therefore, the Commission suggested a further statement in this respect. In the meantime, the original claimant had died. The executor's response of May 10, 1969 was that he was not in a position to submit an itemized list of the personal property with costs and dates of purchase.

An examination of the deceased's list of personal property indicates that it includes items that are subject to depreciation as follows:

| | |
|--|----------------|
| Furniture | - 5% per year |
| Television, refrigerator, air conditioner and other major appliances | - 5% per year |
| Rugs, draperies and lamps | - 10% per year |
| Clothing | - 20% per year |

The record fails to indicate the dates when these items of property were acquired. Since the real property was purchased on June 9, 1950, it would appear that some, if not all, of the items were acquired shortly thereafter. In the absence of evidence to the contrary, the Commission finds that the valuations set forth by the deceased should be reduced on account of depreciation to reflect the values of the properties on the date of loss. Accordingly, the Commission finds that the aggregate value of the items of personal property including the automobile on June 15, 1962, the date of loss, was \$14,333.34. Therefore, a one-half interest therein had a value of \$7,166.67.

Thus, the aggregate amount of losses sustained by the deceased was \$33,916.67.

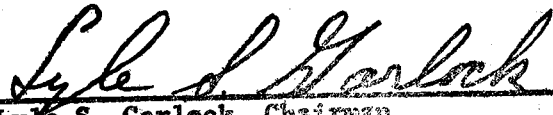
The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

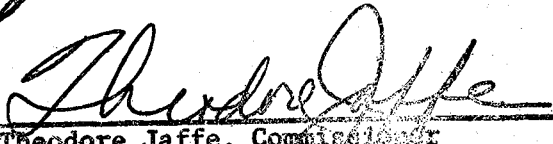
CERTIFICATION OF LOSS

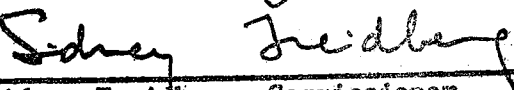
The Commission certifies that ANDRES G. CARRILLO, EXECUTOR OF THE ESTATE OF ETHEL R. de CARRILLO, DECEASED, succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirty-three Thousand Nine Hundred Sixteen Dollars and Sixty-seven Cents (\$33,916.67) with interest at 6% per annum from June 15, 1962 to the date of settlement.

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

JUL 29 1970


Lyle 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).)

CU-1328