

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

IN THE MATTER OF THE CLAIM OF

F. M. ECHEVERRIA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1658

Decision No. CU 4362

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 F. M. ECHEVERRIA for the amended amount of \$23,587.70, based upon the asserted ownership and loss of certain real and personal property and mortgage bonds in Cuba. Claimant has been a national of the United States since birth.

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.

Claimant describes his loss as follows:

Home at Altahabana, Havana, Cuba	\$ 7,268.29
Improvements on home	849.73
Furniture and furnishings	2,269.68
4 Mortgage Bonds	<u>13,200.00</u>
	\$23,587.70

Based upon the entire record, including the original purchase contract for the realty, a copy of the mortgage contract on the home, documentation on the mortgage bonds, and letters from two individuals regarding the items of personalty, the Commission finds that claimant and, pursuant to the Community Property Law of Cuba, his wife, Alicia Blanco Compano, a Cuban national, each owned a one-half interest in the real and personal property subject of this claim.

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 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 did not have the status of legal residents were excluded from the rights and benefits conferred by this law.

Claimant states that he left Cuba on November 11, 1960, and that his home as well as the furniture and furnishings was confiscated by the Cuban Government in September, 1961. Based on the evidence of record the Commission finds that claimant's house was within the purview of the Urban Reform Law and was taken by the Government of Cuba on September 1, 1961. (See

Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

The Commission further finds that the furnishings therein were taken on that date.

The Commission also finds that claimant's four mortgage bonds, totaling \$13,200.00 (the peso being on a par with the United States dollar), were cancelled by the Government of Cuba on October 14, 1960 pursuant to Article 30 of the Urban Reform Law. (See Claim of the Estate of Marita Dearing de Lattre, Deceased, Claim No. CU-0116.)

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 description of the improved realty as a one-story building of reinforced concrete having approximately 7 rooms and usual facilities, and evidence that claimant purchased the property in January, 1958 for \$15,800.00 subject to a \$12,100.00 mortgage which was subsequently reduced to \$8,531.71. The record also includes an itemized list of the improvements claimant made to his realty; as well as a list prepared by claimant's sister and brother-in-law of the personalty in the home which it is said was purchased new in January, 1958. A number of the items of improvements and personalty claimed are supported by invoices in the record.

On the basis of the evidence of record, the Commission finds that on the date of loss the improved realty had a value of \$16,649.73. Since at the time of loss a balance of \$8,531.71 was still due and owing

on the mortgage secured by the realty in question, the value of the property must be reduced by this amount, leaving an equity of \$8,118.02.

The Commission also finds that the claimed personalty, after appropriate depreciation, had a value of \$1,862.00.

Inasmuch as claimant's wife, a Cuban national, owned one-half of the real and personal property, as stated above, so much of this claim as is based on her interest is hereby denied.

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$6,600.00 for his interest in the four mortgages, \$4,059.01 for the improved realty, and \$931.00 for the personalty in the home, or a total of \$11,590.01, within the meaning of Title V of the Act as a result of the taking of the property by 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 Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered as follows:

<u>FROM</u>	<u>ON</u>
October 14, 1960	\$ 6,600.00
September 1, 1961	<u>4,990.01</u>
	\$11,590.01

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CERTIFICATION OF LOSS

The Commission certifies that F. M. ECHEVERRIA 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 Eleven Thousand Five Hundred Ninety Dollars and One Cent (\$11,590.01) with interest thereon at 6% per annum from the respective dates of loss to the date of settlement.

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

7 JAN 1970

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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