

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

IN THE MATTER OF THE CLAIM OF

MANUEL E. CEPEDA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1674

Decision No. CU

692

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 MANUEL E. CEPEDA for \$2,254.00 based upon the asserted ownership and loss of interests in land. Claimant has been a national of the United States since his naturalization on June 7, 1948.

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 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

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 contends that he lost an investment of \$2,254.00 in two parcels of land, parcels 12 and 13 of Lot 5, Reparto Alturas de Varadero, Varadero, Cuba. He states that the initial cost of the subject property was \$2,800.00 on which he made a down payment of 10% or \$280.00 and 47 subsequent payments of \$42.00, for a total of \$2,254.00. In support of his claim, claimant has submitted a copy of a receipt dated January 29, 1956 which reflects that claimant made his first payment for the subject property in the amount of \$42.00 reducing the balance owing from \$2,520.00 to \$2,478.00. Claimant has further submitted a copy of a receipt dated November 29, 1959 reflecting that claimant made his 47th payment on the subject property reducing the balance owing from \$588.00 to \$546.00. Claimant has also referred to Cuban Law 961 which was published in the Cuban Official Gazette on December 24, 1959, and which provided in part that in cases of lots subject to a contract of buying or selling on time payments signed before the publication of this law, when the buyer has paid into the account an amount equal to or in excess of 70% of the agreed price, it shall be considered

paid in full and the seller shall grant the corresponding title. Claimant states that shortly after the publication of this law, he made a trip to Cuba to request title to the property. He states that he was told that he would receive title by mail after his return to the United States. Claimant states that he has never received title.

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

As the record shows, in 1961 the claimant was residing in Florida. The Commission finds, in the absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Based on the entire record, the Commission finds that the total value of the claimant's investment in the subject real property was \$2,254.00. Accordingly, the Commission concludes that the claimant suffered a loss in that amount within the meaning of Title V of the Act on December 6, 1961.

The Commission has decided that in the 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).

Accordingly, the Commission concludes that the amount of the loss sustained by the claimant shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that MANUEL E. CEPEDA 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 Two Thousand Two Hundred Fifty-Four Dollars (\$2,254.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

22 NOV 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

RECOMMENDATION

THIS IS A TRUE AND CORRECT COPY OF THE DECISION OF THE COMMISSION AS THE SAME WAS ENTERED AS THE FINAL DECISION ON
DEC 27 1967

W. M. ...
CLERK OF THE COMMISSION

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).)