

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

IN THE MATTER OF THE CLAIM OF

MARIO JOSE PITA
TERESA G. PITA

Claim No. CU-1758

Decision No. CU 4388

Under the International Claims Settlement
Act of 1949, as amended

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 MARIO JOSE PITA for \$30,294.00 based upon the asserted ownership and loss of certain real and personal property in Cuba. Claimant MARIO JOSE PITA 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.

Section 505(a) of the Act provides:

A claim under Section 503(a) of this title based upon a debt or other obligation owing by any corporation, association, or other entity organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico shall be considered only when such debt or other obligation is a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

The record discloses that TERESA G. PITA, the wife of MARIO JOSE PITA, has been a national of the United States since her marriage to claimant in January, 1922. Pursuant to the community property law of Cuba she had an interest in property acquired by her husband in Cuba subsequent to their marriage. Accordingly, TERESA G. PITA is joined as claimant in this matter.

Claim has been asserted as follows:

| | |
|---|-----------------|
| Two-story house in Marianao, Havana, Cuba | \$21,000.00 |
| Personal property, including 1954 Oldsmobile | 8,000.00 |
| Debenture bond, including accrued interest | <u>1,294.00</u> |
| | \$30,294.00 |

Based upon the entire record, including a copy of a deed to the property in question; an affidavit by claimant, MARIO JOSE PITA, and two individuals who have knowledge of the facts, and a report from abroad, the Commission finds that claimants owned the real property, the personal effects therein, and an automobile.

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 do not have the status of legal residents shall be excluded from the rights and benefits conferred by this law.

Based on the foregoing and the evidence of record, the Commission finds that claimants' real property in Marianao, Havana, Cuba 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 Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.) The Commission also finds that certain personal property in the nature of household furnishings and the automobile were also taken from claimants on October 14, 1960.

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 real property as about 272 square meters, improved by a two-story house built in 1942 of brick and masonry construction having about 8 rooms and usual facilities. There are also affidavits, a photograph of the house, a report from abroad, as well as an itemized list of the personality.

On the basis of the evidence of record, and evidence available to the Commission regarding the value of similar properties in Marianao,

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the Commission finds that on October 14, 1960, the date of loss, the house and lot had a value of \$18,200.00 and that the personalty in the house and the automobile, after appropriate depreciation, had a total value of \$5,580.00.

The Commission therefore concludes that claimants sustained losses in the aggregate amount of \$23,780.00 within the meaning of Title V of the Act as a result of the taking of their property by the Government of Cuba on October 14, 1960.

An item of claim in the amount of \$1,294.00 is based upon the loss of a 1,000 pesos 4-1/2% debenture bond of the Cuban Electric Company, due January 1, 1985, including accrued interest to 1966. The records of the Commission disclose that the Cuban Electric Company is an American concern and that the debt represented by the bond was not a charge upon property which was nationalized, expropriated, intervened, or taken by the Government of Cuba. Therefore, pursuant to Section 505(a) of the Act, the Commission is without authority to consider this portion of the claim, and it is hereby denied. (See Claim of Anaconda American Brass Company, Claim No. CU-0112, 1967 FCSC Ann. Rep. 60.)

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 MARIO JOSE PITA and TERESA G. PITA jointly 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 Twenty-three Thousand Seven Hundred Eighty Dollars (\$23,780.00) with interest thereon at 6% per annum from October 14, 1960 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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