

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

IN THE MATTER OF THE CLAIM OF

FRANK CASTRO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 1868

Decision No. CU

152

Counsel for claimant:

Bertrand D. Gerber, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$25,000.00, was presented by FRANK CASTRO based upon the asserted loss of improved real property located in Victoria de las Tunas, Cuba. Claimant states that he has been a national of the United States since his naturalization on April 20, 1964.

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

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 claims 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.

Thus, in order for the Commission to favorably consider claims under Section 503(a) of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

The evidence of record, which includes certified copies of official Cuban documentation, indicates that claimant, FRANK CASTRO, was the recorded owner of a farm consisting of a lot and wooden house with zinc roof located in the Adolfo Villamar section of the city of Victoria de las Tunas, province of Oriente, Cuba.

Other than his own statement that this claim for loss arose on January 1, 1959, claimant has not submitted evidence establishing that

in fact his improved real property has been confiscated by the present Government of Cuba. However, even if this were so, the Commission is constrained to deny this claim on other grounds.

Under the provisions of Sections 502(3), 503(a) and 504(a) of the Act, supra, not only should the claimant herein establish that he was the owner of the improved real property for which claim is asserted, he must also establish that some measure depriving him of his interest therein was applied by the Government of Cuba not only after January 1, 1959, but subsequent to April 20, 1964, the date on which claimant assertedly acquired citizenship of the United States. This he has not done.

Therefore, even if claimant were to establish that the Government of Cuba confiscated his improved real property on January 1, 1959, such action, which might have given rise to a claim in international law, and which would be subject to determination under Title V of the International Claims Settlement Act of 1949, supra, occurred prior to April 20, 1964, the date claimant acquired citizenship of the United States.

Accordingly, for the reasons stated above, the Commission concludes that this claim is not one within the purview of the Act, supra, and it is denied.

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

JUL 26 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, 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).)

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 25 SEP 1967

Thomas H. Peterson
Director of the Commission

CU-1868