

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

IN THE MATTER OF THE CLAIM OF

HENRY WIEDERHOLD
HELEN S. WIEDERHOLD

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -1910

Decision No. CU 4166

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$2,769.00 was presented by HENRY WIEDERHOLD and HELEN S. WIEDERHOLD, based upon the asserted loss of real property at Santa Fe and Santa Barbara, Isle of Pines, Cuba. Claimants have been nationals 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.

Claimants state that they lost two parcels of land, one in the Santa Barbara section of the Isle of Pines and the other between the towns of Santa Fe and Nueva Gerona, Isle of Pines, Cuba, both of which, it is asserted, were intervened by the Cuban Government on January 1, 1959.

Based on the evidence of record which includes a deed of the Santa Barbara property and a report from abroad, the Commission finds that claimants owned a 10 acre lot in the Santa Barbara section of the Isle of Pines, Cuba.

On December 6, 1961 the Cuban Government published its Law 989 which confiscated all assets including real property of persons who did not return to Cuba. The record indicates that claimants were residents of Florida on this date. The Commission therefore finds, in the absence of evidence to the contrary, that claimants' 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, including a report received from abroad and evidence available to the Commission, the Commission finds that the property in question, located in the Santa Barbara section of the Isle of Pines, had a value of \$1,569.00. Accordingly, the Commission concludes that claimants suffered a loss in this amount within the meaning of Title V of the Act.

With regard to the parcel of land between the towns of Santa Fe and Nueva Gerona, Cuba, the record includes a report from abroad

which states that the parcel in question comprising five lots was registered under the name of Jose Copa Lopez. An affidavit of one Edwin F. Ashley, states that he was assigned this property on June 1, 1948; that on a visit in 1956 to the Isle of Pines to pay the taxes due in September he was told the property had been purchased at a tax sale the day before by one Copa Lopez for \$1.55, and that on August 29, 1958 he and his wife entered into an agreement with claimant, HELEN S. WIEDERHOLD, to attempt to have the courts declare the sale to Copa Lopez a nullity. If successful, claimant HELEN S. WIDERHOLD, would receive a 1/5 interest in the land in question. It appears that claimant, HELEN S. WIEDERHOLD, paid \$1,200.00 to the Ashleys in consideration for this agreement. There is nothing in the record to indicate that claimant, HELEN S. WIEDERHOLD, ever became the owner of a 1/5 interest in the land in question. On the contrary, it appears that since claimants assert a \$1,200.00 loss for this property, that they are basing this item of claim solely on the \$1,200.00 paid pursuant to the agreement with the Ashleys.

In view of the above and on the basis of the entire record, the Commission finds that claimants have not established an ownership interest in the land in question, and that the asserted loss of \$1,200.00 does not come within the purview of Title V of the Act. Accordingly, this portion of the claim is denied.

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 HENRY WIEDERHOLD and HELEN S. WIEDERHOLD 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 One Thousand Five Hundred Sixty-nine Dollars (\$1,569.00) 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

NOV 7 1969

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).)

CU-1910