

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

IN THE MATTER OF THE CLAIM OF

NANCY T. LOPEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2097

Decision No. CU 5095

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 NANCY TERESA TELLECHEA, also known as NANCY T. LOPEZ, in the amount of \$250,000.00 based upon the asserted ownership and loss of real and personal property 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 asserts her losses as follows:

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|---|--------------|
| (1) Apartment building at
255 N Street, Vedado,
Havana | \$200,000.00 |
| (2) Residence at 704 218th
Street, Biltmore,
Marianao, Havana | 40,000.00 |
| (3) Furniture and household
goods in the residence | 10,000.00 |

Claimant describes the apartment house as a five-story building of nine units wholly owned by her. A report received by the Commission reflects that a lot at 255 N Street, Vedado, is recorded in the name of claimant's mother, Evangelina Aulet, who is said to have become a United States national in September, 1969.

Claimant has submitted an affidavit from her stepfather, an attorney who also handled her mother's affairs. He recites that Evangelina Aulet desired her children to have certain advantages, and it was decided to erect the apartment building for claimant on land donated by claimant's mother.

The record includes an affidavit by the architect who designed and built the apartment building, which he said was constructed in 1953 on a lot belonging to Evangelina Aulet, all of which was given to the claimant. He does not offer substantiation of the asserted gift however.

Although claimant stated that this was a wedding gift, it is clear from the record that she was still a minor when it was erected. Neither her mother nor her stepfather refer to it as a wedding present. Both, however, state that it was decided not to legalize the donation until she became of legal age.

The residence is described as a two-story house, of which claimant has submitted a photograph. On April 24, 1967, claimant stated that she paid the builder of the house \$40,000.00 for the construction thereof. She stated she had purchased the lot in 1956 from Teodoro Cardenal whose widow has submitted an affidavit concerning the transaction. A report from abroad reflects that the property could not be located.

By letter of August 20, 1969, claimant stated she has a document from her former husband clarifying that she is the legal owner of the property. By letter of February 21, 1970 claimant expressed surprise to find out that that house was under her ex-husband's name since it was built as a gift from her mother, with an estimated value of \$40,000.00. Neither the affidavit of her mother, nor her stepfather mention this house being built as a gift from the mother.

Claimant states that when she left Cuba in April 1959, the residence was completely furnished. She has listed the furnishings categorically although it was suggested on a number of occasions that she list these specifically. The record also includes the affidavit of the person who rented the home after the departure of claimant in 1959. This affidavit briefly describes the house and merely states that it was completely furnished.


The Commission has on numerous occasions made suggestions to claimant as to the type of evidence appropriate for submission in this matter.

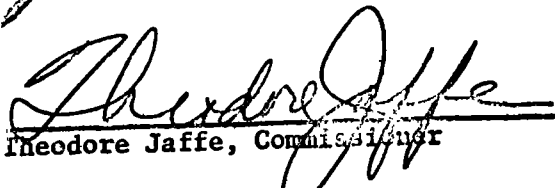
The Commission appreciates the difficulties encountered by some claimants in establishing their claims against the Government of Cuba. However, the Commission must be guided by the evidence of record pertaining to the ownership, loss and value of the property included in each claim.

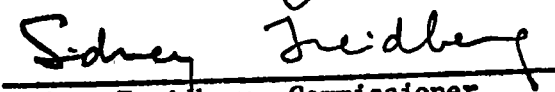
The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

JUN 30 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, 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).)