

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

IN THE MATTER OF THE CLAIM OF

BERTILA J. SAAVEDRA

Claim No. CU-2129

Decision No. CU

5993

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 BERTILA J. SAAVEDRA for \$12,950.00 based upon the asserted ownership and loss of real and personal property in Cuba. Claimant has been a national of the United States since June 23, 1917.

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.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (1970).)

Claimant describes her losses as follows:

Land	\$ 800.00
House	8,245.00
Personalty	<u>3,905.00</u>
	\$ 12,950.00

Based upon the entire record, including an agreement of purchase and sale, and a notarial record of its description, the Commission finds that claimant owned a lot and house at 508 Emilio Giro Street, Guantanamo, Oriente, Cuba.

On December 6, 1961, the Cuban Government published its Law 989 which provided for confiscation of all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the

country. Claimant asserts that her property was taken on December 29, 1966 as a result of leaving the country.

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 29, 1966 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

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 the purchase document and a description of the property as consisting of 134 square meters improved by a house having about five rooms and two baths.

Based on the entire record, the Commission finds that this improved real property had a value of \$6,600.00 but was encumbered by a mortgage of \$3,000.00. Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$3,600.00 within the meaning of Title V of the Act, as the result of the taking of this improved real property by the Government of Cuba.

Claimant has submitted no evidence with respect to the claimed personalty, although this was requested on several occasions.

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. Thus, the Commission finds that claimant herein has not met the burden of proof in regard to the personalty in that she has failed to establish ownership of rights and interests in such property which was nationalized, expropriated,

or otherwise taken by the Government of Cuba. Accordingly, the Commission is constrained to deny this portion of the instant claim and it is hereby denied.

The Regulations of the Commission provide:

Service by first class mail shall be regarded as complete, upon deposit in the United States mail properly stamped and addressed. [FCSC Reg., 45 C.F.R. §501.3(d) (1970).]

Without previous hearing, the Commission may issue a proposed decision in determination of a claim. [FCSC Reg., 45 C.F.R. §531.5(b) (1970).]

Such proposed decision shall be delivered to the claimant or his attorney of record in person or by mail. Delivery by mail shall be deemed completed 5 days after the mailing of such proposed decision addressed to the last known address of the claimant or his attorney of record. One copy of the proposed decision shall be available for public inspection at the office of the Commission. Notice of proposed decision shall be posted on the bulletin board at the office of the Commission on the day of its issuance and for 20 days thereafter. [FCSC Reg., 45 C.F.R. §531.5(c) (1970).]

A copy of this Proposed Decision shall be mailed to claimant's last known address, one copy shall be available for public inspection at the office of the Commission, and notice of this Proposed Decision shall be posted on the Commission's bulletin board on the day of its issuance and for 20 days thereafter. The foregoing shall constitute service of the Proposed Decision in accordance with Section 501 and 531 of the Commission Regulations.


The Commission has decided that in certifications of loss 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 Anderson, Claim No. C-10644), and in the instant case it is so ordered.

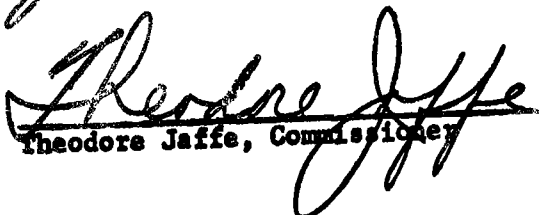
CERTIFICATION OF LOSS

The Commission certifies that BERTILA J. SAAVEDRA 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 Three Thousand Six Hundred Dollars (\$3,600.00) with interest at 6% per annum from December 29, 1966 to the date of settlement.

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

**DEC 16 1970**

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, 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 (1970).)