

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

IN THE MATTER OF THE CLAIM OF

ARSENIO MORAN

Claim No. CU- 2194

Decision No. CU 4211

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 ARSENIO MORAN for \$61,500.00 based upon the asserted ownership and loss of real property in Cuba. Claimant has been a national of the United States since his naturalization in 1951.

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 describes his loss as follows:

- (1) improved realty on Ulaçia Street, Luyano, Havana
- (2) a plot of land in San Miguel del Padron, Guanabacoa, Havana.

Based upon the entire record, including a Deed of Donation of April 18, 1959, a report from sources abroad, and a purchase document of July 1, 1955, the Commission finds that claimant owned the aforesaid real properties.

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.

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

Based on the foregoing and the evidence of record, the Commission finds that claimant's improved real property in Luyano 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 further finds, in the absence of evidence to the contrary, that the real property in Guanabacoa was taken by the Government of Cuba on December 6, 1961 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 of item 1, in Luyano, a Deed of Donation of the Luyano properties listing the improvements on 381 square meters, claimants description of the houses and the store, as well as his affidavit as to the monthly income.

As to item 2 in Guanabacoa, the file contains a copy of the purchase document list describing claimant's purchase of lot 22 (of block 22) of 720 square meters (bounded by F Street, by lot 23, by lot 13 and by lot 21) for \$1,500.00.

Based on the entire record, the Commission finds that the property in Luyano had a value of \$23,520.00 and the Guanabacoa property had a value of \$1,500.00. Accordingly, the Commission concludes that claimant suffered a loss in the amount within the meaning of Title V of the Act, as the result of the taking of his property by the Government of Cuba on the aforesaid dates.

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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644), and in the instant case it is so ordered, as follows:

| <u>FROM</u> | <u>ON</u> |
|------------------|-----------------|
| October 14, 1960 | \$23,520.00 |
| December 6, 1961 | <u>1,500.00</u> |
| | \$25,020.00 |

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CERTIFICATION OF LOSS

The Commission certifies that ARSENIO MORAN suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Act of 1949, as amended, in the amount of Twenty-Five Thousand Twenty Dollars (\$25,020.00) with interest at 6% per annum from the aforesaid dates to the date of settlement.

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

NOV 26 1969

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities for the loss here certified.

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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