

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

IN THE MATTER OF THE CLAIM OF

EMILIO DE MESA  
SARA DE MESA  
JOSEFINA MAYOL GONZALEZ  
and  
ELENA MESA GUERRA

Claim No. CU - 2388

Decision No. CU 5395

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, in the amount of \$62,121.00, was presented by EMILIO DE MESA, SARA DE MESA, JOSEFINA MAYOL GONZALEZ, and ELENA MESA GUERRA based upon the asserted loss of certain real and personal property in Cuba. Claimants have been nationals of the United States at all pertinent times.

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 assert the following losses:

A lot in Havana Province	\$ 7,311.00
A house and lot in Havana Province	35,000.00
Personal property situated in the house	10,000.00
Cuban currency	<u>9,810.00</u>
TOTAL	\$62,121.00

Lot

Based upon a copy of an official registration certificate issued by Cuban authorities on May 30, 1960, the Commission finds that EMILIO DE MESA and his wife, SARA DE MESA, each owned a one-half interest in a lot situated in the city of Havana, Havana Province, Cuba. The lot had an area of 872.92 square meters.

On December 6, 1961, the Cuban Government published in its Official Gazette its Law 989, which effected the confiscation of all assets, personal property and other rights of persons who had left the country. The Commission finds that this law applied to Mr. and Mrs. EMILIO DE MESA who had left Cuba prior to that date, and that their lot was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

The evidence includes an affidavit, dated January 27, 1970, from Mr. Rustan R. Ceballos, attesting to the fact that he had attempted to purchase the lot on several occasions; and that on the last occasion in August 1958, he offered Mr. DE MESA \$7,311.00 for the property, which was refused.

On the basis of the foregoing, the Commission finds that the value of the lot on December 6, 1961, the date of loss, was \$7,311.00. Therefore, claimants' interests had values of \$3,655.50 each.

House and Lot

Based upon a report from abroad and claimants' statements, the Commission finds that claimants owned interests, as indicated hereafter, in certain improved real property at Santiago de las Vegas, Havana Province, Cuba.

The Commission finds that said property was within the purview of the Urban Reform Law, published in the Cuban Official Gazette on October 14, 1960. In the absence of evidence to the contrary, the Commission finds that the property was taken by the Government of Cuba on October 14, 1960. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

The record shows that JOSEFINA MAYOL GONZALEZ acquired title to the house and lot on September 27, 1940, and that EMILIO DE MESA and ELENA MESA GUERRA purchased interests in the property on May 18, 1955 and December 5, 1955, respectively, the interests in the property being then 1/3 each. Pursuant to the community property laws of Cuba, SARA DE MESA acquired a one-half share in the property of her husband, EMILIO DE MESA, and Julio J. Guerra acquired a one-half share in the property of his wife, ELENA MESA GUERRA. (See Claim of Robert L. Cheaney and Marjorie L. Cheaney, Claim No. CU-0915.) It appears that JOSEFINA MAYOL GONZALEZ's one-third interest in the property was unaffected by her marriage which ended in divorce in Cuba in her favor on November 22, 1949. It further appears from the evidence of record that Julio J. Guerra, a national of the United States since February 1, 1929, died on August 13, 1963, and that upon his death ELENA MESA GUERRA inherited his interest in the property.

Accordingly, the Commission finds that claimants owned the following interests in the house and lot and/or in the claim arising upon the taking thereof by the Government of Cuba on October 14, 1960:

EMILIO DE MESA and SARA DE MESA, 1/6 each  
JOSEFINA MAYOL GONZALEZ and ELENA MESA GUERRA, 1/3 each

CU-2388

The evidence shows that the purchase price of the house and lot in 1940 was \$12,000.00. Claimants state that they made substantial improvements to the property over the years, expending about \$25,000.00 for this purpose. The record includes affidavits from individuals with personal knowledge of the facts, attesting to the following improvements made by claimants:

Addition of an apartment with bathroom at the top story of the house

Addition of two bathrooms on the main floor of the house

Addition of a room on the main floor

Enlargement of the kitchen

Addition of a bar in the family room

Addition of a new flat roof

Cementing of garden and patio

On the date of loss, the house contained 11 rooms, 4 bathrooms, a garage and servant's quarters. The record includes photographs of the interior and exterior of the house, showing the landscaped grounds as well.

Upon consideration of the entire record, the Commission finds that claimants' valuation is fair and reasonable. Accordingly, the Commission finds that the value of the house and lot on October 14, 1960, the date of loss, was \$35,000.00. Therefore, the value of claimants' interests therein were as follows:

EMILIO DE MESA and SARA DE MESA, \$5,833.33 each

JOSEFINA MAYOL GONZALEZ and ELENA MESA GUERRA, \$11,666.67 each

Personal Property in the House

The Commission finds that claimants owned certain furniture, appliances, clothing and other items of personal property situated in the house at Santiago de las Vegas, Havana Province. The Commission further finds that claimants' interests therein were the same as their interests in the house and lot, and that the personal property was taken on October 14, 1960.

Claimants assert that the aggregate value of the personal properties was \$10,000.00. They have submitted with their letter of April 20, 1970 an itemized list of the properties, indicating approximate dates of acquisition and approximate costs.

Based upon the entire record and upon application of approximate depreciation rates for the said items of personal property, the Commission finds that the items of personal property had values on October 14, 1960, the date of loss, as set forth below. In view of the many items involved and considering the fact that claimants could supply only approximate dates of acquisition and costs based upon memory, the Commission has applied depreciation rates to groups of items employing the average ages of the groups, as indicated:

Furniture in 2 living rooms, 4 bedrooms, hall, dining room, family room, kitchen and porch, costing \$4,425.00, depreciated at 5% per year for 11 years	\$ 1,991.25
Antique doll collection, hand-carved furniture, chinaware and glassware, as claimed	2,200.00
Rugs in blue living room and dining room, costing \$150.00, almost fully depreciated at 10% per year for 9 years - residual value	30.00
Major electrical equipment (freezer, refrigerator and stove), costing \$850.00, depreciated at 5% per year for 6 years	595.00
Television set, costing \$400.00, depreciated at 10% per year for 5 years	200.00

Minor electrical equipment (iron, mixer, fans, clocks, etc.), costing \$200.00, fully depreciated at 10% per year for 10 years - residual value	40.00
Clothing, costing \$1,200.00, fully depreciated at 20% per year for 6 years - residual value	<u>240.00</u>
TOTAL	\$5,296.25

Therefore, the values of claimants' interests in the personal property were as follows:

EMILIO DE MESA and SARA DE MESA, \$882.71 each  
JOSEFINA MAYOL GONZALEZ and ELENA MESA GUERRA, \$1,765.42  
and \$1,765.41, respectively.

#### CUBAN CURRENCY

The evidence establishes and the Commission finds that EMILIO DE MESA and SARA DE MESA each owned a one-half interest in 9,810.00 Cuban pesos, equivalent to \$9,810.00. As a result of Cuban Law 963 and its implementation, claimants' currency was declared null and of no legal effect. The record shows that claimants left Cuba for the United States and were unable to convert their pesos into United States dollars as a result of action by Cuban authorities. The Commission has held that in such circumstances a loss occurred on August 4, 1961 within the meaning of Title V of the Act. (See Claim of Betty G. Boyle, Claim No. CU-3473.) The Commission, therefore, finds that claimants sustained losses of \$4,905.00 each on August 4, 1961.

Recapitulation

Claimants' losses are summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
<u>EMILIO DE MESA</u>		
Lot	December 6, 1961	\$ 3,655.50
House and Lot	October 14, 1960	5,833.33
Personal Property	October 14, 1960	882.71
Cuban Currency	August 4, 1961	<u>4,905.00</u>
	TOTAL	\$15,276.54

<u>SARA DE MESA</u>		
Lot	December 6, 1961	\$ 3,655.50
House and Lot	October 14, 1960	5,833.33
Personal Property	October 14, 1960	882.71
Cuban Currency	August 4, 1961	<u>4,905.00</u>
	TOTAL	\$15,276.54

<u>JOSEFINA MAYOL GONZALEZ</u>		
House and Lot	October 14, 1960	\$11,666.67
Personal Property	October 14, 1960	<u>1,765.42</u>
	TOTAL	\$13,432.09

<u>ELENA MESA GUERRA</u>		
House and Lot	October 14, 1960	\$11,666.67
Personal Property	October 14, 1960	<u>1,765.08</u>
	TOTAL	\$13,432.08

CU-2388

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 as follows:

<u>FROM</u>	<u>ON</u>
<u>EMILIO DE MESA</u>	
October 14, 1960	\$ 6,716.04
August 4, 1961	4,905.00
December 6, 1961	<u>3,655.50</u>
TOTAL	<u>\$15,276.54</u>

<u>SARA DE MESA</u>	
October 14, 1960	\$6,716.04
August 4, 1961	4,905.00
December 6, 1961	<u>3,655.50</u>
TOTAL	<u>\$15,276.54</u>

<u>JOSEFINA MAYOL GONZALEZ</u>	
October 14, 1960	<u>\$13,432.09</u>

<u>ELENA MESA GUERRA</u>	
October 14, 1960	<u>\$13,432.08</u>



CERTIFICATIONS OF LOSS

The Commission certifies that EMILIO DE MESA 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 Fifteen Thousand Two Hundred Seventy-six Dollars and Fifty-four Cents (\$15,276.54) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

The Commission certifies that SARA DE MESA 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 Fifteen Thousand Two Hundred Seventy-six Dollars and Fifty-four Cents (\$15,276.54) with interest at 6% per annum from the respective dates of loss to the date of settlement; and

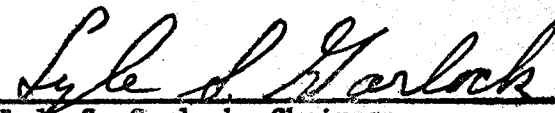
The Commission certifies that JOSEFINA MAYOL GONZALEZ suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirteen Thousand Four Hundred Thirty-two Dollars and Nine Cents (\$13,432.09) with interest at 6% per annum from October 14, 1960 to the date of settlement; and

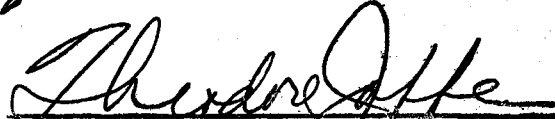
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The Commission certifies that ELENA MESA GUERRA succeeded to and suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Thirteen Thousand Four Hundred Thirty-two Dollars and Eight Cents (\$13,432.08) with interest at 6% per annum from October 14, 1960 to the date of settlement.

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

**JUL 22 1970**

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, Commissioner

NOTICE TO TREASURY DEPARTMENT: These claimants may be the subject of another certification of loss in CU-2487.

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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