

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

IN THE MATTER OF THE CLAIM OF

GEORGIA REDDICK SAMPEDRO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-2974

Decision No. CU 5965

Counsel for claimant:

Paul, Landy, Beiley & Bartel
By B. A. Landy, Esq.

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 GEORGIA REDDICK SAMPEDRO for \$372,517.00 based upon an asserted one-half interest in the ownership and loss of certain real and personal properties, and business interests 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.

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) (1969).)

Claimant described her asserted losses as one-half of the following:

1. Lot at 206 - 21st Street, Havana	\$ 20,000.00
2. Lot and house at 204 - 21st Street, Havana	80,000.00
3. Building at Ayesteran No. 11, Havana, on land owned by claimant's father-in-law	100,000.00
4. Furniture, 2 automobiles, sailboat	21,000.00
5. Bond of Havana Biltmore Yacht and Country Club	1,500.00
6. Bond of Club La Torre	1,000.00
7. Bank accounts	13,000.00
8. 40% of Equipos de Bar y Cafeteria	938,000.00
9. 1/3 interest in Ensambladora de Refrigeradores Comerciales, S.A.	250,000.00
10. 40% of Esmaltes Cubanos, S.A.	100,000.00

On the basis of the record, including reports from abroad, the Commission finds that GEORGIA REDDICK SAMPEDRO and her spouse Gerardo Rafael Sampedro, a Cuban national, owned equal interests, pursuant to the Community Property Law of Cuba, in certain properties further discussed below. Gerardo Rafael Sampedro is the son of Gerardo Sampedro Carreja and Joaquina Alvarez Wanderberg,

REAL PROPERTY

On the basis of a report from abroad the Commission finds that claimant owned a one-half interest in two lots at Nos. 204 and 206 - 21st Street, one used as a garden, and the other improved by a 2-story house.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law, under which the renting of urban properties, and all other transactions or contracts involving transfer

of the total or partial use of urban properties were outlawed (Article 2). The law covered residential, commercial, industrial and business office properties. Based on the foregoing, the Commission finds that this real property 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 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 the area of the land as 980.20 square meters, improved by a 2-story residence described as having a living room, dining room, kitchen, library, three bedrooms, two baths, servants' quarters (two bedrooms and two baths), and swimming pool. The house was built in 1958.

On the basis of this record, and evidence available to the Commission as to the value of similar properties abroad, the Commission finds that on the date of loss the improved real property had a value of \$30,980.00, but that it was subject to a mortgage which had been reduced to \$10,000.00. After deduction of this amount the Commission finds that claimant's interest in the equity was \$10,490.00 on the date of loss, and that she suffered a loss in that amount within the meaning of Title V of the Act.

With respect to a property at No. 11 Ayesteran, Havana, which claimant asserts was improved by an office building, paid for by her husband, erected on land belonging to his parents, the Commission finds, on the basis of a report from abroad, that this property is inscribed in the names of Gerardo Sampedro Carreja (married to Mrs. Joaquina Alvarez Wanderberg) and Jose Puig Puig (married to Mrs. Mercedes Sampedro Alvarez), that the realty was

acquired by deed of December 20, 1950 and the building erected by the owners, at their expense, according to a deed of March 28, 1952. There is no evidence to support the assertion that claimant's spouse owned the building on his parents' land. Accordingly, this item of claim is denied.

PERSONAL PROPERTY

On the basis of the record, the Commission finds that the claimant and her spouse owned certain household furniture and furnishings, and two automobiles in Cuba, and that these were also taken on October 14, 1960 when the residence was taken.

Claimant has submitted a list of household furnishings, with values. She has stated she purchased some in Florida in 1958 at a cost of \$20,000.00 and the rest elsewhere. Those on the list attributed to the Florida purchases total \$4,800.00 and the remainder \$7,500.00. The Commission finds that these properties, except for certain paintings, are subject to depreciation at the rate of five per cent a year for furniture and ten per cent a year for furnishings such as lamps and drapes. In the absence of specific evidence, which had been requested on several times, the Commission finds that the properties purchased in Florida had an average life of three years at the time of loss and considering that claimant had married in 1948, that the remaining properties (other than the automobiles) had an average life of six years. Accordingly, the Commission finds that the personal property, after application of the stated depreciation rates, had a value of \$8,230.00 and claimant sustained a loss of one-half thereof, or \$4,115.00.

With respect to the automobiles, claimant values a 1959 Studebaker Station Wagon at \$3,000.00 stating it cost \$4,500.00; and values a Ford Sunliner at \$5,000.00 stating it cost \$6,000.00. No evidence has been submitted in support of these evaluations. On the basis of the 1960 Guide of the National Automobile Dealers Association, the Commission finds that at the time of loss the Studebaker had a value of \$1,670.00 and the Ford had a value of \$1,915.00, a total of \$3,585.00, and that claimant sustained a loss of one-half of that amount, or \$1,792.50.

Although claimant stated that the 28-foot sailboat was purchased in Fort Myers, Florida, in 1957, for a purchase price of \$4,850.00, no evidence, other than her own statement, has been submitted in support of this item. Accordingly, the Commission finds that she has not met the burden of proof in this respect in that she has not established the ownership, taking by the Government of Cuba, or the value of this item of claim, and it is accordingly denied.

BANK ACCOUNTS AND SECURITIES

Although claimant has recited the number of the asserted certificates of the Havana Biltmore Yacht & Country Club, and La Torre Club, she has submitted no probative evidence in support of this asserted ownership interest.

With respect to the bank accounts, it has been asserted that claimant maintained an account in Banco Asturiano with a balance of \$1,000.00, and that her husband maintained accounts in Banco Pedroso and Banco Asturiano, with balances of \$2,000.00 and \$10,000.00, respectively, the only evidence offered in support, other than an affidavit from her spouse's brother (which was also offered with respect to the club memberships) is a 1958 statement of her spouse to a Florida bank, apparently in application for a loan, in which he reported the \$2,000.00 account in Banco Pedroso, a \$10,000.00 account in Banco Asturiano and further a bank account of Equipose de Bar y Cafeteria, S.A. (further discussed below) with a balance of \$10,000.00. However, nothing of record establishes that such accounts survived and were taken by the Government of Cuba.

Accordingly, the Commission is constrained to and does deny these items of claim.

BUSINESS INTERESTS

Claimant has stated that she and her spouse owned the following interests in business enterprises in Cuba:

(1) 40% of Equipos de Bar y Cafeteria, S.A. with an asserted net value of \$938,000.00;

(2) One-third of Ensambladora de Refrigeradores Comerciales, S.A., with a net value of \$250,000.00, with an original investment of \$30,000.00 in 1955; and

(3) 40% of Esmaltes Cubanos, S.A., with a net value of \$100,000.00, and an original investment of \$75,000.00 in 1956.

The records of the Commission indicate that Equipos was nationalized by the Government of Cuba on October 13, 1960, pursuant to Cuban Law 890. No record is found as to the taking of the others, although officers of these entities indicate they were taken at the same time.

The Presidents of the companies and the former accountant affirm that claimant's spouse was the owner of the asserted interests in the indicated percentages.

As to Equipos, these officers state that as of the date of loss the net worth was over \$1,000,000.00; that as to Ensambladores, the net worth was over \$100,000.00 and as to Esmaltes it was over \$250,000.00. However, even if claimant and her spouse owned the asserted business interests the Commission finds that these general statements of net worth, expressed in round figures, are not sufficient to establish the values of these enterprises on the dates of loss.

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 ownership, loss and value of the properties claimed. Thus, the Commission finds that claimant herein has not met the burden of proof with respect to certain items indicated above, in that she has failed to establish the ownership and value of such items, and the Commission does deny such items of claim. The Commission deems it unnecessary to make determinations with respect to other elements of these portions of the claim.

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 Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that GEORGIA REDDICK SAMPEDRO 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 Sixteen Thousand Three Hundred Ninety-seven Dollars and Fifty Cents (\$16,397.50) 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

NOV 17 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, 32 Fed. Reg. 412-13 (1967).)