

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

IN THE MATTER OF THE CLAIM OF

ANTONIO VALDES-DAPENA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3179

Decision No. CU

756

Counsel for Claimant:

Manuel Zaiac, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$386,466.65, was presented by ANTONIO VALDES-DAPENA and is based upon the asserted loss of a one-third (1/3) interest in certain real and personal property. Claimant has been a national of the United States since his naturalization on March 4, 1947.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k, 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.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

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) (Supp. 1967).)

Claimant states that he was the owner of a one-third (1/3) interest in a realty development known as Reparto Residencial Maria del Carmen; improved real property located in Marianao; a one-third (1/3) interest in certain personalty consisting of furniture, equipment, bank account, automobile and bonds; and a one-third (1/3) interest in compensation resulting from the Cuban Urban Reform Law; all of which claimant asserts he inherited from his mother, a Cuban national, who died on October 2, 1963. Claimant also states that all of the subject property was taken by the Government of Cuba during April 1964.

In support thereof, claimant submitted two affidavits of Cuban attorneys, an affidavit of a Cuban accountant, a copy and summary translation of Urban Reform Law published October 14, 1960 and a copy of a document written in Spanish, entitled Testamento Abjerto (Open Will). No other evidence has been submitted in this claim.

By Commission letter of July 5, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. No response was received to this correspondence. On August 29, 1967, counsel and claimant were invited to submit any evidence available to them within forty-five (45) days from that date, and they were informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

The Commission finds that claimant has not met the burden of proof in that he 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

30 NOV 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

LaVern R. Dilweg, Commissioner

This is a true and correct copy of the decision
of the Commission which was entered as the Final
decision on
JAN 11 1968

W. H. [Signature]
Clerk of the Commission

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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