

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

IN THE MATTER OF THE CLAIM OF

GLADYS JOSEFINA CARMONA

Claim No. CU-3292

Decision No. CU

3963

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 Josefina C. Gonzalez Fontanet on behalf of her daughter, GLADYS JOSEFINA CARMONA, for \$129,082.00, based upon the asserted ownership and loss of an interest in a Cuban enterprise. 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.

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).)

The asserted loss has been described as being for a 30% interest in the business enterprise known as Gonzalez y Compania, Sociedad en Comandita, a partnership doing business in Havana, Cuba. The record reflects that Jose Gonzalez y de la Orden, grandfather of the claimant, was a partner in the Cuban enterprise Gonzalez y Compania, Sociedad en Comandita; that he died intestate in 1959 leaving him surviving his widow, Josefa Fontanet y de la Orden, his daughter, Josefina C. Gonzalez y Fontanet, and her daughter (granddaughter of the deceased) the claimant herein; and that claimant left Cuba with her mother in April, 1961. The record contains also copies of the partnership's financial reports for the fiscal years ending in 1958, 1959 and 1960 and a request to withdraw from the partnership signed by another partner on April 12, 1961. In that request, the withdrawing partner set forth that the heirs of the deceased partner were Josefa Fontanet y de la Orden and Josefina C. Gonzalez y Fontanet.

Claimant has not submitted any evidence to establish her inheritance of an ownership interest in the partnership claimed. Her grandfather from whom the inheritance is claimed, died intestate but his direct heirs were

his widow and his daughter, both Cuban nationals, who are now living in the United States. By Commission's letter of September 27, 1968, claimant was requested to submit documentation to establish her inheritance under Cuban law of the property claimed while her mother, the direct descendant of the deceased property owner was living. No response to that letter was received.

The Commission finds that claimant has not met burden of proof in that she has failed to establish her 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

OCT 1 1969

*Leonard v. B. Sutton*  
Leonard v. B. Sutton, Chairman

*Theodore Jaffe*  
Theodore Jaffe, Commissioner

*Sidney Freidberg*  
Sidney Freidberg, Commissioner

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).)