

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

IN THE MATTER OF THE CLAIM OF

DOROTHY M. DE HART
a/k/a Mrs. L. A. DE HART
and JOSEPH A. MADDOX

Claim No. CU -3420

Decision No. CU -5980

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

Paynter and Lahut
By Norman W. Paynter, Esq.

Appeal and objections from a Proposed Decision entered on November 23, 1970.
No hearing requested.

Hearing on the record held on September 15, 1971.


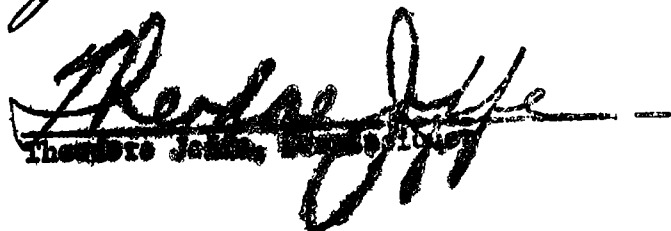
FINAL DECISION

Under date of November 23, 1970, the Commission issued its Proposed Decision denying this claim for lack of proof. Subsequently, counsel for claimants objected to the Proposed Decision but submitted no evidence in support of the objections, although the Commission suggested the submission of such evidence.

Upon consideration of the objections in light of the entire record, the Commission finds no valid basis for altering the decision previously entered. Accordingly, the Proposed Decision of November 23, 1970 is affirmed in all respects.

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

SEP 15 1971


Lyle S. Garlock, Chairman

Theodore J. J. [unclear]

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IN THE MATTER OF THE CLAIM OF

L. A. DE HART
JOSEPH A. MADDOX

Claim No. CU-3420

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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 L. A. DE HART and JOSEPH A. MADDOX based upon the asserted ownership and loss of property interests in Cuba. Claimants have been nationals 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.

Claimants describe their loss as follows:

10 acre tract of land known as Tract #78 in East McKinley, Isle of Pines, vacant lots known as Lots 8 and 10 in Block #94 in the same city, and bonds relating to the purchase of these lots. Claimants state that they do not know the amount of the loss involved.

Claimants who are brother and sister assert that the property subject of this claim was owned by their father who bequeathed it to his widow, and that upon her death on April 23, 1963 she bequeathed it to claimants. They state that their parents were United States nationals by birth.

Claimants have submitted the original document issued by the Tropical Development Company dated June 15, 1907 pertaining to the purchase and subscription of land in Tract 78 by A. E. Maddox, father of claimants, on June 15, 1907. They have also submitted a copy of a "Contract for Profit Sharing Gold Bonds" covering one bond, on surrender of which, the Company would convey lots Nos. 8 and 10 in Block No. 94. This document is also dated June 15, 1907. Additionally, the record includes copy of a "Certificate of Deposit" issued by Windsor Trust Company, in 1912 apparently for one bond of the Tropical Development Company. The record also contains a copy of a document in the Spanish language which appears to be a contract involving Atwood E. Maddox entered into December 10, 1907.

The record discloses that in 1907 the Tropical Development Company was a New York corporation.

By Commission letter of August 30, 1967, claimants were advised as to the type of evidence proper for submission to establish this claim, including evidence that claimants owned the property in question, that it was taken by the Government of Cuba and the value of the property. Pursuant to a request for assistance in obtaining evidence, a report from abroad stated that the parcels of land in question are not registered in the names of the claimants and no report has been received pursuant to a subsequent request to determine whether the parcels may have been registered in their father's name.

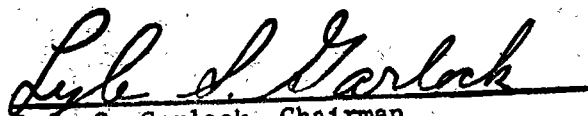
The Commission has considered the entire record but finds the evidence not sufficiently probative to permit findings that would be other than speculative.

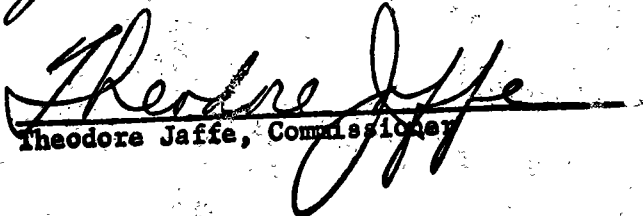
In the absence of sufficiently probative evidence on which to base an affirmative decision, the Commission has no alternative but to deny this claim for lack of proof.

The Commission finds that claimants have not met the burden of proof in that they have 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

NOV 23 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, 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).)