

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

IN THE MATTER OF THE CLAIM OF

MIRTHA P. VINA

Claim No. CU-3635

Decision No. CU 168

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 MIRTHA P. VINA for \$10,796.00 based upon the asserted loss of improved real property confiscated by the Government of Cuba. Claimant, MIRTHA P. VINA, states that she has been a national of the United States since her naturalization on February 18, 1966.

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 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.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States." The term does not include aliens.

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established

(1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and
(2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

Claimant states that the present Government of Cuba confiscated her improved real property on April 11, 1964. Evidence of claimant's ownership of the subject matter herein claimed has not been submitted nor has claimant submitted evidence of the law or decree under which the Government of Cuba deprived her of ownership of the improved real property.

The Commission, therefore, finds it not established that claimant owned the improved real property as claimed. However, even if this were so, the Commission is constrained to deny the claim on other grounds.

Under the provisions of Sections 502(3), 503(a) and 504(a) of the Act, supra, not only should the claimant herein establish that she was the owner of improved real property confiscated by the Government of Cuba, she must also establish that some measure depriving her of her interest therein was applied by the Government of Cuba not only after January 1, 1959, but subsequent to February 18, 1966, the date on which she acquired citizenship of the United States. This she has not done.

Therefore, even if claimant established she owned improved real property confiscated from her by the Government of Cuba, and even if it were to be assumed that the Government of Cuba confiscated such property on April 11, 1964, such action, which might have given rise to a claim in international law, which would be subject to determination under Title V of the International Claims Settlement Act of 1949, supra, occurred prior to the date on which claimant acquired citizenship of the United States.

Accordingly, for the reasons stated above, the Commission concludes that this claim is not one within the purview of the Act, and it is denied.

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

JUL 26 1967

Edward D. Ke

Edward D. Ke, Chairman

is a true and correct copy of the decision
of the Commission which was entered as the final
decision on ----- AUG 25 1967

Theodore Jaffe
Theodore Jaffe, Commissioner

Lavon R. Dilweg

Lavon R. Dilweg
Lavon R. Dilweg, Commissioner

Francis Mackerson
Francis Mackerson, 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).)