

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

IN THE MATTER OF THE CLAIM OF

TERESA ADDALA-TORRES

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3715

Decision No. CU 3936

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 \$265,500.00, was presented by TERESA ADDALA-TORRES and is based upon the asserted loss of a farm with improvements, equipment and livestock. Claimant has submitted evidence that she was born in Puerto Rico.

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).)

Claimant asserted that the claim arose on November 1, 1962 at Palma Soriano, Oriente, Cuba when the Castro Government took over the whole farm "Municipiones" owned "by the claimant and her sons." She described the farm as 1,200 acres (36 caballerias) of which 1,000 acres were dedicated to sugar cane production and the rest to cattle raising. She further stated that the property was inherited on April 7, 1953 from Pedro Varona, the Cuban husband of claimant; that it then had a value of \$200,000.00 to which were added improvements of a value of \$65,500.00. In further clarification, she stated that the value of the land was estimated at \$200,000.00, plus \$20,000.00 in buildings constructed for the accommodation of workers and families, and the family of the owners; and that the value of the equipment was estimated as \$45,500.00. Claimant stated that she has never asserted a tax deduction with respect to the losses subject of this claim.

By Commission letter of July 31, 1967, claimant was advised as to the type of evidence proper for submission to establish this claim under the Act. This included forms for requesting the Commission's assistance in obtaining evidence; check lists as to appropriate evidence concerning real and personal property; and a request as to nationality of claimant's sons, who were referred to in the claim form as owners.

Claimant replied by letter of August 28, 1967 that her children are Cuban nationals, but that she shares with them the inheritance of the farm. She also submitted a request for assistance of the Commission in obtaining evidence as to ownership of the property. This further disclosed the location of the farm as at Alto Cedro, a suburb of Palma Soriano, and reflected that it was purchased in 1935 for \$17,000.00. Appropriate action was taken by the Commission with respect to the request.

Under date of June 26, 1968, the Commission reminded claimant that there was no certainty that the Commission would be able to obtain the requested evidence, and suggested she submit any material whatsoever which might have any bearing on the subject matter of the claim. Check lists concerning appropriate evidence were again offered the claimant; and in addition she was requested to furnish her affidavit stating what percentage of the farm and personalty were owned by her, supported by any available evidence as to the inheritance of the farm, with its value.

Claimant, by letter received on September 3, 1968, requested an extension of time, stating she was in touch with persons who knew her, to get letters which would prove her ownership of the farm. This was acknowledged on September 16, 1968, granting an extension of time, and claimant was given a copy of a notice referring to the reduction of the Commission's staff, reminding the recipient of the elements to be established and including a suggested form for affidavit as to personalty.

Claimant again addressed the Commission on November 22, 1968. She stated she could not obtain deeds and title as registered mail leaving Cuba could not include such documents. She submitted her unsworn statement in which she stated in substance that she was the owner of

the plantation, that she inherited it from her husband; that he had purchased it for \$17,000.00; that upon his death in April 1953 the "Sucesion de Pedro Varona" was established, with an estimated value of \$200,000.00, and additional improvements of \$65,500.00.

She stated that six caballeria were confiscated upon the effectuating of the Agrarian Reform Law of May 17, 1959; and that when she left Cuba in January, 1963, the remaining thirty caballeria were confiscated. The statement includes a listing of several structures and various equipment, as well as livestock with specific values attributed to each, without, however, any indication of the date of the asserted value or its basis in any instance.

Included with claimant's submission of November 22, 1968, were two affidavits. One of these relates that the affiant knew the claimant while she was the owner of a sugar farm until it was taken by the Cuban Government, and further stated that she was well known by all the sugar merchants of the area. The other affidavit, from the President of a "Sugar Cane Growers Association" recited that the affiant had occasion to know the claimant, a member of the Association and the owner of the farm, which she inherited from her husband.

Without impugning the veracity of the affiants it may be pointed out that these affidavits give no basis for the belief of the affiants that claimant was the owner of the farm. Moreover, claimant has never clarified the extent of her asserted ownership, as suggested by Commission letters of July 31, 1967 and June 26, 1968; nor has she afforded the Commission an actual basis for evaluating the personal property, as suggested in Commission letters of September 16, 1968, and earlier suggestions.

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

SEP 24 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jarfe

Theodore Jarfe, 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).)

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