

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

IN THE MATTER OF THE CLAIM OF

MARGARET MOLINO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-4825

Decision No. CU -
3965

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claim Settlement Act of 1949, as amended, was presented on August 9, 1967 by MARGARET MOLINO for \$40,000.00 based upon improved real property in Marianao, Havana, Cuba. Claimant, MARGARET MOLINO aka MARGARITA OLOZAGA, has been a national of the United States since her naturalization on May 23, 1963.

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 Commission's Regulations provide that claims under Title V of the Act (Cuban claims) shall be filed with the Commission on or before May 1, 1967, (FCSC Reg., 45 C.F.R. See 513.1(d) (Supp. 1967)); and further that any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period thereof shall be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period. (Reg., Sec. 531.1(g))

No claim was filed with this Commission by or on behalf of claimant within the allowable period for timely filing of such claims, nor does the Commission have any record of any communication concerning this asserted loss.

The Commission has held, however, that it will accept for consideration on their merits claims filed after the deadline so long as the consideration thereof does not impede the determination of those claims which were timely filed. (See Claim of John Korenda, Claim No. CU-8255.)

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.

The claim is based on a house at Aliadas 43, Alturas de Almendares, Marianao which claimant states she inherited from her husband on July 20, 1947. A report from abroad reflects that an Account of Adjudication of Properties left by Armando Molino Labaight lists the heirs as his children Armando Esteban, Aimee Lourdes, Mauricio Martin and Margarita Lourdes Molino Olozaga; refers to a two-story building at 10 Street or Avenue de los Aliados, and parcel 43 of Manzana 9 of Reporto Alturas del Rio Almendares. The report also recites that Senor Molina died under the community property law with his wife so that only one-half enures to the children.

Regardless of the extent of claimant's ownership in the property, of which she has submitted a photograph, nothing of record reflects that it was not taken by the Government of Cuba prior to May 23, 1963.

The Urban Reform Law operated to take rental properties on October 14, 1960. Further, Law 989, published December 9, 1961 confiscated properties of those who had left the country. Mrs. Molino states that she left Cuba in 1960.

Under the provisions of Sections 502(3), 503(a) and 504(a) of the Act, supra, the claimant herein must establish that some measure depriving her of her interest in property in Cuba was applied by the Government of Cuba not only after January 1, 1959, but subsequent to May 23, 1963, the date she acquired citizenship of the United States. This she has not done.

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

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).)