

INTERNATIONAL CLAIMS COMMISSION OF THE UNITED STATES  
DEPARTMENT OF STATE  
Washington, D. C.

In the Matter of the Claim of

LELA E. PHILLIPS  
327 West Highland  
Tracy, California

GRA A. PHILLIPS  
327 West Highland  
Tracy, California

FREDWIN O. PHILLIPS  
327 West Highland  
Tracy, California

MARGARET J. PHILLIPS  
327 West Highland  
Tracy, California

LEE O. PHILLIPS  
327 West Highland  
Tracy, California

Under the Convention between the United  
States and Panama, effective October 11,  
1950 and the International Claims  
Settlement Act of 1949

Docket No. Pan-51

Decision No. 60

PROPOSED DECISION OF THE COMMISSION

This is a claim by Lela E. Phillips, Gra A. Phillips, Fredwin O. Phillips, Margaret J. Phillips, and Lee O. Phillips, surviving heirs of Orville Phillips, deceased. The claim is based on the nullification by a judgment of the Supreme Court of the Republic of Panama on October 20, 1931, of claimants' title to approximately 40 acres of land in the so-called "El Encanto Tract," located in the District of Donoso, Province of Colon, Panama.

Orville Phillips, a citizen of the United States by birth on October 16, 1880, purchased 16,1876 hectares, or approximately 40 acres of unimproved land in the El Encanto Tract. (Records and Admissions of his grantor) As evidenced by a death certificate and by an affidavit by Lela E. Phillips, Dated June 3, 1954,

Orville Phillips died intestate on April 22, 1929, leaving surviving him his widow, Lela E. Phillips, and four children, Ora A. Phillips, Fredwin O. Phillips, Margaret J. Phillips, and Lee O. Phillips, all nationals of the United States by birth, on May 25, 1893, April 4, 1918, October 23, 1920, August 20, 1922, and January 23, 1928, respectively. There was no administration of the estate of Orville Phillips. Thus, Lela E. Phillips, Ora A. Phillips, Fredwin O. Phillips, Margaret J. Phillips, and Lee O. Phillips had succeeded to the land claimed when it was declared the property of the Republic of Panama on October 20, 1931, and they are proper claimants herein. The applicable law of Panama (Civil Code of Panama 1927, Arts. 628-693) provides that estates of foreigners located in Panama, pass according to the law of Panama even though the decedent is domiciled in a foreign country at the time of his death, and that real estate, in default of testamentary disposition, passes to the surviving widow and children in equal shares.

Pursuant to the Convention dated October 11, 1950, between the Governments of the United States and Panama, the latter, without admission of any liability, agreed to pay to the United States the total sum of \$4,000,000 in settlement of all claims of American citizens who had acquired land in the El Encanto Tract. It is, therefore, unnecessary for this Commission to inquire into the circumstances or legality of the nullification.

The principal issue in this claim, and the 66 other claims before the Commission based upon the taking of land in the El Encanto Tract, is that of value. In the Memorial, filed by the United States with the General Claims Commission, United States and Panama (Under the Conventions of July 28, 1926, and December 17, 1932), on behalf of the Mariposa Development Company and 55 other claimants for approximately 114,000 hectares, or approximately

95% of the entire tract, the land was valued at \$12.50 a hectare. That value was supported by evidence that some 50 parcels had been sold at that price to individual purchasers. There is also evidence of sales at \$10.11 a hectare, \$6.50 a hectare, \$2.70 a hectare, etc. It is also shown that approximately 50,000 hectares, claimed by the Meriposa Development Company, were assessed for tax purposes from 1921 to 1924 at a little less than \$3.00 a hectare; from 1925 to 1928 at \$11.25 a hectare, and from 1929 to 1932 at a little more than \$3.00 a hectare.

After the denial of the claims of the Meriposa Development Company, and others, by the General Claims Commission in 1933, on jurisdictional grounds, extended discussions and negotiations were had between representatives of the Governments of the United States and Panama for the lump sum settlement of all claims of American nationals who had acquired property in the El Incauto Tract. The final sum fixed by the two Governments, in the Convention of October 11, 1950, was \$400,000 for the entire tract of approximately 120,000 hectares, or about \$3.33 a hectare. No evidence has been filed with the Commission indicating that any of the land in the Tract was improved or that it varied in value.

On consideration of all evidence and data of record, the Commission is of the opinion that all of the land in the El Incauto Tract was worth at least \$4.00 per hectare on October 20, 1951, the date of the final judgment of the Supreme Court of Panama, and that all merit claims should be allowed at that value. Inasmuch as there is only the lump sum of \$400,000 available, less authorized deductions for administration expenses, for the satisfaction of all the claims, it is apparent that an award for a larger amount, or an award of interest, could not be satisfied from the proceeds of such fund.

AWARD

On the above evidence and grounds, this claim is allowed and awards without interest are hereby made as follows:

Lela E. Phillips . . . . .	\$12.95
Ora A. Phillips . . . . .	12.95
Fredwin O. Phillips . . . . .	12.95
Margaret J. Phillips . . . . .	12.95
Lee O. Phillips . . . . .	12.95

Dated at Washington, D. C.

JUN 24 1954

I hereby certify that the within is a true and correct copy of the original Proposed Decision on file with the Commission

A. C. Coates  
Deputy Clerk of the Commission

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

---

In the Matter of the Claim of

LELA E. PHILLIPS  
327 West Highland  
Tracy, California

ORA A. PHILLIPS  
327 West Highland  
Tracy, California

FREDWIN O. PHILLIPS  
327 West Highland  
Tracy, California

MARGARET J. PHILLIPS  
327 West Highland  
Tracy, California

LEE O. PHILLIPS  
327 West Highland  
Tracy, California

Under the Convention between the United  
States and Panama, effective October 11,  
1950, and the International Claims  
Settlement Act of 1949

---

Packet No. PAN-51

Decision No. 60

FINAL DECISION

Thirty days having elapsed since the Claimant herein was notified of the Proposed Decision of the Commission on the above Claim, and no objections thereto or notice of intention to file brief or request for hearing having been filed, such Proposed Decision is hereby adopted as the Commission's final decision on this Claim.

Dated at Washington, D. C.

AUG 23 1954

I hereby certify that the within is a true and correct copy of the original Final Decision on file with this Commission.

A. C. Coates  
Deputy Clerk of the Commission