

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

IN THE MATTER OF THE CLAIM OF

LILLIAN BURFORD BAKER

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0144

Decision No. CU - 6193

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 LILLIAN BURFORD BAKER in the original amount of \$611,350.00 based on the asserted loss of 79 caballerias of land comprising a sugar plantation known as Colonia Quince, in Sola, Camaguey, and related properties. Claimant has been a national 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.

Claimant's losses, after amendments and recomputations, are described as follows:

Cane land: 46 caballerias at \$7,000	\$322,000.00
Batey land: 2 caballerias at \$3,000	6,000.00
Pasture land: 25 caballerias at \$5,000	125,000.00
Undeveloped land: 5 caballerias at \$2,000	10,000.00
Orange grove: 1 caballeria having 2,000 trees at \$50	100,000.00
Sepa (plant remaining after cutting) \$6.00 per 100 arrobas of cut cane - 800,000 arrobas	48,000.00
Grass (on the pasture land) 25 caballerias at \$2,000	50,000.00
Standing cane (ready for cutting) 800,000 arrobas at \$7.00 per 100 arrobas	56,000.00
Quota - negotiable contract from Florida Sugar Mill and Jaronu Sugar Mill at \$5.00 per 100 arrobas	30,000.00
Installations and equipment, after depreciation	<u>34,492.50</u>
	\$781,492.50

The record includes a Notarial Document reflecting ownership of the properties by claimant's predecessor, a deed of gift to her of July 14, 1958, reports to the National Institute of Agrarian Reform in 1959, a report to the American Embassy in May 1960, and a report from abroad. On the basis of this record, the Commission finds that claimant was the owner of the above listed properties in Cuba, having acquired them as a gift from her parents.

Under the community property law of Cuba, spouses acquire equal interests in property acquired during coverture (see Claim of Robert L. Cheaney, et ux., Claim No. CU-0915), but this does not apply to property acquired by gift. Accordingly, the Commission finds that the spouse of LILLIAN BURFORD BAKER has no interest in the property subject of this claim.

The Agrarian Reform Law of May 17, 1959, published in the Cuban Official Gazette on June 3, 1959, established the National Agrarian Reform Institute and provided for the expropriation of rural properties. Regulations for

carrying out the expropriation of such rural property were contained in Law 588, published on October 9, 1959. Based on evidence of record the Commission finds that in fact the properties of the claimant were intervened or otherwise taken by the Government of Cuba on October 26, 1959, and that claimant thereby suffered a loss within the scope of Title V of the Act. (See Claim of Council Bluffs Savings Bank, Claim No. CU-1290.)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is most appropriate to the property and equitable to the claimant. This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

The record includes a statement by the President of the National Executive Committee of the Association of Sugar Cane Plantation Owners of Cuba, concerning the value of land devoted to sugar cane cultivation, the value of sepa and of standing cane; the inventories of property submitted to INRA and the American

Embassy, giving evaluations; affidavits of persons having personal knowledge of the properties, including that of Richard D. Burford (Claim No. CU-0653) who managed this colonia and those of the parents (Claim No. CU-0092) and his own, for fifteen years, and who has described the properties in detail.

Additionally, the record includes statements from officers of the Florida Industrial Corp. of New York (which operated a sugar mill at Florida, Camaguey) and of the American Sugar Refining Company of New Jersey (whose Cuban subsidiary Central Cunagua, S.A., operated sugar mills at Jaronu and Cunagua). These statements set out the number of arrobas of cane supplied by the Burford Colonias to these mills. The Commission has also considered the photographs and other evidence of record as to the values of similar properties in Cuba.

On the basis of this record the Commission finds that the asserted values of the properties subject of this claim are fair and reasonable and concludes that LILLIAN BURFORD BAKER suffered a loss of \$781,492.50 in connection with Colonia Quince, when it was taken by the Government of Cuba on October 26, 1959.

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that LILLIAN BURFORD BAKER suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Seven Hundred Eighty-one Thousand Four Hundred Ninety-two Dollars and Fifty Cents (\$781,492.50) with interest at 6% per annum from October 26, 1959 to the date of settlement.

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

MAY 19 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

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 (1970).)

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