

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

IN THE MATTER OF THE CLAIM OF

MARIA JOSEFA F. LOPO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0326

Decision No. CU 2691

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, was presented by MARIA JOSEFA F. LOPO and is based upon the asserted loss of \$2,000.00 sustained in the connection with the ownership of certain real estate located in Cuba. Claimant has been a national of the United States since her naturalization on March 16, 1946.

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.

Claimant asserts the ownership and loss of a house and lot located at 231 Manuel Varona Suarez Street, Marianao, Havana, Cuba. Claimant states that she purchased the property in 1950 for a consideration of \$2,000.00. She asserts that she was the sole owner of the property, that it was taken by the Government of Cuba on November 1, 1960, and that the monthly rental of the house was \$25.00 at that time. In support of her claim, the claimant has submitted a copy of Document No. 654 of September 1, 1950, and an affidavit of one Guillermo Martinez.

Evidence of record and information available to the Commission have established that claimant was the registered owner of Property No. 3147, which corresponds to the house and lot located at 231 Manuel Varona Suarez Street in Havana, Cuba. The record discloses that claimant acquired the subject real estate for a consideration of \$2,000.00 by the terms of Document No. 654 granted on September 1, 1950. The property consists of a

house of brick construction having an area of 48 square meters and located on a lot of 120 square meters. The house includes a living room, dining room, two bedrooms, kitchen, and sanitary installations. The information available to the Commission indicates that the property was not encumbered.

Although claimant has asserted that the property was taken by the Government of Cuba on November 1, 1960, she has not submitted evidence in support of the asserted date of loss.

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all real and personal property of persons who had left the country.

The Commission finds, in the absence of evidence to the contrary, that the subject real property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966]).

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.

Based on evidence of record and information available to the Commission concerning similarly situated realty and in the absence of evidence of a higher value, the Commission finds that the subject real estate had a value of \$2,000.00. Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$2,000.00 when the subject real estate was taken by the Government of Cuba.

The Commission has decided that in certification of losses 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 date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

Accordingly, the Commission concludes that the amount of loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, the date of loss to the date on which provisions are made for settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that MARIA JOSEFA F. LOPO 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 Two Thousand Dollars (\$2,000.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

AUG 14 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

Sidney Freidberg, 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, 32 Fed. Reg. 412-13 (1967).)