

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

IN THE MATTER OF THE CLAIM OF

RICHARD FIGAROLA  
HANNI FIGAROLA

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -0447

Decision No. CU 1809

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$20,000.00, was presented by RICHARD FIGAROLA and HANNI FIGAROLA, and is based upon the asserted loss of real and personal property situated in Cuba. Claimants RICHARD FIGAROLA and HANNI FIGAROLA have been nationals of the United States since their naturalization on September 11, 1930 and July 13, 1944, respectively.

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.

Claimants contend that they lost an interest in real property on 4th Street, Nautico of Miramar, Havana, Cuba, valued at \$20,000.00.

In support of the claim, claimants submitted Deed No. 16 of August 14, 1954, which recites that claimants purchased the land described as Avenue 4, #15806, Club Nautico, Municipality of Marianao, Cuba, for the sum of 3,700 pesos cash. Claimants also submitted photographic copies of nine checks, totalling \$13,462.00, drawn on the First National City Bank of New York and naming Angel Pascual as payee, and a receipt signed by Angel Pascual (Valdes), as builder, which recites full payment for the construction of a house at 4th Street, having no number, Club Nautico, Marianao, and that the house was fully completed under an agreement between the builder and RICHARD FIGAROLA.

On the basis of the evidence of record the Commission finds that claimants owned the house and land at 158 and 158A Avenue 1-B (formerly 4th Street), Club Nautico, City of Marianao, Cuba.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed (Article 2). The law covered residential, commercial, industrial

and business office properties (Article 15). The law further provided that if a tenant did not occupy the property, or had subleased or transferred its use to another, the property could be sold to the occupant; and further, that an occupant, whether a tenant or subtenant, or not, could purchase the property in the manner outlined (Article 9). Article 21 of the law provided that present owners of urban buildings sold under the law should receive the assigned price; however, under Article 25 ownership of so-called tenement houses would be transferred to the State without compensation to the erstwhile owners. Moreover, Article 30 provided that if urban buildings transferred under the law were mortgaged, execution of the contract of sale should have the effect of canceling the mortgage. Following Chapter VI of the law appears a section entitled "Temporary Provisions" and the third paragraph thereof provides that citizens of foreign countries who do not have the status of legal residents shall be excluded from the rights and benefits conferred by this law.

Based on the foregoing and the evidence of record, the Commission finds that claimants' real property in Havana, Cuba, was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Official Gazette.

Accordingly, the Commission concludes that claimants suffered a loss of their real property within the meaning of Title V of the Act.

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.

In arriving at the value of claimants' property the Commission has considered all evidence of record including the deed reciting a purchase price of 3,700 pesos for the land, canceled checks issued in payment

of construction, a tax assessment notice reflecting a monthly rent of \$160.00, and photographs of the property.

Based on the entire record, the Commission finds that the land, including improvements, had a value of \$17,200.00. Accordingly, the Commission concludes that claimants suffered a loss in that amount within the meaning of Title V of the Act, as the result of the taking of their realty by the Government of Cuba as of October 14, 1960.

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 the 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 claimants shall be increased by interest thereon at the rate of 6% per annum on \$17,200.00 from October 14, 1960, to the date on which provision is made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that RICHARD FIGAROLA and HANNI FIGAROLA jointly suffered a loss, as a result of the 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 Seventeen Thousand Two Hundred Dollars (\$17,200.00) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement.

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

MAY 1 1968

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

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