

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

IN THE MATTER OF THE CLAIM OF

KENNETH EARL COOK
MARY CAMPBELL COOK

Claim No. CU -1179

Decision No. CU 1733

Under the International Claims Settlement
Act of 1949, as amended

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 KENNETH EARL COOK and MARY CAMPBELL COOK for the amended amount of \$27,560.88 based upon the asserted ownership and loss of land and improved real property located on the Isle of Pines, Cuba. Claimants have been nationals of the United States since their birth in the United States.

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.

Claimants assert that they were the owners of two 30 acre-parcels of realty located on the Isle of Pines, Cuba, one of which parcels was improved by the building of a house thereon, and that these two parcels of realty were taken by the Government of Cuba sometime after claimants' departure from Cuba in December 1959.

The record in this claim includes the United States passports of both claimants, as proof of their nationality; executed copies, with translations, of sales contracts evidencing the purchase of 60 acres of land on the Isle of Pines; original receipts for payment, signed by the sellers of the subject lands; an itemized listing of expenditures for the construction of a dwelling and the purchase of fixtures for installation therein; cancelled checks evidencing such expenditures; photographs; insurance policies; and claimants' own statements and descriptions of the property claimed.

Information available to the Commission, as well as evidence submitted by claimants, reflects that claimants were the registered owners of the following items of real property:

1. Finca 953, described as being Lot 50 of Section 27 of the Hacienda Santa Fe, Isle of Pines, Cuba, measuring 10 acres.
2. Finca 2937, described as being Lot 46 of Calzada, Hacienda Santa Fe, Isle of Pines, Cuba, measuring 10 acres.
3. Finca 1482, described as being Lot 48 of Calzada, Hacienda Santa Fe, Isle of Pines, Cuba, measuring 10 acres.

(These 3 parcels of realty were acquired by claimants on October 18, 1958 pursuant to Document No. 501, executed before Notary Dr. Leonardo Cano y Martin).

4. Finca 5504, described as being the Northwest 1/4 of Lot 16 of Section 52 of West McKinley, Hacienda Santa Barbara, Isle of Pines, Cuba, measuring 10 acres. This property was acquired on December 20, 1958 pursuant to Document No. 581, executed before the Notary Dr. Leonardo Cano y Martin.

5. Finca 11267, described as being the Southern 1/2 of Lot 16 of Section 52 of West McKinley, Hacienda Santa Barbara, Isle of Pines, Cuba, measuring 20 acres. This property was acquired on December 23, 1958 pursuant to Document No. 585, executed before Notary Dr. Leonardo Cano y Martin.

The evidence of record also establishes that claimants thereafter built a brick home, located on the Jucaro Road to Santa Fe, Isle of Pines, Cuba; that claimants paid land taxes on their property for the year 1960, and that they carried insurance on their home through 1960 in the following amounts:

Fire	:	\$12,800.00
Riot and Cyclone:		8,000.00
Burglary	:	3,000.00

Based upon all the evidence, the Commission finds that claimants were the owners of 60 acres of land, and a one-family brick dwelling located on the Isle of Pines, Cuba.

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

The record discloses that claimants left Cuba in December 1959. The Commission finds, in absence of evidence to the contrary, that the subject improved real property was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Claimants assert that the value of their home and realty was \$27,560.88. This figure is based on cost: cost of purchase of the realty, cost of construction of the dwelling, and cost of fixtures installed therein. In support of this figure claimants have submitted cancelled checks and receipts for the various expenditures.

The Commission has carefully considered all of the above-described evidence of record pertaining to value and finds that \$27,560.88 is a fair value for the claimants' property taken by the Government of Cuba on December 6, 1961.

Accordingly, the Commission concludes that the claimants suffered a loss in that amount within the meaning of Title V of the Act.

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 from December 6, 1961, the date of loss, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that KENNETH EARL COOK and MARY CAMPBELL COOK 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 Twenty-Seven Thousand Five Hundred Sixty Dollars and Eighty-Eight Cents (\$27,560.88) 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

APR 24 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).)