

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

IN THE MATTER OF THE CLAIM OF

EMILIO J. PASARELL

Claim No. CU -1585

Decision No. CU

133

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, for \$3,500.00, was presented by EMILIO J. PASARELL based upon the asserted ownership of a mortgage interest secured by real property in Cuba. Claimant is a national of the United States by reason of his birth on September 16, 1891 in Puerto Rico.

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)]⁷, the Commission is give jurisdiction over claims of nationals of the United States against the Government of Cuba.

Section 503(a) of the Act provides as follows:

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.

The record indicates that in 1907 Belisa Pasarell Vda. de Ventosa sold certain real property to the Municipality of Matanzas, Cuba, and in consideration therefor received a mortgage secured by that property. The mortgage was in the amount of \$10,000.00 and, according to information in the file, was to be liquidated by the payment of \$5,000.00 during the year in which the mortgagee died, and \$5,000.00 in the following year. Assertedly, Belisa Pasarell died on July 10, 1923 and the mortgage was inherited by her sister, Julia Pasarell, and upon the death of Julia Pasarell, by claimant.

The record further indicates that the Municipality of Matanzas paid the sum of \$5,000.00 on December 11, 1926, \$1,000.00 on February 14, 1928, \$250.00 on October 30, 1929, and \$250.00 on November 30, 1929. No payments were made after November 30, 1929, and claim is made herein for the balance due on the principal and the unpaid interest.

According to the laws of Cuba, an action for the foreclosure of a mortgage is barred after twenty years. (See Lanzas, A Statement of the Laws of Cuba in Matters Affecting Business, 317 [2d ed. 1958], citing articles 1964, 1st part, and 1968, subsection 1, of the Civil Code.) Therefore an action to foreclose the mortgage upon which this claim is based could not be pursued after 1949, twenty years after the last payment received on the mortgage principal, and the mortgagee would not be considered to have a valid claim on January 1, 1959 under Cuban law.


Furthermore, Title V of the Act pertains to claims by nationals of the United States against the Government of Cuba arising since January 1, 1959. (See Section 503(a) above.) Since the basis of this claim is the nonpayment of a mortgage owed by a Cuban municipality past due and owing for more than twenty years, it is not a claim arising since January 1, 1959 for losses resulting from the

nationalization, expropriation, intervention or other taking of, or special measures directed against, property owned by United States nationals.

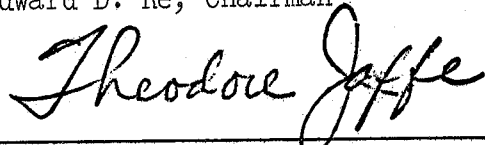
Accordingly, the claim is denied.

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

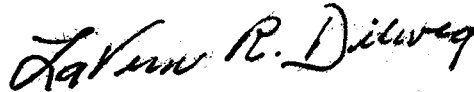
23 AUG 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner

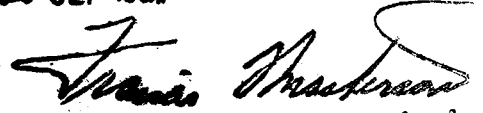


LaVern R. Dilweg, Commissioner

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).)

CERTIFICATION

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 25 SEP 1967


Francis MacKinnon
Clerk of the Commission

CU-1585