

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

IN THE MATTER OF THE CLAIM OF

HELEN CHAMBLESS PEREZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-1721

Decision No. CU- 4299

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 HELEN CHAMBLESS PEREZ for \$24,879.00 based upon the asserted ownership and loss of real and personal property in Cuba. 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 describes her loss as follows:

Improved real property in Guines, Havana, Cuba	\$15,000.00
Furnishings therein	2,500.00
Savings Bank Account	2,379.00
Rent due for 4 years on house.	<u>5,000.00</u>
	\$24,879.00

Based upon the entire record, including a report from abroad, an itemized statement of claimant's furnishings, a bank book showing a balance of 2,379.33 pesos in a Cuban bank, and two affidavits the Commission finds that claimant owned the improved property on 215 Maceo St., Guines, Havana, Cuba; the furnishings therein, and the savings bank account.

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). 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.

On December 6, 1961, the Cuban Government published its Law 989 which confiscated all assets, personal property and real estates, rights, shares, stocks, bonds and securities of persons who had left the country.

Based on the foregoing and the evidence of record, the Commission finds that claimant's real property in Havana, Cuba and the furnishings therein were 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 Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

In the absence of evidence to the contrary, the Commission also finds that claimant's above-described bank account, totalling 2,379.33 pesos (which were on a par with United States dollars) were taken by the Government of Cuba on December 6, 1961. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [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 the entire record, including the report from abroad, the Commission finds that the improved property consisting of a one story building, had a value of \$15,000.00 and that the furnishings had a value of \$2,500.00 at the time of loss. Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$17,500.00 within the meaning of Title V of the Act, as the result of the taking of the improved property and furnishings by the Government of Cuba on October 14, 1960; and in the amount of \$2,379.33 as a result of the taking of her bank account on December 6, 1961.

Concerning the portion of the claim based on the loss of 4 years of rent due on her home apparently figured from 1963 to 1967 claimant has submitted no evidence that any rents were due her and taken by the Government of Cuba. Moreover, after October 14, 1960, the property belonged to the Government of Cuba. Accordingly, this item of claim is denied.

The Commission has decided that in certification 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 as follows:

<u>FROM</u>	<u>ON</u>
October 14, 1960	\$17,500.00
December 6, 1961	2,379.33

CERTIFICATION OF LOSS

The Commission certifies that HELEN CHAMBLESS PEREZ 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 Nineteen Thousand Eight Hundred Seventy-Nine Dollars and Thirty-Three Cents (\$19,879.33) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

DEC 10 1969

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).)

CU-1721