

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

IN THE MATTER OF THE CLAIM OF

CHARLES A. LOPEZ

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2443

Decision No. CU -509

AMENDED PROPOSED DECISION

Under date of October 18, 1967, this claim was denied on the ground that claimant had failed to meet the burden of proof. Subsequently, additional supporting evidence was submitted, and the Commission obtained further information as a result of an independent investigation abroad.

Upon consideration of the foregoing, it is

ORDERED that the Proposed Decision be and it is hereby amended.

The record now includes original deeds and translations thereof, evidencing the acquisition by claimant of the improved real property claimed; a detailed description of the property; a report from abroad respecting ownership and value of the property, as well as statements of the claimant concerning these matters.

On the basis of the evidence of record, the Commission finds that claimant owned two parcels of land, improved by two houses, in Havana Cuba. The record shows that claimant's property was not encumbered by any mortgages or other liens.

Claimant states that his property was expropriated pursuant to the Urban Property Law of Cuba because it was not inhabited by him.

On October 14, 1960, the Government of Cuba published in the Official Gazette, Special Edition, the 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 under Article 15, and 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 in Article 9. Article 21 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. Under "Temporary Provisions", following Chapter VI of the law, it is provided 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.

Upon consideration of the foregoing in the light of the entire record, the Commission finds that claimant's real properties in Havana, Cuba, 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 Official Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183.)

It appears from the record that one of the houses was made of bricks and the other was a wooden frame house. It further appears that claimant had improved both houses by installing new roofs. Claimant asserts that in 1958 he was offered \$25,000.00 for the brick house and land and that the fair market value of the other piece of real property was \$5,000.00.

Based upon the record, including the reports received by the Commission concerning the values of these properties, and taking into consideration other available evidence respecting the values of properties in Havana, Cuba, the Commission finds that the aggregate value of claimant's properties on October 14, 1960, the date of loss, was \$30,000.00.

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), and in the instant case it is so ordered.

Accordingly, the following Certification of Loss will be entered and in all other respects the Proposed Decision is affirmed.

CERTIFICATION OF LOSS

The Commission certifies that CHARLES A. LOPEZ 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 Thirty Thousand Dollars (\$30,000.00) 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 Amended Proposed Decision of the Commission

MAR 5 1969

*Leonard v. B. Sutton*

Leonard v. B. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Weisberg*

Sidney Weisberg, 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 Amended 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).)

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IN THE MATTER OF THE CLAIM OF

CHARLES A. LOPEZ

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -2443

Decision No. CU 509

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 \$30,000.00 was presented by Charles A. Lopez, and is based upon the asserted loss of certain improved real property located in Havana, Cuba. Claimant has been a national of the United States since his naturalization in New York, New York on January 21, 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 of 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 filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof in all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (Supp. 1967).)

Claimant asserts the ownership of certain improved real property located in Havana, Cuba; however, other than proof of nationality, claimant has submitted no documentary evidence in support of his claim. By Commission letter of July 12, 1967, claimant was advised as to the type of evidence proper for submission to establish his claim under the Act.

On August 22, 1967, claimant was invited to submit any evidence he might have within 45 days from that date, and he was informed, that, absent such evidence it might become necessary to determine the claim on the basis of the present record. Claimant has not responded to the correspondence of the Commission and no evidence has been submitted in support of this claim.

The Commission finds that claimant has not met the burden of proof, in that he has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the

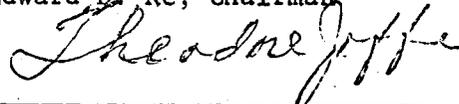
Government of Cuba. Accordingly, this claim is hereby denied. The Commission deems it unnecessary to determine other elements of this claim.

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

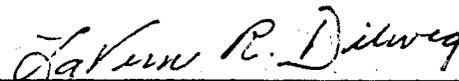
OCT 18 1967



Edward D. Re, Chairman



Theodore Jaffe, Commissioner



LaVern R. Dilweg, Commissioner

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