

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

IN THE MATTER OF THE CLAIM OF

MARIE ANASTASIA MILLER  
CECILIA CATHERINE MILLER

Claim No. CU-2605

Decision No. CU -6302

Under the International Claims Settlement  
Act of 1949, as amended

Appeal and objections from a Proposed Decision entered August 4, 1971.

Oral hearing requested and held on September 28, 1971. Testimony by John C. Miller.

FINAL DECISION

By Proposed Decision issued August 4, 1971, this claim was denied because of claimants' failure to establish their ownership and the value of property in Cuba assertedly taken by the Government of Cuba.

Claimants objected to the Proposed Decision and requested an oral hearing before the Commission, which was held on September 28, 1971. Additional evidence concerning the ownership and value of the property on the Isle of Pines was submitted and oral testimony was presented by John C. Miller at the hearing.

Based upon all the evidence of record, the Commission finds that claimants were the owners of 48.30 acres of land located in the Santa Ana Estates, Nueva Gerona, Isle of Pines, Cuba and that the land was taken by the Government of Cuba on December 6, 1961 under Law 989.

The Commission has determined that on the date of loss the value of claimants' interests in the land was \$24,000.00 and concludes that claimants suffered a loss in the amount of \$12,000.00 each within the meaning of Title V of the Act as a result of the taking of their land by the Government of Cuba.

The Certifications of Loss as stated below will be entered and the remainder of the Proposed Decision, as amended herein, is affirmed.


CERTIFICATIONS OF LOSS


The Commission certifies that MARIE ANASTASIA MILLER 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 Twelve Thousand Dollars (\$12,000.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement; and

The Commission certifies that CECILIA CATHERINE MILLER 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 Twelve Thousand Dollars (\$12,000.00) 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 Final  
Decision of the Commission

OCT 13 1971

  
Lyle S. Garlock, Chairman

  
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.

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Claim No. CU-2605

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Under the International Claims Settlement  
Act of 1949, as amended

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$24,000, was presented by MARIE ANASTASIA MILLER and CECILIA CATHERINE MILLER and is based upon the asserted loss of real property in Cuba. It appears that claimants have been nationals of the United States at all times pertinent to this claim.

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.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (1970).)

Claim is described as based on various realties on the Isle of Pines, described by lot number and said to have been inherited from claimants' father.

By Commission letter of December 12, 1967 to John Campbell Miller on behalf of his siblings, and their spouses, claimants were advised as to the type of evidence proper for submission to establish this claim under the Act.

On about January 15, 1968 and thereafter, Mr. Campbell was invited to submit for these claimants any evidence available and he was informed, that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record.

The record includes a listing of lot numbers and an affidavit of a real estate broker reciting general knowledge of Miller properties; as well as a copy of his opinion as to selling prices on the Isle of Pines.


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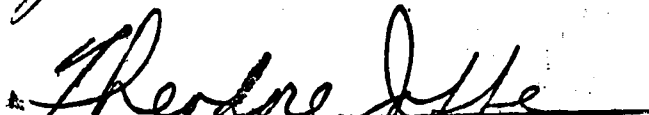
The record does not establish by probative evidence the extent and nature of claimants' properties on the asserted date of loss.

The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Thus, the Commission is constrained to deny this claim and it is hereby denied. The Commission deems it unnecessary to make determinations with respect to other elements of the claim.

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

AUG 4 1971

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, 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 (1970).)

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