

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

IN THE MATTER OF THE CLAIM OF

CARL CHRISTIAN VON PAULSEN
IDA ELIZABETH VON PAULSEN

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -2971

Decision No. CU

1913

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 \$57,500.00, was presented by CARL CHRISTIAN VON PAULSEN and IDA ELIZABETH VON PAULSEN, and is based upon the asserted loss of improved real property and personal property located in Cuba. Claimants state that they have been nationals of the United States since their birth, but have not submitted evidence to establish their nationality.

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) (Supp. 1967).)

This claim is based upon the asserted ownership and loss of improved real property, personal property consisting of furniture, fixtures and other related personal effects, orchid plants, and \$22,000.00 the sum of money assertedly spent by claimants on plant materials, clearing, irrigating and improving seven and one-half (7 1/2) acres of land located in the township of Santa Barbara, Tapaste, province of Havana, Cuba.

In support of their claim, claimants have submitted the affidavits of Boris Kozolchyk and Oscar Olchyk, dated April 24 and 26, 1967, respectively; seven photographs assertedly of the buildings, improvements and horticultural areas of the subject property herein claimed; a plot of the land as well as a map of the general area where the property is said to be located.

On June 14, 1967, and October 10, 1967, claimants were advised as to the type of evidence proper for submission to establish this claim under the Act. Specifically, claimants were advised that it would be desirable for them to submit evidence to establish that they were nationals of the United States on the date of any loss; that they were the owners of the subject matter herein claimed when said property was nationalized or otherwise taken by the Government of Cuba; and the value of the property at the time of its taking or loss. However, no additional evidence has been submitted.

On March 14, 1968, claimants were invited to submit any evidence available to them within 45 days from that date, and they were informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

CU-2971

The Commission finds that claimants have not met the burden of proof in that they have failed to establish ownership by a national or nationals of the United States, of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is 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

MAY 22 1968

Leonard v. B. Sutton

Leonard v. B. Sutton Chairman

Theodore Jaffe

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, 32 Fed. Reg. 412-13 (1967).)

CU- 2971