

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

IN THE MATTER OF THE CLAIM OF

HELEN CERULLO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -3131

Decision No. CU **4368**

Counsel for claimant:

Carvajal & Lieberman
By Alfred M. Carvajal, Esq.

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 \$1,000.00 was presented by HELEN CERULLO and is based upon the asserted loss of unimproved realty situated 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 asserts that she purchased a parcel of land described as Lot 23, Section 4, Los Almacigos, Santa Fe, Isle of Pines, Nueva Gerona, Cuba, consisting of approximately 12.9 acres. Claimant assigns a value of \$1,000.00 to the property, and states that she purchased the property on October 18, 1956.

The record contains an original and translated copy of Instrument No. 451 of 1956, which is an Agreement of Purchase and Sale. The contract recites that claimant purchased from Ramon Rodriguez y Gutierrez property known as Calzada Lot No. 23 in Section 4 of Reparto Hacienda Los Almacigos, Santa Fe Neighborhood, Terminal Municipal of the Isle of Pines, consisting of 12-9/10 acres.

Upon due consideration of the evidence of record, and in the absence of evidence to the contrary, the Commission holds that claimant owned 12.9 acres of land in said District and that the property had a value of 500 pesos.

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country. The record shows claimant left Cuba in July, 1959. Consequently, the Commission

finds, in the absence of additional or contrary evidence, that claimant's realty was taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

Evidence available to the Commission includes affidavits of former brokers doing business in the sale of land in the Santa Fe area, and other areas of the Isle of Pines, relating to the value of such units or lots of land. Based on the record and such evidence, the Commission finds that \$1,000.00 is the fair and reasonable value of claimant's land at the time it was taken by the Government of Cuba.

Accordingly, it is concluded that claimant suffered a loss on December 6, 1961 as a result of the actions of the Government of Cuba, within the meaning of Title V of the Act, in the amount of \$1,000.00.

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.

CERTIFICATION OF LOSS

The Commission certifies that HELEN CERULLO 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 One Thousand Dollars (\$1,000.00) with interest thereon at the rate of 6% per annum from December 6, 1961 to the date of settlement.

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

7 JAN 1970

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].)

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