

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

IN THE MATTER OF THE CLAIM OF

JOSE A. MATOS,
GENOVEVA MATOS and
NERY MATOS

Claim No. CU-3460

Decision No. CU 3872

Under the International Claims Settlement
Act of 1949, as amended

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 JOSE A. MATOS on behalf of himself and his sisters for \$100,000.00, based upon the asserted ownership and loss of improved real property in Cuba. GENOVEVA MATOS and NERY MATOS are joined as claimants herein. Claimants have been nationals 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 JOSE A. MATOS describes the losses as follows:

- (1) Twelve rental houses, and lots, at Fernando Zayas and Pancho Varona Streets, Camaguey.
- (2) A furnished residence and lot at Prolongacion de Santa Rosa Street No. 11, Camaguey.

The record includes copies of correspondence with claimant's attorney in fact in Cuba, relating possession of title papers, and conferences with attorney of claimants' father now deceased. Based on the entire record the Commission finds that claimants' father, Jose Matos Camacho a United States national by birth, and his wife, Maria Teresa Rifa, a Cuban national, owned the above properties. Maria Teresa Rifa died on February 3, 1964, leaving her property to her husband. Jose Matos Camacho died on March 29, 1964, leaving his property to the three claimants herein.

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).

Based on the foregoing and the evidence of record, the Commission finds that the above-described real property in Camaguey was 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.)

Under the community property law of Cuba, Jose Matos Camacho and his wife each had a one-half interest in the furnished residence, and in the twelve houses. Inasmuch as the interest of Maria Teresa Rifa was taken from

a non-United States national, it is not compensable under the Act even though her claim against Cuba passed thereafter to United States nationals. (See Claim of Sigridur Einarsdottir, Claim No. CU-0728, 25 FCSC Semiann. Rep. 45 [July-Dec. 1966].)

Accordingly, the Commission finds that the claimants herein succeeded to and suffered a loss as to their father's one-half interest in the realty, within the meaning of Title V of the Act.

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.

The record includes, in support of the claimed values, an Urban Reform receipt; and a recitation in a letter from claimants' correspondent in Cuba, that the gross income of the twelve houses was \$390.00. On this basis the Commission finds that the 12 houses and house plots had a value of \$46,800.00 on the date of loss and that claimants' father suffered a loss of \$23,400.00 by reason of the taking on October 14, 1960.

The Commission has previously suggested detailed description of the residence and furnishings which has not been submitted. Based on evidence available to the Commission of similar type properties, the Commission finds that the residence and plot, exclusive of furnishings, had a value of \$12,000.00 on the date of loss, and that claimant's father thereby suffered a loss of \$6,000.00.

Accordingly, the Commission concludes that claimants each succeeded to and suffered a loss in the amount of \$9,800.00 within

the meaning of Title V of the Act, as the result of the taking of the property by the Government of Cuba on October 14, 1960.

Claim has also been made for rent and interest on the subject property. The record contains no evidence that any rentals were due on the property and were taken by the Government of Cuba. Moreover, after October 14, 1960, the property belonged to Cuba. Nevertheless, 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 JOSE A. MATOS succeeded to and 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 Nine Thousand Eight Hundred Dollars (\$9,800.00) with interest at 6% per annum from October 14, 1960 to the date of settlement;

The Commission certifies that GENOVEVA MATOS succeeded to and 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 Nine Thousand Eight Hundred Dollars (\$9,800.00) with interest at 6% per annum from October 14, 1960 to the date of settlement; and

The Commission certifies that NERY MATOS succeeded to and 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 Nine Thousand Eight Hundred Dollars (\$9,800.00) with interest at 6% per annum from October 14, 1960 to the date of settlement.

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

SEP 11 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jarfe

Theodore Jarfe, 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).)