

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

IN THE MATTER OF THE CLAIM OF

JAMES E. ZENGERLE AND
BETTY JO ZENGERLE

Claim No. CU -3613

Decision No. CU-1425

Under the International Claims Settlement
Act of 1949, as amended

ORDER AND AMENDED PROPOSED DECISION

By Proposed Decision dated April 10, 1968, the Commission found that claimant JAMES E. ZENGERLE was the owner of a one-half interest in Lot No. 13 located in Section 1 of Parcel H of Palm Garden Estates, Sierra de Caballos, Isle of Pines, Cuba; that the subject property was taken on December 6, 1961 by the Government of Cuba; that the unimproved real property had the value of \$375.00 and that claimant JAMES E. ZENGERLE suffered a loss in the amount of \$187.50 for his one-half interest.

In addition, the Commission also found that on the basis of the evidence of record, it appeared that BETTY JO ZENGERLE, wife of claimant JAMES E. ZENGERLE, was the owner of the other one-half interest in the subject property at the time it was taken by the Government of Cuba. BETTY JO ZENGERLE was not, however, a party to the claim, and although the Commission inquired into her ownership and United States nationality, no response to the correspondence was received. Subsequent to the issuance of the Proposed Decision, BETTY JO ZENGERLE petitioned the Commission to join in this claim and submitted additional evidence.

Full consideration having been given to the petition and to the additional evidence, it is

ORDERED that the petition be granted and that the Proposed Decision be and the same is hereby amended as follows:

On the basis of the entire record, the Commission finds that claimants JAMES E. ZENGERLE and BETTY JO ZENGERLE owned jointly Lot No. 13 located in Section 1 of Parcel H of Palm Garden Estates, Sierra de Caballos, Isle of Pines, Cuba, and that the property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989.

The Commission concludes that claimants, JAMES E. ZENGERLE and BETTY JO ZENGERLE suffered a loss in the amount of \$375.00 within the meaning of Title V of the Act.

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).

Accordingly, the Commission concludes that the amount of the loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

The certification of loss, as restated below, will be entered, and in all other respects the Proposed Decision is affirmed.

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CERTIFICATION OF LOSS

The Commission certifies that JAMES E. ZENGERLE and BETTY JO ZENGERLE, jointly 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 Three Hundred Seventy-Five Dollars (\$375.00), with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

JUL 13 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

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.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Order and 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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1425

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 \$375.00 was presented by JAMES E. ZENGERLE based upon the asserted ownership and loss of an interest in land. Claimant, JAMES E. ZENGERLE, has been a national of the United States since his birth in the United States.

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 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.

Section 502(1) of the Act defines the term "national of the United States" as "(A) a natural person who is a citizen of the United States."

The term does not include aliens.

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.

In support of this claim, claimant submitted a copy of Document No. 51, dated August 25, 1958, which reflects that claimant and his wife purchased Lot No. 13, located in Section 1 of Parcel H of Palm Garden Estates, Sierra de Caballos, Isle of Pines, Cuba, for the amount of \$375.00. Claimant states further that this property remained unimproved until it was taken over by the Government of Cuba.

From the evidence of record, it clearly appears that claimant's wife, Betty Jo Zengerle, had a one-half interest in the subject property. However, she is not a party to this claim. The Commission has inquired into her ownership, including her United States nationality, but claimant has failed to respond to the Commission's correspondence.

On the basis of the entire record, the Commission finds that claimant was the owner of a one-half interest in Lot No. 13 located in Section 1 of Parcel H of Palm Garden Estates, Sierra de Caballos, Isle of Pines, Cuba.

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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. (See the Claim of Wallace Tabor and Catherine Tabor, FCSC Claim No. CU-0109.)

The record reflects that claimant was a resident of Pennsylvania at the time the subject property was acquired and that he resided in the United States on December 6, 1961. The Commission finds, in the absence of evidence to the contrary, that the subject property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989.

Based on the entire record, the Commission finds that the undeveloped land had a value of \$375.00 and the Commission concludes that claimant who was the owner of a one-half interest, suffered a loss in the amount of \$187.50 for said interest within the meaning of Title V of the Act.

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 the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimant shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that JAMES E. ZENGERLE 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 Hundred Eighty-Seven Dollars and Fifty Cents (\$187.50), 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 Proposed
Decision of the Commission

APR 10 1968

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

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