

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20577

*D 1836 - out of order
follow 1837.*

IN THE MATTER OF THE CLAIM OF

LEONOR RUBI ANDREU

Claim No. CU-3649

Decision No. CU-1837

Under the International Claims Settlement
Act of 1949, as amended

Petition to reopen; Proposed Decision dated and entered May 8, 1968; Final Decision entered June 10, 1968.

AMENDED FINAL DECISION

Under date of June 10, 1968, the Commission entered its Final Decision denying this claim for lack of proof. Subsequently, the Commission received a report from abroad establishing claimant's inheritance of certain land in Cuba. In addition, claimant submitted copies of two bank statements from The Trust Company of Cuba concerning her bank deposits. This material has been construed to constitute a petition to reopen this claim pursuant to the governing regulations of the Commission (FCSC Reg., 45 C.F.R. §531.5(1) (1970).)

Upon consideration of this new material in light of the entire record, the Commission amends the decision in this matter as follows:

The Commission finds that on July 26, 1947 claimant inherited from her grandmother a tract of land in the rural section of Guines, Havana Province, Cuba, measuring 6.757 caballerias (1 caballeria equals 33.162 acres). On the basis of claimant's letter of December 21, 1969 indicating that she had sold 1.243 caballerias in November, 1957, the Commission finds that claimant remained the owner of 5.514 caballerias. The Commission further finds that claimant's land was taken by the Government of Cuba on December 6, 1961 pursuant to Law 989, which effected the confiscation of all properties of persons who had left Cuba. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

Claimant asserts that she sold the 1.243 caballerias of her land in November, 1957, for \$8,000.00, but has submitted no evidence to establish the amount of the proceeds of the sale. It is noted that claimant stated in her official claim form that her land had been rented at \$110.00 per month.

Based upon the evidence of record and considering the value of similar land in the same area, the Commission finds that claimant's land had a value of \$20,000.00 on December 6, 1961.

The said two bank statements indicate that as of June 5, 1958 claimant had a savings account with The Trust Company of Cuba with a balance of \$4,832.30, and that as of October 9, 1959 the balance of her checking account at that bank was \$500.84. It is noted that claimant asserts a loss only of her savings account. Her official claim form indicates a loss of \$5,000.00. However, in her letter of December 21, 1969, claimant states that as of October 9, 1959 her savings account had a balance of \$3,593.29.

Since claimant also stated in that letter that her father in Cuba has possession of her bank book, the Commission suggested an explanation of the discrepancy between the amounts claimed and the asserted balance of her savings account. The Commission also asked whether claimant's father had authority to withdraw funds from her account. No reply has been received concerning these matters set forth in the Commission's letter of January 12, 1970; nor has claimant replied to the Commission's "follow-up" communication of April 9, 1970.

Upon consideration of the entire record, the Commission finds no valid basis for allowing the portion of the claim for bank deposits.

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.

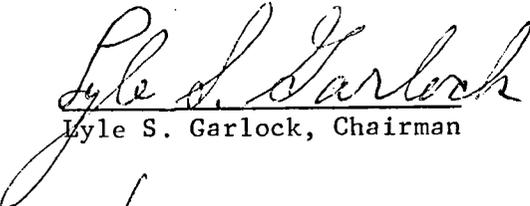
Accordingly, the following Certification of Loss will be entered, and in all other respects the Final Decision of June 10, 1968, as amended herein, is affirmed.

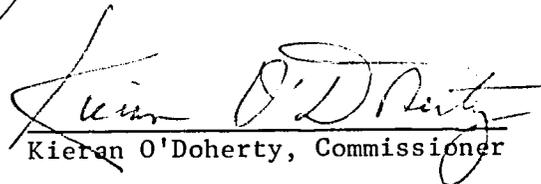
CERTIFICATION OF LOSS

The Commission certifies that LEONOR RUBI ANDREU 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 Twenty Thousand Dollars (\$20,000.00) with interest at 6% per annum from December 6, 1961 to the date of settlement.

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

JUN 30 1972


Lyle S. Garlock, Chairman


Kieran O'Doherty, 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.

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

*Amended Final Decision
filed before D. 1836*

IN THE MATTER OF THE CLAIM OF

LEONOR RUBI ANDREU

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 3649

Decision No. CU **1837**

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 \$56,000.00, was presented by LEONOR RUBI ANDREU based upon the asserted loss of improved real property and personal property located in Cuba. Claimant has been a national of the United States since her naturalization on January 20, 1961.

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)]⁷, 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 of 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).)

Claimant asserts the ownership of certain improved real property and personal property located in Cuba; however, other than a request for assistance, claimant has submitted no documentary evidence in support of her claim. By Commission letter of July 10, 1967, claimant was advised as to the type of evidence proper for submission to establish her claim under the Act.

On August 22, 1967, claimant was invited to submit any evidence she might have within 45 days from the date, and she was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the present record. This period was extended for an additional 20 days on March 21, 1968. Claimant has not responded to the correspondence of the Commission and no evidence has been submitted in support of this claim.

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The Commission finds that claimant has not met the burden of proof, in that she has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is hereby denied. The Commission deems it unnecessary to determine other elements of this claim.

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

8 MAY 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).)

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