

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

IN THE MATTER OF THE CLAIM OF

RUSSELL N. HYDE, EXECUTOR OF THE  
ESTATE OF MERCEDES GATO HYDE, DECEASED

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU-3742

Decision No. CU 6239

Counsel for Claimant:

William C. Lewis, 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 \$32,360.74, was presented by RUSSELL N. HYDE, EXECUTOR OF THE ESTATE OF MERCEDES GATO HYDE, DECEASED, based upon the asserted loss of cash and real property. The deceased was a national of the United States from birth to her death on September 27, 1965. The deceased, who died testate, was survived by her husband and daughter, both citizens of the United States by 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 stated that the deceased owned the following property which was taken by the Government of Cuba:

- (1) Cash in bank
- (2) A 1/30th interest in the Hotel Presidente, Havana
- (3) A 1/5th interest in a house No. 3 Gertrudis, Havana
- (4) A 1/30th interest in realty at San Nicolas and Cuba Streets, Havana
- (5) An interest in two houses 418/420 Calzada del Monte, Havana
- (6) An interest in a house No. 1502 Calzada del Monte, Havana
- (7) An interest in part of a former ranch "La Josefita" in Santiago de las Vegas, province of Havana.

In support of the claim, claimant has submitted an appraisal of the property, prepared in 1950 by Rafael Garcia Bango, an engineer and architect of Havana.

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 question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

On the basis of the evidence of record, the Commission makes the findings of fact regarding the various property items under separate headings, as set forth below.

(1) Cash in Bank

Claimant has failed to submit any evidence in support of the statement that the deceased owned a bank account with the Trust Company of Cuba. In the absence of such evidence, this item of the claim must be and it is hereby denied.

(2) Hotel Presidente

The record shows that the father of the deceased, Eduardo Hidalgo Gato Marquez, died intestate on March 8, 1948, leaving five children, one of whom was the deceased MERCEDES GATO HYDE. The major part of the property remained undivided, and the deceased retained in the Hotel Presidente property a 1/30 interest. The property consisted of land measuring 1,133.33 square meters with a building thereon, located at the intersection of Calle G (Avenida de los Presidentes) and Calle 7 (Calzada) in the Vedado section of Havana. The building was in use as one of the major hotels in Havana.

This real property, as well as all the other real property described below, was subject to the Cuban Urban Reform Law, published in the Official Gazette of October 14, 1960, and the Commission holds that the properties were taken on that date. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

In 1950 this property was appraised by Rafael Garcia Bango in the amount of \$506,000.00, and the Commission finds that claimant's 1/30 interest therein had a value of \$16,866.67.

(3) No. 3 Gertrudis Street

The record shows that the father of the deceased owned a building lot measuring 180.79 square meters improved with a house No. 3 Gertrudis Street in the Arroyo Apolo section of Havana. Upon the death of claimant's father, the deceased inherited a one-fifth interest therein.

Rafael Garcia Bango appraised the property in the amount of \$8,511.70, and the Commission finds that claimant's 1/5 interest was worth \$1,702.34.

(4) San Nicolas at Cuba Streets

The record shows that the father of the deceased owned a 1/6 interest in a building lot measuring 509.30 square meters with a house numbered 516/518 San Nicolas Street at the corner of Cuba Street in the center of the city of Havana. The deceased inherited from her father a 1/5 interest therein, or a 1/30 interest in the entire property.

This property, once known as the Hotel Pacifico, was appraised by Rafael Garcia Bango in the amount of \$111,430.00; and the Commission finds that claimant's 1/30 interest was worth \$3,714.33.

(5) 418/420 Calzada del Monte

Claimant states that the father of the deceased owned a fractional interest of approximately 38% in two houses numbered 418 and 420 Calzada del Monte in Havana. The record shows that these houses were, in fact, owned by the grandfather, Eduardo Hidalgo Gato Badia, but the evidence does not disclose to what extent the father of the deceased inherited an interest in this property. In the absence of such evidence, the Commission finds that these houses descended to the six children of the deceased grandfather in equal shares, and that the father of the deceased owned a one-sixth interest therein. The Commission concludes that the decedent inherited from her father a one-fifth interest, or a 1/30 interest in the entire property.

Rafael Garcia Bango appraised this property at \$116,640.00; and the Commission therefore finds that claimant's 1/30 interest was worth \$3,888.00.

(6) 1502 Calzada del Monte

Claimant states that the father of the deceased inherited a fractional interest of approximately 54% in a house numbered 1502 Calzada del Monte in Havana. The record shows that this house was owned by Eduardo Hidalgo Gato Badia, the grandfather of the deceased, but the evidence does not disclose to what extent the father of MERCEDES GATO HYDE inherited this property. In the absence of such evidence, the Commission finds that this house descended to the six children of the deceased grandfather in equal shares

and that MERCEDES GATO HYDE, in turn, inherited a 1/5 interest from her father, resulting in her ownership of a 1/30 interest in the property.

Rafael Garcia Bango appraised this property in the amount of \$14,164.55 and the Commission finds that claimant's 1/30 interest was worth \$472.15.

(7) La Josefita

The record shows that Eduardo Hidalgo Gato Badia owned a farm, "La Josefita", in Santiago de las Vegas, a town near Havana. Upon his death, the farm was appraised and found to be worth \$98,400.00. The major part of the farm was sold, and a smaller part, appraised by Rafael Garcia Bango at \$20,276.50, was divided among the six children of the grandfather. Claimant states that the land owned by the father of the deceased was worth \$3,379.42 and that the decedent's 1/5 inherited share was worth \$675.88. This sum corresponds approximately to 1/30 of the value placed on the smaller part of the farm and the Commission finds that this valuation properly reflects claimant's interest in the inherited share of the farmland, which, at the time of taking, consisted, in fact, of building lots in Santiago de las Vegas.

Recapitulation

Claimant's losses within the meaning of Title V of the Act are summarized as follows:

Hotel Presidente	\$ 16,866.67
3 Gertrudis Street	1,702.34
San Nicolas & Cuba	3,714.33
418-420 Calzada del Monte	3,888.00
1502 Calzada del Monte	472.15
La Josefita	<u>675.88</u>
Total	\$ 27,319.37


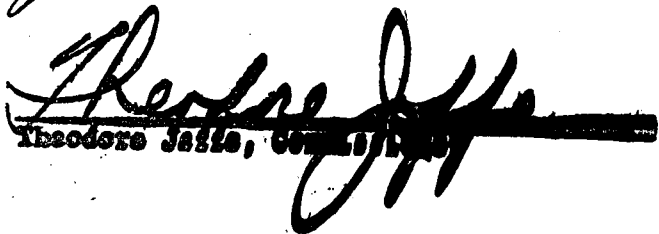
The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

CERTIFICATION OF LOSS

The Commission certifies that RUSSELL N. HYDE, EXECUTOR OF THE ESTATE OF MERCEDES GATO HYDE, DECEASED, suffered a loss, as a result of actions of the Government of Cuba, within the meaning of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Twenty-seven Thousand Three Hundred Nineteen Dollars and Thirty-seven Cents (\$27,319.37) with interest thereon at 6% per annum from October 14, 1960, the date of loss, to the date of settlement.

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

JUN 23 1971

  
William S. Garlock, Chairman  
  
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 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, (1970).)