

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

IN THE MATTER OF THE CLAIM OF

LYDAGENE MUTH

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -5783

Decision No. CU **4072**

Represented by Cia. Azucarera Vertientes-Camaguey de Cuba

Counsel for Cia. Azucarera Vertientes-Camaguey de Cuba:
Shapiro, Fried and Weil
By Herbert S. Shapiro, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, was presented by LYDAGENE MUTH based upon the asserted loss sustained in connection with a stock interest in Cia. Azucarera Vertientes-Camaguey de 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.

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.

Claimant asserted the loss of an ownership interest in Cia. Azucarera Vertientes-Camaguey de Cuba as a result of actions by the Government of Cuba. She asserted ownership of 82 shares acquired by gift in 1947.

Claimant, by letter of February 12, 1968, advised the Commission that she sold her shares of stock subsequent to August 1, 1966, but did not retain any right to the claim for losses suffered in Cuba.

Ownership of stock interest in a foreign corporation on the date of nationalization vests in the owners two items of property, namely, an interest in the net worth of the corporation and an interest in any claim for the nationalization. The sale of the shares in the nationalized corporation may effect transfer of either or both interests, depending upon the intention of the parties to the transaction. The burden of proving the nature of the transaction rests with the claimant.

In the instant claim claimant states she did not retain any interest in the claim for the nationalization of the corporation in question. Therefore, in the absence of evidence to the contrary, the Commission concludes that when claimant sold her stock, she transferred all rights incident thereto.

Accordingly, and for the foregoing reasons, this claim is 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

OCT 15 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Fraidberg

Sidney Fraidberg, 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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