

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

IN THE MATTER OF THE CLAIM OF

PABLO DE JESUS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 8713

Decision No. CU 6068

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 PABLO DE JESUS in the amount of \$7,000 on May 1, 1970, subsequent to his return from Cuba. It is considered timely filed in view of the fact that the Commission had originally opened Claim No. CU-4251 on his behalf, which was subsequently dismissed. The claim is based on the asserted ownership and loss of improved realty and personalty in Cuba. Claimant was born in Puerto Rico in 1899 and is a national of 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 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.

Pursuant to the community property law of Cuba, spouses have equal interests in property acquired during coverture, except that inherited or acquired by gift. The record does not reflect the nationality of claimant's spouse, although the Commission had suggested the submission of evidence in this regard. Accordingly so much of the claim as may be based on an interest of the claimant's spouse is denied.

Claimant described the losses as follows:

(1) Plot of 8,000 square meters	\$2,000
(2) House on said plot	4,000
(3) Personalty in the house	1,000

On the basis of the record, the Commission finds that claimant had a one-half interest in improved realty and personalty therein, further discussed below; and further that the properties were subject to Law 989 of the Republic of Cuba, which provided for confiscation of properties of those who left Cuba.

The Commission finds that claimant's property interests in Cuba were taken pursuant to said Law 989, and that the taking occurred on October 15, 1969, subsequent to claimant's return from Cuba.

Although the claim for loss arose subsequent to the close of the period for filing claims of this nature against the Government of Cuba, the Commission has held that it will consider on their merits claims for losses sustained subsequent to the deadline, so long as consideration thereof does not impede the determination of claims which arose prior to the close of the filing period. (See Claim of Vivian Morales, Claim No. CU-8739.)

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.

On the basis of the record, including affidavits and evidence available to the Commission as to the value of similar properties in Cuba, the Commission finds that the land, subject of the claim, at 20 Luz Caballero, El Cristo, Oriente, consisted of 8,000 square meters and had a value of \$2,000. The house is described as having about ten rooms and the Commission finds that the asserted value of \$4,000 is fair and reasonable. The personalty has been listed by claimant and the Commission finds that the asserted value of \$1,000 is fair and reasonable.

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$3,500 as a result of the taking of his properties by the Government of Cuba.

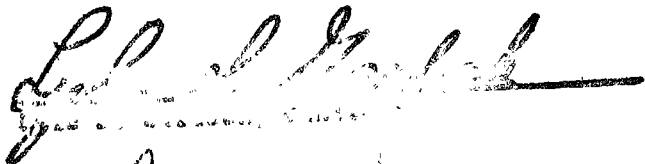

The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim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

CERTIFICATION OF LOSS

The Commission certifies that PABLO DE JESUS 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 Thousand Five Hundred Dollars (\$3,500) with interest thereon at 6% per annum from October 15, 1969 to the date of settlement.

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

FEB 17 1971



Theodore Jaffe, Counselor

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. 1.5(e) and (g), as amended (1970).)

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