

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

IN THE MATTER OF THE CLAIM OF

FRANCES R. PARGA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3096

Decision No. CU-666

Counsel for claimant:

Marvin Weinstein, Esq.

Appeal and objections from a Proposed Decision entered November 15, 1967;
oral hearing requested.

Oral hearing held on July 22, 1969.

FINAL DECISION

Under date of November 15, 1967 this claim was denied for failure to sustain the burden of proof. Claimant objected generally thereto and testified at a hearing held on July 22, 1969 regarding ownership, taking by the Government of Cuba of certain property in Cuba and the value thereof, but was unable to submit documentation thereof. Upon conclusion of the hearing claimant was granted additional time to submit supporting evidence.

Subsequently, claimant submitted such evidence in the form of two reconstructed balance sheets for Tarin Sporting Goods Company and National Sporting Goods Company covering the year ending December 1961, an itemized list of personal property and English translations of Luis Parga's Cuban Income Tax return for the year 1961. Consideration has been given to new evidence and claimant's testimony and in the light of the entire record the Commission now finds as follows:

Under Cuban law, by virtue of the legal partnership existing between husband and wife by reason of their marriage, each owned a one-half interest in everything acquired during coverture.

Real Property

Claimant states that she lost a one-half interest in an investment in improved and unimproved real property valued at \$175,000. Claimant submitted a Cuban tax statement and receipt for 1961, affidavit of FRANCES PARGA and Luis Parga and several pictures. Based upon the entire record, including information received from the Department of State, the Commission finds that claimant owned a one-half interest in the following:

- (1) House at Maximo Gomez and 33rd Street, Cojimar, Guanabacao, situated on a lot measuring 847 square meters;
- (2) 8 unit apartment building at Luis Estavez, Santos Suarez, situated on a lot measuring 400 square meters;
- (3) 10 unit apartment building at Mirimar and 5th Avenue, Buena Vista, Ampliacion de Almendares,, situated on a lot measuring 500 square meters;
- (4) 3 unit apartment building on Fuentes Street, between B & C Streets, Buena Vista, situated on a lot measuring 481.29 square meters;
- (5) House at 416 Lacret Street, Santos Suarez, situated on a lot measuring 170 square meters;
- (6) Unimproved lot on Almendares Street, between 13th and 14th Streets, Almendares, measuring 222.48 square meters.

On December 6, 1961, the Cuban Government published its Law 989, which effectively confiscated all goods and chattels of persons who left the country of Cuba. Claimant left Cuba on July 13, 1960 and Luis Parga, claimant's husband, left Cuba on December 28, 1961. Accordingly, the Commission finds that the aforementioned property was taken by the Government of Cuba on December 28, 1961 pursuant to Law 989. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

In arriving at the value of the improved and unimproved real property consideration was given to all of the evidence of record including a Cuban tax statement for 1961, gross rentals for 1961, information received from the Department of State and information available to the Commission concerning similar properties and locations in Cuba. The Commission finds that the values of the above-described properties are as follows:

(1) House at Maximo Gomez and 33rd Street Cojimar, Guanabacao	\$35,000.00
(2) 8 unit apartment building at Luis Estavez Street, Santos Suarez	15,000.00
(3) 10 unit apartment building at Mirimar and 5th Avenue, Buena Vista, Ampliacion de Almendares	24,000.00
(4) 3 unit apartment building at Fuentes, between B & C Streets, Buena Vista	9,000.00
(5) House at 416 Lacret, Santos Suarez	5,460.00
(6) Unimproved lot on Almendares, between 13th and 14th Streets, Almendares	3,000.00

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$45,730.00 for her one-half interest, within the meaning of Title V of the Act, as the result of the taking of her real property interests by the Government of Cuba on December 28, 1961.

Businesses

Claimant also states that she lost a one-half interest in two sporting goods businesses known as Tarin Sporting Goods Company, and National Sporting Goods Company, at 517 O'Reilly Street, and adjoining, Havana. In support of these items, claimant submitted two reconstructed balance sheets reflecting the net worth of the enterprises as of the date of loss, a ledger sheet, tax statement for 1961, and affidavit of FRANCES PARCA and Luis Parga. The claimant and Luis Parga stated these enterprises were taken by the Government of Cuba on or about December 1, 1961.

The Commission finds that claimant owned a one-half interest in the Tarin Sporting Goods Company and the National Sporting Goods Company which were taken by the Government of Cuba on December 1, 1961.

In arriving at the net worth of the Tarin Sporting Goods Company and the National Sporting Goods Company, favorable consideration was given to the reconstructed balance sheets, the ledger sheet and affidavit of the claimant and her husband, Luis Parga. The Commission finds the net worth of the Tarin Sporting Goods Company and the National Sporting Goods Company, after subtracting total liabilities from total assets, was \$80,000.00 and \$19,980.00 respectively at the time of loss. The Commission concludes that

claimant suffered a loss in the amount of \$49,990.00 within the meaning of Title V of the Act, as the result of the taking of the claimant's one-half interest in the businesses by the Government of Cuba on December 1, 1961.

Personal Property

Claimant further states that she lost a one-half interest in personal property consisting of household furnishings. In support of this item, claimant submitted an affidavit listing the approximate dates of purchase and cost of each item.

On the basis of the entire record the Commission finds that claimant owned a one-half interest in the household furnishings which were taken by the Government of Cuba on December 28, 1961.

The Commission further finds that the value of the household furnishings, after deducting depreciation of 5% per year from the date of purchase to the date of loss but not more than 50%, except with regard to the antiques where no depreciation was taken, amounted to \$5,631.75 and that claimant suffered a loss in the amount of \$2,815.88 for her one-half interest therein within the meaning of Title V of the Act, as the result of the taking of the personal property by the Government of Cuba on December 28, 1961.

Bank Account

Claimant states that she lost certain bank accounts in Cuba having a balance of 15,000.00 pesos. The record establishes that claimant owned a one-half interest in a bank balance of 6,890.00 Cuban pesos on deposit with Banco Nacional De Cuba.

The Commission finds that claimant's one-half interest in the above described bank account, totalling 3,445.00 pesos, was taken by the Government of Cuba on December 28, 1961, pursuant to Cuban Law 989, supra. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

Further, the Commission finds that on December 28, 1961, claimant's 3,445.00 pesos had a value of \$3,445.00 and that she suffered a loss in that amount within the meaning of Title V of the Act, as the result of the taking of her bank account by the Government of Cuba as of December 28, 1961.

Claimant's losses are summarized as follows:

<u>Item</u>	<u>Date of Taking</u>	<u>Value of Claimant's Interest</u>
(1) House at Maximo Gomez and 33rd Street, Cojimar, Guanabacao	December 28, 1961	\$ 17,500.00
(2) 8 unit apartment building at Luis Estavez Street, Santos Suarez	December 28, 1961	7,500.00
(3) 10 unit apartment building at Mirimar and 5th Avenue, Buena Vista, Ampliacion de Almendares	December 28, 1961	12,000.00
(4) 3 unit apartment building at Fuentes between B & C Streets, Buena Vista	December 28, 1961	4,500.00
(5) House at 416 Lacrete, Santos Suarez	December 28, 1961	2,730.00
(6) Lot at Almendares, between 13th & 14th Streets, Almendares	December 28, 1961	1,500.00
(7) Tarin Sporting Goods Co.	December 1, 1961	40,000.00
(8) National Sporting Goods Co.	December 1, 1961	9,990.00
(9) Personal Property	December 28, 1961	2,815.88
(10) Bank Account	December 28, 1961	<u>3,445.00</u>
	Total	\$101,980.88

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 it is so ordered, as follows:

<u>FROM</u>	<u>ON</u>
December 1, 1961	\$ 49,990.00
December 28, 1961	<u>51,990.88</u>
	\$101,980.88

Accordingly it is

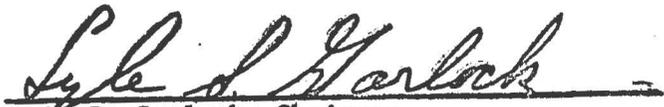
ORDERED that the certification of loss, as stated below, be entered and that the Proposed Decision be affirmed in all other respects.

CERTIFICATION OF LOSS

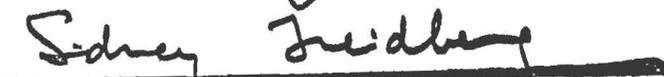
The Commission certifies that FRANCES R. PARGA suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Hundred One Thousand Nine Hundred Eighty Dollars and Eighty-Eight Cents (\$101,980.88) with interest at 6% per annum from the respective dates of loss to the date of settlement.

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

MAY 6 1970


Lytle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, Commissioner

FOREIGN CLAIMS SETTLEMENT COMMISSION
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IN THE MATTER OF THE CLAIM OF

FRANCES R. PARGA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3096

Decision No. CU

665

Counsel for claimant:

Marvin Weinstein, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$150,445.00, was presented by FRANCES R. PARGA and is based upon the asserted loss of land, improved real property, personal property, and bank accounts in Cuba. Claimant stated that she 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 (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 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 and loss of land, improved real property, personal property, business assets and bank accounts in Cuba. However, claimant submitted no documentary evidence in support of her claim. Accordingly, by Commission letter of June 22, 1967, claimant was advised, through counsel, as to the type of evidence proper for submission to establish this claim under the Act. On September 18, 1967, counsel was invited to submit any evidence available to him within 45 days from that date, and he was informed that, absent such evidence, it might become necessary to determine the claim on the basis of the existing record. No evidence has since been submitted.

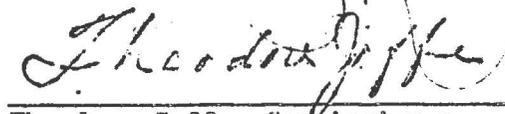
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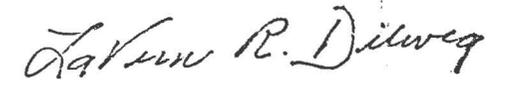
The Commission finds that claimant has not met the burden of proof in that she has failed to establish ownership of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is denied. The Commission deems it unnecessary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

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

NOV 15 1967


Edward D. Re, Chairman


Theodore Jaffe, Commissioner


LaVern R. Dilweg, 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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