

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

IN THE MATTER OF THE CLAIM OF

EMILIA L. VILLA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-8451

Decision No. CU 4605

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 EMILIA L. VILLA for \$18,800.00 based upon the asserted ownership and loss of certain real and personal property in Cuba. Claimant has been a national of the United States since her naturalization in 1959.

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.

The Commission's Regulations provide that claims under Title V of the Act (Cuban claims) shall be filed with the Commission on or before May 1, 1967 (FCSC Reg., 45 C.F.R. Sec. 531.1(d) (Supp. 1967)); and further that any initial written indication of an intention to file a claim received within 30 days prior to the expiration of the filing period thereof shall be considered as a timely filing of a claim if formalized within 30 days after the expiration of the filing period. (Reg., Sec. 531.1(g))

No claim was filed with this Commission by or on behalf of Mrs. Villa within the allowable period for timely filing of such claims, nor does the Commission have any record of any communication concerning her asserted loss.

The Commission has held, however, that it will accept for consideration on their merits claims filed after the deadline so long as the consideration thereof does not impede the determination of those claims which were timely filed. (See Claim of John Korenda, Claim No. CU-8255.) This is such a claim.

Claimant describes her loss as follows:

House in Vedado, Habana, Cuba	\$11,200.00
Improvements	3,600.00
Household furnishings	<u>4,000.00</u>
	\$18,800.00

Based upon the entire record, including a copy of a deed to the property in question, and an affidavit by a lawyer who has knowledge of the facts, the Commission finds that claimant owned the real and personal property in question.

Claimant states that after her purchase of the property in 1949 she let her brother and three sisters occupy the house.

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which effectively confiscated all personal property and real estate of persons not in the country.

The Commission finds, in the absence of evidence to the contrary, that the subject real and personal property was taken by the Government of Cuba on December 1, 1966 pursuant to the provisions of Law 989 even though claimant's relatives remained in possession for a while thereafter. (See Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 53 [July-Dec. 1966].)

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 record includes, in support of the claimed values a description of the house as a one-story brick building having about 9 rooms, usual facilities, and garden. The deed recites the purchase price in October, 1949 as \$11,200.00. Claimant also submitted an itemized list of the personalty.

Based on the entire record, the Commission finds that on December 1, 1966 the house and lot, including improvements, had a value of \$14,800.00, and that the personalty after appropriate depreciation had a value of \$1,000.00.

Accordingly, the Commission concludes that claimant suffered a loss in the total amount of \$15,800.00 within the meaning of Title V of the Act, as the result of the taking of her property by the Government of Cuba on December 1, 1966.

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.

CERTIFICATION OF LOSS

The Commission certifies that EMILIA L. VILLA 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 Fifteen Thousand Eight Hundred Dollars (\$15,800.00) with interest thereon at 6% per annum from December 1, 1966 to the date of settlement.

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

11 MAR 1970


Lytle S. Garlock, Chairman


Theodore Jaffe, Commissioner


Sidney Freidberg, 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, 32 Fed. Reg. 412-13 (1967).)