

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

IN THE MATTER OF THE CLAIM OF

ANA G. RUIZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0686

Decision No. CU 4497

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 ANA G. RUIZ for \$33,375.00 based upon the asserted ownership and loss of certain real properties in Cuba. Claimant has been a national of the United States since her naturalization on April 12, 1955.

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 describes her loss as follows:

- | | |
|---|-----------------|
| 1. 7/16 interest in improved realty at
#49 Independencia St., Santa Clara | \$20,000.00 |
| 2. 1/4 interest in improved realty at
#32 and #34 Marti St., Santa Clara | 11,500.00 |
| 3. 1/8 interest in improved realty at
#16 Maximo Gomez Street, Santa Clara | <u>1,815.00</u> |
| | \$33,375.00 |

Based upon the entire record, including a copy of a deed of inheritance and division of property after the death of claimant's mother in 1939, a copy of an inventory, evaluation, liquidation, acceptance and adjudication of inheritance dated March 10, 1959, reports from abroad and an affidavit by claimant, the Commission finds that claimant owned the asserted fractional interests in the aforesaid improved real properties.

On October 14, 1960, the Government of Cuba published in its Official Gazette, Special Edition, its Urban Reform Law. Under this law the renting of urban properties, and all other transactions or contracts involving transfer of the total or partial use of urban properties was outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 15). Moreover, Article 30 provided for the cancellation of mortgages. Following Chapter VI of the law appears a section entitled "Temporary Provisions" and the third paragraph thereof provides that citizens of foreign countries who do not have the status of legal residents shall be excluded from the rights and benefits conferred by this law.

Based on the foregoing and the evidence of record, the Commission finds that claimant's real property in Santa Clara, Cuba was taken by the Government of Cuba pursuant to the provisions of the Urban Reform Law; and, in the absence of evidence to the contrary, that the taking occurred on October 14, 1960, the date on which the law was published in the Cuban Gazette. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

CU-0686

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 three improved real properties; a copy of the aforementioned deed of inheritance and division of property which includes a valuation of the property at #49 Independencia Street and at #16 Maximo Gomes Street; a copy of a letter dated May 16, 1955 which includes an offer of \$40,000.00 for the property at #49 Independencia Street and which claimant states was not accepted; a report from abroad as to the properties at #49 Independencia Street and at #16 Maximo Gomez Street; and an affidavit by claimant.

Claimant states that all three properties were business properties which she describes as follows:

1. The property at #49 Independencia Street was about 335 square meters consisting of a store and living quarters upstairs, remodeled extensively to suit the tenant, and leased to a shoe store chain.

2. The property at #32 and #34 Mati Street was about 488 square meters consisting of one building which had resulted from the remodeling of two dwellings to make it suitable to lease as a furniture store.

3. The property at #16 Maximo Gomez Street was about 152 square meters and was remodeled from a family residence about 1950 and leased as a drug store.

On the basis of the evidence of record, the Commission finds that on October 14, 1960, the date of loss, the three properties in question had the following values, and claimant's interests therein had the values set out below:

CU-0686

#49 Independencia Street	\$40,000.00	7/16	\$17,500.00
#32 and #34 Marti Street	42,000.00	1/4	10,500.00
#16 Maximo Gomez Street	15,000.00	1/8	<u>1,815.00</u>
			\$29,815.00

Accordingly, the Commission concludes that claimant sustained a loss in the aggregate amount of \$29,815.00 within the meaning of Title V of the Act as a result of the taking of her property by the Government of Cuba on October 14, 1960.

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.

CU-0686

CERTIFICATION OF LOSS

The Commission certifies that ANA G. RUIZ 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 Twenty-Nine Thousand Eight Hundred Fifteen Dollars (\$29,815.00) with interest thereon at 6% per annum from October 14, 1960 to the date of settlement.

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

12 FEB 1970

Theodore Jaffe

Theodore Jaffe, Commissioner

Sidney Freidberg

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).)

CU-0686