

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

IN THE MATTER OF THE CLAIM OF

FREDERICK GONZALEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0727

Decision No. CU 3706

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 FREDERICK GONZALEZ in the amount of \$1,899.00, based upon the asserted ownership and loss of stock interests in Terapia Infantil, S.A. and an interest in certain realty. Claimant has been a national of the United States since his 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.

Claimant contends that he has lost an investment in real property in Cuba valued at \$1,149.00. He has submitted a document entitled "Contract of Purchase/Sale for the Parcel of Land With Agreement of Title Reservation", dated December 5, 1957, between the Davis Development Corporation, described as owners of "Brazo Fuerte", Isle of Pines, Cuba, as the Seller, and claimant herein, the Buyer. The document provides for the transfer of a parcel of land in the section known as "Brazo Fuerte" and specifically identified as Parcel 1, Block 4. The Buyer agreed to pay a total of \$1,149.00. Evidence has been submitted also establishing that claimant has paid the full amount of \$1,149.00 to the Seller as required under the terms of the Contract of Sale.

Under Cuban law, a sale is consummated and becomes binding on the purchaser and seller if there has been a meeting of the minds on the object and price, even though neither the thing nor the price has been delivered (Lanzas, A Statement of the Laws of Cuba, 78 (1958)). Registration is not necessary for the transfer of ownership or rights in rem between the parties concerned, but it is required if the transaction is to be binding on third parties (Lanzas, supra, 277).

On the basis of the entire record and the state of Cuban law at the time of the transaction, the Commission finds that claimant was the owner of Parcel 1, Block 4 in the "Brazo Fuerte" section of the Isle of Pines, a province of Cuba.

The remainder of this claim is asserted for the loss of three (3) shares of stock in a business entitled "Terapia Infantil, S.A."

The record contains a copy of an assignment of three (3) shares of stock, numbered twenty-three (23), twenty-four (24) and forty-eight (48),

evidencing an ownership interest in "Terapia Infantil, S.A.", inscribed upon that company's letterhead, duly signed by the assignors and assignee, dated August 2, 1957 and reciting the receipt of a consideration of \$750.00. The record further contains an affidavit executed by claimant stating that he has never disposed of his interest in these three (3) shares since having left them with "Terapia Infantil, S.A.", in Cuba.

On the basis of the aforementioned evidence the Commission finds that claimant became the owner of three (3) shares of stock in "Terapia Infantil, S.A." on August 2, 1957.

On December 6, 1961 the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country.

The Commission finds, in the absence of evidence to the contrary, that the subject real property and stock were taken by the Government of Cuba on December 6, 1961 pursuant to the provisions of Law 989.

Based on the entire record the Commission finds that the land had a value of \$1,149.00 and that the stock had a value of \$750.00. Accordingly, the Commission concludes that the claimant suffered a loss in the amount of \$1,899.00 within the meaning of Title V of the Act.

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 FREDERICK GONZALEZ 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 Thousand Eight Hundred Ninety-Nine Dollars (\$1,899.00) with interest thereon at 6% per annum from December 6, 1961 to the date of settlement.

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

JUN 19 1969

Leonard v. B. Sutton

Leonard v. B. Sutton, Chairman

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).)