

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

IN THE MATTER OF THE CLAIM OF

PATRICIA CASTILLO

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-0732

Decision No. CU 3702

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$61,355.32, was presented by PATRICIA CASTILLO, based upon the asserted loss of certain real and personal property in Cuba. Claimant 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. §§1643-1643k (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 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.

Improved Real Property

The record establishes and the Commission finds that claimant and her husband, a nonnational of the United States, jointly acquired a certain unimproved plot of land in Havana, Cuba in 1953, and that in 1954 they constructed a two-story residence on the land. It further appears from the record that the improved real property was taken by the Government of Cuba pursuant to the Urban Reform Law.

On October 14, 1960, the Government of Cuba published in its Official Gazette the Urban Reform Law. Under this statute the renting of urban properties and other transactions or contracts involving the transfer of the total or partial use of urban properties were outlawed (Article 2). The law covered residential, commercial, industrial and business office properties (Article 5). This statute also provided that citizens of foreign countries who did not have the status of legal residents were excluded from the rights and benefits conferred by this law.

Claimant has stated that she left Cuba on July 4, 1959. In the absence of evidence to the contrary, the Commission finds that the improved real property, in which claimant owned a one-half interest, was taken by the Government of Cuba on October 14, 1960. (See Claim of Henry Lewis Slade, Claim No. CU-0183, 1967 FCSC Ann. Rep. 39.)

The record includes a report from sources abroad which indicates that the land extended over an area of 2,983 square meters; it also includes a document filed with Cuban authorities, containing a complete description of the house. The first floor included a waiting room, a living room, a dining room, toilet facilities, a kitchen and pantry, a bedroom, servant's quarters and bathroom, a double garage with bath, and a terrace and gardens. Leading to the second floor was a marble staircase, and on the second floor there were two groups of two bedrooms each with a family bathroom and shower, closets and a balcony-terrace. Affidavits from individuals having personal knowledge of the facts, included in the record, describe the property as a luxury-type residence stating that the land had a value of \$6.50 per square meter, and that the residence had a value of \$125.00 per square meter. The evidence also includes photographs of the exterior and interior of the property.

On the basis of the entire record, the Commission finds that the house and land had a value of \$65,000.00 on October 14, 1960, the date of loss, and that claimant's loss within the meaning of Title V of the Act was \$32,500.00 for her one-half interest.

Jewelry

The Commission finds on the basis of the evidence of record that claimant owned certain items of jewelry which she had maintained in a safe deposit box at the Trust Company of Cuba. It appears from the record that on April 7, 1959 Cuban militiamen opened the box in the presence of claimant, made an inventory thereof and confiscated the jewelry.

Claimant has submitted bills evidencing the purchase of some of the major items of jewelry claimed, as well as a copy of a newspaper article and picture of claimant wearing one of the pieces of jewelry.

Having considered the entire record, the Commission finds that the value of claimant's jewelry on April 7, 1959, the date of loss, was \$6,887.00.

House Furnishings and Bank Accounts

The evidence includes a detailed list of the articles of home furnishings which were prepared for storage prior to claimant's exodus from Cuba, and copies of four bank accounts with Cuban banks. Based upon the foregoing evidence, the Commission finds that claimant owned a one-half interest in furniture and furnishings and a one-half interest in the four bank accounts.

Law 989, published in the Cuban Official Gazette on December 6, 1961, by its terms effected a confiscation of all goods and chattels, rights, shares, stocks, bonds and other securities, as well as bank accounts, of persons who fled from Cuba. The Commission finds that this law applied to claimant who had left Cuba before that date, and concludes that the house furniture and furnishings and the four bank accounts were taken by the Government of Cuba on December 6, 1961 pursuant to Law 989. (See Claim of Floyd W. Auld, Claim No. CU-0020, 25 FCSC Semiann. Rep. 55 [July-Dec. 1966].)

Upon consideration of the evidence of record, the Commission finds that the personal property situated in the residence had a value of \$20,000.00 on

December 6, 1961. Copies of the four bank accounts establish that the balances in the accounts were \$5,543.09, \$300.00, \$13,740.77, and \$4,494.97, respectively, on December 6, 1961, the date of loss. It is noted that the Cuban peso was on a par with the United States dollar. Accordingly, the aggregate amount of the bank accounts was \$24,078.83. The Commission concludes that the losses sustained by claimant were \$10,000.00 and \$12,039.42, respectively, for claimant's one-half interests in the house furnishings and in the four bank accounts.

Claimant's losses may be summarized as follows:

<u>Item of Property</u>	<u>Date of Loss</u>	<u>Amount</u>
Jewelry (100% interest)	April 7, 1959	\$ 6,887.00
Improved realty (50% interest)	October 14, 1960	32,500.00
Home furnishings (50% interest)	December 6, 1961	10,000.00
Bank accounts (50% interest)	December 6, 1961	<u>12,039.42</u>
	Total	<u>\$61,426.42</u>

It will be noted that the total amount of loss found herein is in excess of the amount asserted by claimant. However, in determining the amount of loss sustained, the Commission is not bound by any greater or lesser amount which may be asserted by claimant as the extent thereof.

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 as follows:

<u>FROM</u>	<u>ON</u>
April 7, 1959	\$ 6,887.00
October 14, 1960	32,500.00
December 6, 1961	<u>22,039.42</u>
Total	<u>\$61,426.42</u>

CERTIFICATION OF LOSS

The Commission certifies that PATRICIA CASTILLO 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 Sixty-one Thousand Four Hundred Twenty-six Dollars and Forty-two Cents (\$61,426.42) with interest thereon at 6% per annum from the respective dates of loss 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 Frelberg

Sidney Frelberg, 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].)

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