

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

IN THE MATTER OF THE CLAIM OF

GABRIEL RODRIGUEZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -0937

Decision No. CU -0036

Appeal and objections from a Proposed Decision entered on June 14, 1967.
No oral hearing requested.

Hearing on the record held on August 23, 1967.

FINAL DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by GABRIEL RODRIGUEZ based upon the asserted loss of certain improved real property at the corner of Maceo Street and Calzada de la Coloma Street in the City of Pinar del Rio, Cuba.

By Proposed Decision dated June 14, 1967, the claim was denied for the reason that the claimant, GABRIEL RODRIGUEZ, the asserted owner of the real property in question, was not a national of the United States on October 14, 1960, the date when the property was lost, as required by Section 504(a) of the Act for consideration of a claim.

In his objections to the Proposed Decision claimant does not cite error in the Proposed Decision. The essence of his contention is that, in his opinion, the International Claims Settlement Act of 1949, as amended, discriminates between native born and naturalized citizens of the United States to the detriment of the latter; and he impliedly challenges the constitutionality of the Act.

Inasmuch as the claimant does not assert that the Proposed Decision is in violation of the applicable statute, and since after due consideration the Commission finds that in the Proposed Decision the pertinent provisions of the Act were correctly applied, the Proposed Decision must be affirmed.

In view of the foregoing, it is

ORDERED that the Proposed Decision of June 14, 1967, denying the claim, be affirmed and entered as the Commission's Final Decision on this claim.

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

SEP 6 1967

Edward D. Re

Edward D. Re, Chairman

Theodore Jaffe

Theodore Jaffe, Commissioner

LaVern R. Dilweg

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Claim No. CU-0937

Decision No. CU **000036**

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$40,000.00, was presented by GABRIEL RODRIGUEZ based upon the asserted loss of certain improved real property at the corner of Maceo Street and Calzada de la Coloma Street in the City of Pinar del Rio in Cuba. Claimant, GABRIEL RODRIGUEZ, states that he has been a national of the United States since his naturalization on May 22, 1964.

Under Section 503 of the International Claims Settlement Act of 1949, as amended (64 Stat. 12; 69 Stat. 562; 72 Stat. 527; 78 Stat. 1110; 79 Stat. 988), the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. That section 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

(a) . . . 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 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.

Section 502(1) of the Act defines the term "national of the United States" to mean "(A) a natural person who is a citizen of the United States, The term does not include aliens."

Thus, in order for the Commission to favorably consider claims under Section 503(a) of Title V of the Act, it must be established (1) that the subject property was owned in whole or in part by a national of the United States on the date of nationalization or other taking; and (2) that the claim arising as a result of such nationalization or other taking has been continuously owned thereafter in whole or in part by a national or nationals of the United States to the date of filing with the Commission.

Claimant states that his real property located at the corner of Maceo Street and Calzada de la Coloma Street in the City of Pinar del Rio in Cuba was lost on October 14, 1960, pursuant to the enactment of the Cuban Law on Urban Reform.

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). The law further provided that if a tenant did not occupy the property, or had subleased or transferred its use to another, the property could be sold to the occupant; and further, that an occupant, whether a tenant or subtenant, or not, could purchase the property in the manner outlined (Article 9). Article 21 of the law provided that present owners of urban buildings sold under the law should receive the assigned

price; however, under Article 25 ownership of so-called tenement houses would be transferred to the State without compensation to the erstwhile owners. Moreover, Article 30 provided that if urban buildings transferred under the law were mortgaged, execution of the contract of sale should have the effect of canceling the mortgage.

Based on the foregoing and the evidence of record, the Commission finds that the real property at the corner of Maceo Street and Calzada de la Coloma Street in Pinar del Rio, 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 Official Gazette.

Inasmuch as the loss complained of occurred on October 14, 1960, a date when claimant was not a national of the United States, the Commission concludes that the claim is not valid under Title V of the Act, and for that reason it must be and is hereby denied.

The Commission deems it unnecessary to make specific findings with respect to other elements of this claim.

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

JUN 14 1967

Edward D. Re
Edward D. Re, Chairman

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on 9-6-67

Theodore Jaffe
Theodore Jaffe, Commissioner

Francis M. ... Vern R. Dilweg
Clerk of the Commission

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 upon the expiration of 30 days after such service or receipt of notice, the decision will be entered as the Final Decision of the Commission, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)